HOUSE OF REPRESENTATIVES—*Monday, July 27, 1992*

The House met at 12 noon, and was called to order by the Speaker pro tempore (Mr. MONTGOMERY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 24, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on Monday, July 27, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The SPEAKER pro tempore. The prayer will be offered by the Chaplain.

Welcome back, Chaplain Ford.

Chaplain FORD. Thank you, Mr. Speaker.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we gather each day to do the work of this assembly and to serve the needs of our Nation and all the people, may we not forget to reflect on the demands of justice, to meditate on the unity that is our desire, and to give thanks for the gifts of life. May our tasks not be so overwhelming that we do not take the opportunity to remember You, O God, our Creator and Redeemer, and each day to seek Your blessing and with faithfulness and integrity, serve the people committed to our care. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will ask the gentleman from Iowa [Mr. GRANDY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. GRANDY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE INDEPENDENT COUNSEL LAW: TIME FOR REFORM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the time has come for the House to comprehensively reform the law setting up the Office of Independent Counsel.

The law expires December 15.

But we are told that Democrats do not want to reform it because "things have gotten so political and so angry this year."

Where was all this Democrat sensitivity about politics when they recently demanded that Attorney General Barr make a decision on an independent counsel for "Iraqgate," just before the Republican Convention?

Could there possibly be a tinge, a smattering, a barely discernible trace of hard-ball politics to that Democratic Party demand?

Furthermore, the General Accounting Office has been violating the independent counsel law for years by not carrying out specific oversight functions the law calls for.

Why have not the Democrats, who control the Congress, done anything about this open violation of the law?

We do not have the customary appropriations process to reform the law because independent counsels are funded by a permanent appropriation not subject to congressional review.

Mr. Speaker, let us reauthorize that law now. Let's build in safeguards that will eliminate endless costly witch hunts—now. Let's have regular appropriations—now.

And if Democrats like the law so much, let's make Congress subject to the independent counsel law—now.

If Congress comes under the law, who can then complain about politics any more?

Either reform this law now or stop using it as a partisan political club with which to beat up on Republicans.

WE NEED FUNDAMENTAL ECONOMIC CHANGE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, once again I have returned from Wyoming, talking to people there and the concerns that they have, and the most often mentioned concerns are overspending, the deficit, big government, and overregulation.

Mr. Speaker, I have never seen an issue that is more important, of more interest to more people, and one that gets less attention in this place.

We will have appropriations bills before us this week that have increases of 10 to 11 percent over last year's level of spending. Get real, you cannot change the results of things like the deficit by continuing to do what we have been doing and what has been going on in this place for 30 years, more spending and more deficits.

The Democrat pep rally last week in New York talked about fixing all kinds of things, everyone's problems in the country, but not a word about doing something about the deficit, not a word of balancing the budget.

There are only two ways to balance the budget. One is clearly to increase taxation, increase revenues. The other is to reduce spending or some combination of the two.

The fact is you have to change fundamentally the things we have been doing. My folks want less government, not more; want more interest in the private sector, not less; less regulation, not more; more personal freedom, not less.

We need fundamental change, and it is time to begin right here this week.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 28, 1992.

RELATING TO CHARITABLE REMAINDER BENEFICIARIES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5636) to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts.

The Clerk read as follows:

H.R. 5636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIRED NOTICES TO CHARITABLE BENEFICIARIES OF CHARITABLE REMAINDER TRUSTS.

(a) GENERAL RULE.—

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

(1) Section 6036 of the Internal Revenue Code of 1986 is amended—

(A) by striking "Every receiver" and inserting "(a) GENERAL RULE.—Every receiver", and

(B) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULE FOR TRANSFERS OF REMAINDER INTERESTS DESCRIBED IN SECTION 2055(e)(2)(A).—In the case of an estate claiming a charitable contribution deduction for the value of a transfer of a remainder interest in property described in section 2055(e)(2)(A), the executor or other fiduciary shall provide written notices to each organization described in section 2055(a) which has such an interest in the time and manner set forth in the following paragraphs:

"(1) QUALIFICATION NOTICE.—Within 60 days of the date of the executor's qualification, the charitable beneficiary shall be notified of such qualification and such notice shall include—

"(A) the name, address, and date of death of the decedent;

"(B) the name, address, and identification number of each fiduciary of the estate;

"(C) the name and address of each charitable beneficiary;

"(D) a copy of the governing instrument relating to the transfer in trust; and

"(E) a description of the interest to which such charitable organization may be entitled, and any preliminary statements (if required by law) on the financial condition of the estate.

"(2) TAX RETURN FILING NOTICE.—On or before the due date for the filing of a Federal estate tax return on which a charitable deduction is claimed, the charitable beneficiary shall be notified of such filing and such notice shall include—

"(A) a copy of the pertinent parts of the Federal estate tax return, and

"(B) such other information as may be required by form or regulation.

If any notice is provided to a charitable beneficiary under paragraph (1), no notice shall be required to be provided to such beneficiary under paragraph (2) unless such beneficiary agrees to reimburse the executor or other fiduciary for the reasonable costs of providing such notice."

(2) Section 6034A of such Code is amended by adding at the end thereof the following new subsection:

"(c) ANNUAL NOTICE TO CHARITABLE REMAINDER BENEFICIARY.—

"(1) IN GENERAL.—The fiduciary of any charitable remainder trust required to file any return under chapter 61 for any taxable year shall, on or before the date on which such return is required to be filed, furnish each charitable beneficiary—

"(A) a copy of such return (including all schedules), and

"(B) such other information (or deletions) for purposes of carrying out the internal revenue laws as the Secretary may require.

If a fiduciary furnishes the information required under the preceding sentence to any charitable beneficiary with respect to any trust taxable year, such fiduciary shall not be required to furnish information under the preceding sentence to such beneficiary with respect to any subsequent trust taxable year unless such beneficiary agrees to reimburse such fiduciary for the reasonable costs of furnishing such information.

"(2) PENALTIES.—

"For provisions relating to the failure to furnish on a timely or complete basis the information required under paragraph (1), see section 6652(c)."

(b) PENALTIES.—

(1) Paragraph (2) of section 6652(c) of such Code is amended to read as follows:

"(2) RETURNS UNDER SECTION 6034 OR 6043(b) AND NOTICES UNDER SECTION 6034A(c) OR 6036(b).—

"(A) PENALTY ON ORGANIZATION, TRUST, OR FIDUCIARY.—In the case of—

"(i) a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations),

"(ii) a failure to furnish any notice required under section 6034A(c) (relating to annual notice to charitable remainder beneficiary), or

"(iii) a failure to furnish any notice required under section 6036(b) (relating to a qualification notice or tax return filing notice),

on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), there shall be paid by the organization, trust, or fiduciary failing to file such return (or furnish such notice) $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization, trust, or fiduciary for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization, trust, or fiduciary failing to file any return (or furnish any notice) under subparagraph (A) specifying therein a reasonable future date by which such filing (or furnishing) shall be made for purposes of this subparagraph. If such filing (or furnishing) is not made on or before such date, there shall be paid by the person responsible for failing to so file (or furnish) $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act; except that such amendments shall not apply in the case of a trust created before such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before beginning discussion on the merits of H.R. 5636, I would like to make a general statement on behalf of the Committee on Ways and Means and its chairman.

Mr. Speaker, the Committee on Ways and Means has reported to the House of Representatives 29 miscellaneous tax bills. If all of these bills were to be passed by the House, the staff of the Joint Committee on Taxation estimates that the deficit would be reduced by over $300 million through 1997.

However, some of the bills may by themselves lose revenue. The committee has been very careful to schedule these bills in a way to assure that such bills which lose revenue will not be called up until it is preceded by a bill that raises enough revenue to cover the trailing revenue-losing bills. In other words, we are not going to call up any bills that lose revenue until we have passed through the House those that pick up revenue.

It is my understanding that the chairman and the committee anticipate that many of these bills will be combined before they are sent to the President for his signature, and on behalf of the chairman, I want to assure my colleagues that the committee will do everything in its power to assure that the bills comply with all the budget rules prior to presenting them to the President for signature.

□ 1210

Having said that, Mr. Speaker, I want to emphasize that these are 29 bills, some of them are totally noncontroversial. Some of them are of very little interest to anybody except the persons involved in them.

Some of them I think are very good bills that need to be enacted.

There will be some debate and some discussion and some dissension on the others. I am sure that some of the revenue raisers will cause some extended discussion; but we do not intend to call up bills in this series of 29 until all the revenue raising has been done and those that lose revenue will trail those that raise revenue.

Now, Mr. Speaker, I wish to discuss my bill, H.R. 5636. I have presented this on behalf of some charitable remaindermen. Now, what is a charitable remainderman? A charitable remainderman is the person who receives the corpus of an estate after the part of the estate has been distributed to intermediary beneficiaries.

Usually a charitable remainder trust will go something like this:

I leave to my worthless children who I have adequately bestowed plenty of worldly gifts on, the remainder, the interest on my well-earned, hard-earned, honestly earned product of my very productive life, and I leave the remainder at their death to this wonderful charity that is going to help poor children and unfortunate people.

Well, that is a good trust and we need to encourage those kinds of transactions; but in the real world it has been discovered that sometimes the remainderman never knows that he is the beneficiary of a trust. The word just never gets to him. There are thousands of probate areas around the United States.

So this bill simply requires the trustee of these remaindermen trusts when they file for tax exemption or for tax deductions under the estate tax law to send copies of those returns to the beneficiaries, the ultimate beneficiary, the remainderman, so that, first, the remainderman knows that he is a remainderman and that second, if anything comes up during the administra-

tion of the trust, the remainderman will have knowledge of it, knowledge in time to protect his interest if his interest is challenged by any of the decisions of the trustee or any of the administration of the trust.

When this bill was being considered by the committee, we got some protests from some of the trustees. They said, oh, it will be horribly expensive and terrible to administer.

Well, it is not horribly expensive nor terrible to administer. The expense is just copying those tax returns that you send to the government anyway. You are not preparing anything special. You put them in an envelope addressed to the remainderman, put a stamp on it and mail it to him. That is all that we require to be done here.

If the trustee is so penniless and so badly pressed for that, he can charge the remainderman the reasonable cost for mailing him those documents.

Now, I do not mean by reasonable costs any fancy attorney fees or fancy administration fees. I am just talking about the cost of putting a stamp on the envelope and making a copy of the tax return that was filed.

I do not think that most trustees will bother themselves with that insignificant cost.

The remainderman and the charitable trust that receives the remainder will be far better protected than they are now under the current law.

Now, Mr. Speaker, when we get this bill over to the Senate, there may be some other amendment needed to the bill. One is the effective date. I think we ought to look back and pick up all those trusts that are out there where there are remaindermen involved, and second there may be some suggestions on the part of some in the Senate or perhaps on the House side that it would be a good idea if the testator wanted to relieve his trustee of this terribly onerous heavy duty of simply mailing a copy of the tax return to the remainderman, that perhaps he be allowed to do that.

I do not know of any substantial opposition to this bill. This is a good bill. It makes common sense. It just means that the remainderman has an opportunity to be notified that he is a remainderman, to be notified as to the tax claims that the trustee may make.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. GRANDY. Mr. Speaker, the bill offered by the gentleman from Florida is well-intentioned in its desire to provide notice to charitable remainder beneficiaries of their future interests. The means chosen to accomplish this purpose, however, does raise some concern.

The bill would require executors and trustees to provide ongoing information to charitable beneficiaries in situations where the donor may have decided against such notification. By overriding the interests of charitable donors, the bill may have the unintended effect of discouraging charitable gifts. Some donors may wish to remain anonymous and would hesitate to make a gift if they would be identified. Other donors may fear the potential for interference from remainder charities, especially in situations where the initial beneficiary is a spouse or other family member.

It might be preferable for estate planners and bank trust departments to encourage donors to notify charities of their future interests in all situations where the donor wishes to do so.

At this point, Mr. Speaker, I would say the Republicans on the committee do not intend to oppose this legislation, but we would like to discuss with the gentleman from Florida if he would consider in conference allowing charitable donors to decide if they would be willing to agree to some sort of accommodation to provide the donor to remain anonymous if he or she chooses to do so.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. GRANDY. I am pleased to yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I appreciate the gentleman yielding to me, and I will be glad to respond to that question.

I really do not have any objection to including in conference or something a well-thought-out requirement that will allow the donor to exclude the remainderman from any knowledge that he is a remainderman, or the identity of the testator, or the grantor of the trust.

Frankly, I have set up a few of these remaindermen trusts. I never saw a testator who did not want the remainderman to know everything that is going on; but I guess I assume there could be some cases in which the remainderman would wish that his trust would remain anonymous.

I will be glad to consider that.

Mr. GRANDY. Mr. Speaker, I appreciate the chairman's deference on this.

I would just say that we have received some concerns from estate planners and others who are afraid that perhaps without the assurance of some kind of anonymity, or at least the permission to the donor to designate whether or not they wanted notification. Unless we provide some kind of leeway, the testator may discourage the creation of charitable remainder trusts, which I am sure is something we do not want to encourage.

Also, the other concern was that perhaps without some kind of leeway to the testator there might possibly be potential harassment of the life beneficiary. This is probably unlikely, but I appreciate the gentleman's deference on this and the willingness to work in conference on this particular piece of legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman.

Mr. GRADISON. Mr. Speaker, as you and the other Members of the House know, I have consistently opposed bills which have violated the Budget Act or increased the deficit. Furthermore, I generally oppose bringing up spending and tax bills under suspension of the rules. The rules of the Democratic caucus include the guideline that bills involving more than $100 million should not be considered under suspension of the rules. This guideline should be followed.

A number of these bills might also violate the Budget Act were they not considered under suspension of the rules. The miscellaneous tax bills reported out of the Ways and Means Committee July 23, however, fall into a different category. Individually, each bill may gain or lose revenue, but, as a package, they reduce the deficit by $227 million over the next 5 years.

According to the Joint Committee on Taxation, the miscellaneous tax bills have the following aggregate revenue effect (in millions of dollars as of July 24):

1992	−84
1993	−109
1994	+150
1995	+96
1996	+78
1997	+103
Total	+227

While the package loses money in 1992 and 1993, as of July 24 there was sufficient money in the paygo account, $329 million, to avoid a sequester. Pending legislation, however, could quickly erode this balance.

I have been assured that, under the procedure developed by Chairman ROSTENKOWSKI, no bill will be called up unless the preceding bills generated a revenue surplus sufficient to cover the revenue loss associated with the bill under consideration. If a recorded vote is requested on one of the bills containing a revenue surplus, then the trailing revenue losing bills would be pulled, and not be considered by the House until there was sufficient revenue to cover their cost.

Furthermore, I understand that it is the chairman's intention to package these bills before they go to the President for his signature, and that they will fully comply with the Budget Act. I commend the chairman for his consistent desire to reduce the deficit, and for developing a procedure to protect the Treasury. I trust that the same concern for not increasing the deficit will be evident in any other tax bills the Ways and Means Committee brings to the floor throughout the remainder of the year.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5636.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HOME SALE TAX FAIRNESS ACT OF 1992

Mr. GIBBONS. Mr. Speaker, pursuant to the direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5638) to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a principal residence.

The Clerk read as follows:

H.R. 5638

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 "Home Sale Tax Fairness Act of 1992".

SEC. 2. LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.

Section 1001 of the Internal Revenue Code of 1986 (relating to determination of amount of and recognition of gain or loss) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.—In the case of an individual, the amount of gain which would (but for this subsection) be recognized on the sale or exchange after December 31, 1993, of a principal residence of such individual shall be reduced (but not below zero) by the aggregate of the losses (if any) sustained by such individual on the sale or exchange after the date of the enactment of this subsection of prior principal residences of such individual which were not allowed as a deduction and which were not previously taken into account under this subsection. For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034."

SEC. 3. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

□ 1220

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, the gentleman from Texas [Mr. ARCHER] is the principal sponsor of this legislation. I will defer to the other side and reserve my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am the designee of the gentleman from Texas [Mr. ARCHER] on this legislation.

Mr. Speaker, I rise in support of H.R. 5638 which was introduced by the distinguished gentleman from Texas [Mr. ARCHER]. The bill would provide fairness in the tax treatment of home sales.

Under current law, if a taxpayer sells his or her principal residence at a loss, that loss may not ever be used to offset the taxpayer's income. On the other hand, if the taxpayer sells the same residence at a gain, that gain may be subject to tax. The bill would eliminate this unfair difference in treatment.

The bill would allow gain recognized on the sale of a principal residence to be reduced by the aggregate losses which were not allowed on prior sales of principal residences.

The bill is paid for without any tax increase. Instead, it provides sufficient revenue by improving on current information reporting with respect to home sales. The bill would require real estate settlement agents to include in the form 1099-S that they already file information concerning the real estate taxes paid by the buyer at settlement.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5638.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO VETERANS' FLIGHT TRAINING EXPENSES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1168) to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances.

The Clerk read as follows:

H.R. 1168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN REIMBURSED FLIGHT TRAINING EXPENSES.

(a) IN GENERAL.—In the case of a taxable year beginning before January 1, 1980, the determination of whether a deduction is allowable under section 162(a) of the Internal Revenue Code of 1954 for flight training expenses shall be made without regard to whether the taxpayer was reimbursed for any portion of such expenses under section 1677(b) of title 38, United States Code (as in effect before its repeal by Public Law 97-35).

(b) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this bill is sponsored by the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1168. H.R. 1168 would provide consistent tax treatment to all veterans who deducted certain flight training expenses. Currently, some veterans have been permitted to deduct the expenses, and others have been prohibited from deducting them. This bill would allow the deduction of the expenses, with a special 1-year window in which veterans could file for refunds. It would cost less than $500,000 over 6 years.

IRS inconsistency is responsible for this problem. First, in an IRS publication, the IRS told veterans that they could deduct the expenses. Then, it changed its mind and began auditing veterans who deducted the expenses. Finally, after losing in court, it told veterans that they could deduct the expenses. Unfortunately, the statute of limitations had closed for many veterans by the time that the IRS reached its final decision. H.R. 1168 would correct that injustice. All taxpayers would be treated equally under the tax law.

Mr. CLEMENT. Mr. Speaker, as a cosponsor of H.R. 1168, I am pleased to join my colleagues in urging passage of this bill, which would provide much-needed relief to approximately 200 veteran pilots throughout the country.

The importance of this bill was brought to my attention by several constituents who are currently unable to obtain refunds from the Internal Revenue Service for taxes they paid which the Service later ruled were unnecessary. These constituents, and hundreds of

other pilots, had followed written IRS instructions in reporting expenses incurred with flight training.

As my colleagues know, the IRS issued Revenue Ruling 80–173 in which it retroactively repealed a provision which had been in force since 1962. The service issued this rule against veteran pilots who had previously been allowed to receive educational benefits from the Department of Veterans Affairs and to claim a deduction for tuition expenses. The result of the IRS reversing its own ruling retroactively was that veteran pilots were charged back taxes, interest and penalties.

Nothwithstanding its ruling, in 1986 the Service decided to concede the remaining open cases and issue a refund where a timely claim for a refund remained outstanding. Thus, some veteran pilots have been successful in receiving refunds of the tax, while others have not been as fortunate. This is why this measure is needed.

H.R. 1168, introduced by my Tennessee colleague DON SUNDQUIST, would provide a 1-year grace period for these pilots to file for a refund of the taxes they have paid. I firmly believe this is the most equitable way for the pilots and the Federal Government to resolve this matter.

I urge support for H.R. 1168.

NASHVILLE, TN,
March 31, 1991.

Hon. BOB CLEMENT,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN CLEMENT: Since approximately 1982, I have been trying to correct, along with a group of fellow veterans of the Vietnam War, an injustice done to us by the Internal Revenue Service. This battle has been waged in the courts and in Congress over the past decade. (We call ourselves the ATR Defense Group).

The problem arose during the 1970's when I and many other pilot veterans undertook VA-approved aviation education programs to improve our skills and enhance careers as commercial pilots, using the G.I. Bill. Using the IRS's own Tax Instructions, we claimed tax exemptions which had been allowed for eighteen years by the IRS to hundreds of other veterans. In a 1980 ruling, the IRS reversed their own ruling RETROACTIVELY, and charged us back taxes and interest. After numerous costly court challenges with mixed results, the IRS admitted their mistake and ruled that any taxes not paid at that time were no longer due. However, those of us who had already paid were again discriminated against by not receiving a return of taxes and interest. Additionally, those pilot veterans whose cases were resolved in certain Judicial Districts early on were able to file and get refunds, whereas those of us who received judicial relief later, were told by the IRS that it was simply too late to file. In other words, the IRS is simply going to keep the money.

Two of our group have received help from their Congressional delegation. I attach correspondence copy from the IRS to Senator Paul Sarbanes, from Senator Sarbanes to taxpayer J.E. Bisby, and a copy of the check from the IRS to Mr. Bisby. Also, copies of certain correspondence relating to the successful efforts of Congressman D. French Slaughter of Virginia to help Mr. William Smithdeal get his refund. It can be done.

This has been a long and frustrating fight. I am outraged that the IRS can blithely (A) change its own rules and policies retroactively and (B) arbitrarily and unfairly allow reimbursement to some taxpayers while denying identical claims of others. This is a Federal system and all taxpayers should be given fair and equal consideration regardless of their geographical location in the United States.

In addition to your kind consideration of my case, for which I would be most appreciative, I ask that you please consider becoming a co-sponsor of H.B. 1168, introduced by Congressman Sundquist, referred to the Committee on Ways and Means. This proposal (which was also before the 101st Congress) would grant these Vietnam War pilot veterans a one year grace period to file for refunds of taxes that their government mistakenly compelled them to pay. Passage of this measure would, of course, resolve our problem.

I have reached my wits' end in this matter and have turned to you in hopes that you would be able to help me recover my funds from the IRS. Thanking you in advance for your kind consideration and effort, I remain

Sincerely yours,

_____.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, September 9, 1991.

Hon. BOB CLEMENT,
Cannon House Office Building, Washington, DC.

DEAR MR. CLEMENT: The Chief Counsel, Abraham N. M. Shashy, Jr., has requested that I reply to your letter forwarding the inquiry of . . . to the Internal Revenue Service.

In his letter of March 31, 1991, Mr. _____ states that he is a veteran of the armed forced and that he took a flight training course under the auspices of the G.I. Bill. Presumably Mr. _____ was reimbursed for the cost of the course by the Veterans Administration, in accord with that agency's procedures. He states he deducted the cost of the courses and that his deduction was disallowed pursuant to Rev. Rul. 80–173, 1980–2 C.B. 60. He indicates that he paid the tax so determined and that he has not received a refund.

Rev. Rul. 80–173, 1980–2 C.B. 60, held that deductions for the cost of flight training courses, when the trainee had been reimbursed for the course by the Veterans Administration, were not allowable. The revenue ruling was applied retroactively to all open tax periods. The retroactivity of this revenue ruling was the subject of much litigation. The position of the Service was affirmed by three circuit courts of appeal, as well as the Tax Court. See *Manocchio* v. *Commissioner*, 710 F.2d 1400 (9th Cir. 1983), *aff'g* 78 T.C. 989 (1982); *Rivers* v. *Commissioner*, T.C. Memo. 1983–567, *aff'd* 727 F.2d 1103 (4th Cir. 1984); *Olszewski* v. *Commissioner*, T.C. Memo. 1983–68 *aff'd* 55 AFTR2d 85–536 (1st Cir. 1983). The Eleventh Circuit, in *Baker* v. *United States*, 748 F.2d 1465 (11th Cir. 1984), ruled in favor of the taxpayer of this issue.

In 1986, the Service decided to dispose of the remaining cases of this issue without further litigation as the issue was not recurring or of sufficient importance to warrant Supreme Court review and the amounts at issue were relatively small. Accordingly, although the Service's position, that Rev. Rul. 80–173 should be applied retroactively, did not change, the Service decided it would concede the remaining open cases. Where a timely claim for refund remained outstanding, the Service issued a refund. This decision, however, does not automatically entitle a taxpayer to a refund at this time. In order to be entitled to a refund, the tax must have been paid and a claim filed within the time limits prescribed in section 6511(a) of the Internal Revenue Code. That section provides generally that a claim for refund of an overpayment of income taxes must be filed within 3 years from the time the tax return was filed or 2 years from the time the tax was paid, whichever of such periods expires later. These requirements are longstanding legal prerequisites which must be satisfied before a refund can be issued. The Service has no discretion to waive the requirements of the law if they have not been complied with.

Mr. _____ states that persons he knows of have received refunds. The disclosure provisions of I.R.C. §6103 prohibit us from releasing information regarding third party taxpayers. If, however, the Service made an error and issued a refund improperly, the mistake would not entitle Mr. _____ to obtain a refund in contravention of legal requirements.

Sincerely yours,

DANIEL J. WILES,
Deputy Assistant Chief Counsel (Tax Litigation).

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 1168.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CLARIFYING TREATMENT OF THE REHABILITATION CREDIT.

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5637) to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes.

The Clerk read as follows:

H.R. 5637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TREATMENT OF CERTAIN BUILDINGS UNDER REHABILITATION CREDIT

A building shall not be treated as being ineligible for the rehabilitation credit by reason of being relocated if the rehabilitation of such building at the relocated site began before the date of the publication of proposed Treasury Regulation 1.48–12(b)(5).

SEC. 2. INCREASE IN SIZE OF LOANS PERMITTED UNDER CERTAIN BOND-FINANCED PROGRAMS.

(a) IN GENERAL.—Paragraph (2) of section 1316(a) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence:

"A loan shall not be treated as failing to meet the requirements of subparagraph (B)

by reason of exceeding the maximum amount permitted under such subparagraph if the maximum amount of such loan does not exceed $40,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 3. ADDITIONAL SUBSTANTIATION REQUIREMENTS FOR CERTAIN MEALS AND ENTERTAINMENT EXPENSES.

(a) GENERAL RULE.—Subsection (d) of section 274 of the Internal Revenue Code of 1986 (relating to substantiation requirements) is amended by adding at the end thereof the following new sentence: "In the case of an expense for any meal referred to in paragraph (1) or an item referred to in paragraph (2), the taxpayer shall not be treated as meeting the substantiation requirements of this subsection with respect to the amount of such expense or item unless such amount is shown on a receipt which is prepared by the provider of the meal, entertainment, amusement, or recreation (as the case may be) and which is provided at the time of (or within a reasonable period of time after) the furnishing of the meal, entertainment, amusement, or recreation (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred after December 31, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill introduced by the gentleman from Texas [Mr. PICKLE], and I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I recommend passage of legislation I have proposed which will make three technical, but important, changes of our Tax Code.

First, H.R. 5637 makes an important clarification to the rehabilitation tax credit, which was enacted in 1981 to encourage the preservation of older and historically important buildings. Our Government provided a credit from between 15 and 25 percent, depending on the age or historical significance of the building. Neither the statute, nor any legislative history, specifically prohibited the movement of the structure in order to qualify for the credit. When the Treasury Department 4 years later issued regulations implementing the tax credit, it retroactively prohibited buildings between 30 and 40 years old from being moved and qualifying for the tax credit. Unfortunately, a few taxpayers, relying on the statute, had already moved and initiated substantial rehabilitation.

H.R. 5637 provides that the Treasury regulations be prospective. That is, the prohibition on allowing the tax credit for 30- and 40-year-old buildings, which have been moved, will apply only after the publication of the 1985 Treasury regulation. Thus, those taxpayers who relied on the 1981 statute, moved 30- to 40-year-old buildings, and who began rehabilitation, will not be treated unfairly, as the Treasury regulations threatened to do. This provision costs $2 million over 5 years. The cost is negligible, hardly measurable.

The second provision has to do with the Texas Veterans' Land Program. Since 1946, my State has had a program under which low cost loans have been made available to veterans to assist in the purchase of land, and, current Federal law allows tax-exempt bonds to finance these loans. The State of Texas sees this program as a good way to reward those who have served their country in the armed services; and recently our legislature increased the amount that can be loaned to individual veterans from $20,000 to $40,000. H.R. 5637 simply conforms the maximum loan amounts to the State-law maximum of $40,000. I would emphasize, however, that the bonds remain under the State volume cap just as they are under current law. The provision costs $7 million over 5 years.

H.R. 5637 pays for both provisions by clarifying current law substantiation requirements of business meals and entertainment. Currently, regulations require that if a taxpayer wishes to deduct a meal or entertainment expense for business purposes, he or she must provide documentary evidence to prove that the expenditure actually took place. For most taxpayers, this means maintaining a receipt of the expense.

Unfortunately, some taxpayers create receipts or obtain blank receipts which they subsequently fill out. Sometimes expense amounts are exaggerated, sometimes meals which never occurred are deducted. When this happens, the Federal Government loses millions of dollars in revenue.

H.R. 5637 improves compliance by requiring that receipts used to justify a business meal or entertainment expense be provided by the provider of the meal or entertainment. Credit card or charge card receipts would meet this requirement. The result is simple. If a taxpayer wants to take a deduction then there must be a legitimate receipt from the provider. I would stress that this is what the overwhelming majority of taxpayers already do.

This provision raises $31 million over 5 years and, I want to emphasize, is supported by the National Restaurant Association.

Mr. Speaker, the bill I present today makes minor changes in tax law, with modest revenue implications, and is paid for. But the bill makes important changes in tax law that will improve the fairness of our Tax Code and the ability for the State of Texas to help its veterans. I urge adoption of the bill.

□ 1230

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have heard no objection from Republicans to H.R. 5637. The revenue losing portions of the bill are quite narrow. The bill would modify a Treasury regulation denying the rehabilitation credit to buildings that have been moved.

The regulation had a retroactive effective date, and the bill would make the regulation prospective from the date of its promulgation. The bill also, consistent with State law, raises to $40,000 from $20,000 the amount that may be loaned to an individual under the Texas veteran loan bond program.

The cost of these two provisions would be offset by requiring greater substantiation of business meals and entertainment expenses.

I have concerns about any provision that increases paperwork and recordkeeping. I understand, however, that this provision would not change the current $25 safehabor established under Treasury regulations and would not affect the deductibility of business meals and entertainment expenses generally. I also understand that the gentleman from Texas has worked closely with the restaurant industry in formulating this proposal. With that understanding, I do not object to the provision.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5637.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO THE INVOLUNTARY CONVERSION RULES FOR DISASTER-RELATED CONVERSIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5640) to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

The Clerk read as follows:

H.R. 5640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term "principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, today I rise in support of H.R. 5640, a bill to modify the Internal Revenue Code to the benefit of victims who suffer property loss during presidentially declared national disasters. While this bill is prompted by the Oakland firestorm which killed 25 persons and destroyed more than 3,000 homes, and hundreds of apartments in the disastrous wildfire that swept through the cities of Oakland and Berkeley, the provisions of this bill would be applicable to any disaster after September 1, 1991.

The East Bay blaze was the most destructive urban wildfire in U.S. history and it was particularly difficult because it came before many Californians had received their disaster assistance for the earthquake damage the year before. Yet disasters are not unique to California. South Carolina, the Virgin Islands, and Puerto Rico are still rebuilding from the damage caused by Hurricane Hugo in 1989. What with hurricanes, earthquakes, tornadoes, and floods like the recent one in Chicago, no State is immune from such disasters.

The provisions in H.R. 5640 come from the suggestions of CPA's who have volunteered their services to assist the firestorm victims comply with the tax laws.

H.R. 5640 would make the following changes in the Tax Code:

First, extend the time to rebuild or buy a new home from 2 to 4 years.

Second, exclude gain on any unscheduled personal property. Insurance proceeds rarely if ever reimburse a taxpayer fully for their loss and this provision would minimize the record keeping involved in listing losses of all personal property and replacement cost of normal household personal property.

Third, treat insurance proceeds covering personal property and insurance proceeds covering real property as one common fund which a taxpayer would use to replace their real and personal property. Current law requires real property proceeds to be used only for real property replacement and personal property proceeds to be used only for personal property replacement. The change would provide that there is no gain to the taxpayer as long as all the insurance proceeds are reinvested in replacing their home and furnishings and allows the taxpayer to allocate the insurance proceeds between real and personal property as their needs dictate.

All provisions would apply to losses from federally declared disasters on or after September 1, 1991.

I urge your support of H.R. 5640.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Florida [Mr. GIBBONS] for yielding this time to me, and I also thank my distinguished colleague, the gentleman from Florida [Mr. JENKINS] for his very kind and generous remarks and support of the bill, H.R. 5640.

With those remarks, Mr. Speaker and Members of the body, let me first thank the chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], thank my distinguished colleague, the gentleman from Florida [Mr. GIBBONS], the distinguished gentleman from Iowa [Mr. GRANDY] and the members and staff of the staff of the Committee on Ways and Means who assisted us in drafting this legislation. I would specifically like to thank my distinguished colleague, the gentleman from California [Mr. STARK], and his staff for their diligence, their understanding, their caring and compassion in this situation.

Mr. Speaker, H.R. 5640 provides relief in certain tax related aspects in any disaster when the President subsequently determines that the affected area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

The bill that we are considering today provides important relief to victims of the Oakland-Berkeley firestorm that destroyed thousands of homes in those two towns. As if the destruction that each person endured—destruction that consumed all of their worldly possessions—were not enough, people discovered that the tax rules failed to give them enough time to plan their recovery and completely governed the manner in which they could rebuild their shattered lives.

As a result, we have introduced legislation to solve the tax related aspects of this national tragedy. The bill before you today includes three of the elements of that original proposal. While this is not the comprehensive list the legislation does provide real solutions that will meet and solve a widespread and substantial problem, a problem common to disaster victims throughout the Nation.

Specifically, the bill does three things to assist victims in Presidentially declared disasters.

First, it would extend from 2 years to 4 years the period in which individuals have a chance to reinvest insurance proceeds before capital gains calculations will take effect. Several reasons exist for this modification, including the fact that widespread destruction makes the very act of rebuilding proceed far more slowly because of infrastructure devastation, stretched resources and overwhelmed municipal and local government administrative structures. In addition, disaster victims need an extended opportunity to assess their situation and to make their personal choices about how and where to rebuild their shattered lives, a process that is made more complicated by the scale and omnipresence of the disaster that befell them.

Second, the bill would exclude from capital gains consideration any insurance proceeds paid as compensation for losses of unscheduled personal property. Again, numerous reasons exist for enacting such a provision. For those who have lost everything, reconstructing records to show the IRS what they had in order to show how they replaced it, is an almost impossible physical job. This is compounded by the mental and emotional anguish that such a process evokes in people who must remember all that they have lost. Finally and significantly, we should recognize that insurance proceeds never compensate individuals fully for their loss. How can we insist that capital gains is possible for unscheduled items of ordinary use

when we know in our hearts that these victims will never receive proceeds sufficient to replace their losses.

Third, the bill would provide that insurance proceeds for real property and valuable personal property may be combined and spent for the purposes of reestablishing one's home or furnishings or reinvesting in similar items, such as art. This would allow those in changed circumstance or with inadequate insurance coverage either for real property or personal property to chart the appropriate course for their own recovery. For example, an individual who may have lost a valuable art piece that is literally irreplaceable but who has a newly arisen responsibility to care for an aging parent could use proceeds from the lost art to finance reconstruction to care for an aging parent. They could, for example, use proceeds from the lost art to finance reconstruction of their house in a fashion that would create a new living space for the dependent parent. Alternatively, those with grown families who do not need as large a House, may be able to use some of the proceeds from their real estate coverage to buy furniture and other necessary personal items.

My constituents in Oakland and Berkeley, like disaster victims throughout the Nation have experienced horrendous suffering. Let us enact this legislation and relieve them and future victims of the cruel administrative burden that would place a straitjacket on them as they seek to emerge from the disaster. Let them choose the course of their recovery, while preserving the integrity of our Tax Code.

□ 1240

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5640. The bill would provide relief to taxpayers who suffer from disaster losses. Currently, some technical rules involving the taxation of involuntary conversions can create hardships and administrative difficulties for affected taxpayers. This bill would relieve taxpayers from some of these more technical and onerous provisions.

I might say also parenthetically, Mr. Speaker, that last week the House saw fit to pass a similar disaster-related provision as it relates to livestock producers and farmers in this country. I think it is certainly in keeping with the spirit of this House also to pass a provision that affects home owners in federally designated disaster areas.

Mr. Speaker, I have no requests for time. I urge adoption of these provisions, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise only to pay tribute to the gentleman from California [Mr. DELLUMS] for having originated the thought that is in this bill. He first presented to me and other Members of the committee a fine written letter outlining the problems that his district faced and the people of his district faced. He pushed vigorously ahead to get the appropriate attention of the committee to the problem, and he has worked closely with the committee to try to get this law enacted.

I regret that because of monetary restraints we could not do all the things he asked for in his original proposal, but this is a good proposal and it makes good common sense. I know the gentleman can be very proud of what he started here.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank my colleague for his very generous remarks, and I appreciate having the opportunity to work with the gentleman.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5640.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXCLUDING CERTAIN SPONSORSHIP PAYMENTS FROM UNRELATED BUSINESS INCOME OF TAX-EXEMPT ORGANIZATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5645) to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes.

The Clerk read as follows:

H.R. 5645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 of the Internal Revenue Code of 1986 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term 'qualified sponsorship payment' means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than—

"(A) the use of the name or logo of such person's trade or business in connection with any qualified public event under arrangements (including advertising) in connection with such event which acknowledge such person's sponsorship or promote such person's products or services, or

"(B) the furnishing of facilities, services, or other privileges in connection with such event to individuals designated by such person.

"(3) QUALIFIED PUBLIC EVENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public event' means any event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if such event is—

"(i) a public event (other than a sporting event) the conduct of which is substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization conducting such event, or

"(ii) any public event not described in clause (i) but only if such event is the only event of that type conducted by such organization during a calendar year and such event does not exceed 30 consecutive days.

An event shall be treated as a qualified public event with respect to all organizations referred to in the preceding sentence which receive sponsorship payments with respect to such event if such event is a qualified public event with respect to 1 of such organizations; except that a payment shall be treated as not being from an unrelated trade or business by reason of this sentence only to the extent that such payment is used to meet the expenses of such event or for the benefit of the organization with respect to which such event is a qualified public event (determined without regard to this sentence).

(B) EXEMPT PURPOSE.—For purposes of subparagraph (A), the term 'exempt purpose' means any purpose or function constituting the basis for the organization's exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), the exercise or performance of an purpose or function described in section 501(c)(3)).

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this subsection through the use of entities under common control."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to events conducted after the date of the enactment of this Act.

SEC. 2. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OLYMPIC ORGANIZATIONS

In the case of a qualified amateur sports organization described in section 501(j)(2) of the Internal Revenue Code of 1986 or an organization which would be so described but for the cultural events it organizes in connection with national or international amateur sports competitions—

(1) for purposes of section 512(b) of such Code, the term "royalty" includes any income received (directly or indirectly) by such organization if a substantial part of the consideration for such income is the right to use trademarks, designations, or similar properties indicating a connection with the

Olympic Games to be conducted in 1996 or related events or the participation of the United States Olympic Team at such Games or events, and

(2) nothing in section 514 or 512(b) of such Code shall be construed as treating any amount treated as royalty under paragraph (1) as an item of income from an unrelated trade or business.

SEC. 3. TREATMENT OF AMOUNTS RECEIVED IN CONNECTION WITH AFFINITY CARDS.

(a) GENERAL RULE.—Subsection (b) of section 512 of the Internal Revenue Code of 1986 (relating to modifications to unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding any other provision of this part, any amount received or accrued in connection with the direct or indirect sale, exchange, lease, rental, or other grant of—

"(i) the right to use the name of the organization, identifying symbol, or similar item on a credit or debit card, or

"(ii) the right to use a list of members, customers, or contributors in connection with the issuance of credit or debit cards,

shall be included as an item of gross income derived from an unrelated trade or business regularly carried on by the organization. There shall be allowed all deductions directly connected with amounts so included under this subparagraph.

"(B) Subparagraph (A) shall not apply to a credit union exempt from tax under section 501(c)(14)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received or accrued after July 9, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS], who is the original sponsor of this legislation.

Mr. JENKINS. Mr. Speaker, a year ago, along with my colleague, the gentleman from Washington [Mr. CHANDLER], I introduced legislation to assure the tax-free treatment—in fact to assure continued tax-free treatment—of corporate sponsorship funding of amateur athletic events. Specifically, my bill was intended to stop the Internal Revenue Service's [IRS] effort to tax, as unrelated business income, the corporate sponsorship funds received by college football bowl organizations.

At the beginning of this year, the IRS proposed audit guidelines for the taxation of corporate contributions to tax-exempt organizations. The tax-exempt community—from the bowl committees to youth athletic programs, from county fairs to museums and performing arts groups, and from the United Way to the smallest of local charities—responded immediately and uniformly in opposition. The guidelines threaten the vitality and viability of practically all tax-exempt entities and their local and national educational and charitable purposes.

More than 100 Members of the House have cosponsored my original bill, including Congressman ROD CHANDLER. We have heard from many charitable organziations from around the country and with their assistance, and the tireless efforts of the Ways and Means Committee staff, both majority and minority, we have worked out a new proposal, H.R. 5645, which satisfies the concerns of nearly all interested parties. Regrettably, the Treasury Department and the IRS, which received more than 350 objections to the proposed guidelines, do not agree with our approach. This is difficult to reconcile with the Bush administration's emphasis on voluntarism and charitable efforts.

H.R. 5645 clarifies that in certain circumstances corporate contributions to tax-exempt entities, whether or not made in furtherance of the entities' exempt purpose and whether made in support of a sporting activity or other public event, will remain tax-free.

Let me explain the conditions required for tax-free treatment. When a corporation helps fund an exhibit at your city's art museum—a program which is directly related to the museum's tax-exempt purpose—the contribution is tax free, however long in duration the exhibit is scheduled.

On the other hand, if that same art museum, or more probably, your local chapter of the American Heart Association or Cancer Society were to conduct a fundraising event for which it receives corporate support—an activity not directly related to the entity's tax-exempt purpose—the contribution would be tax free only as long as the event is undertaken and concluded within a consecutive 30-day period and the event is the only one of its kind conducted during a 1-year period. It is the committee's intent and understanding that fundraising event routinely conducted by organizations like the Heart Association and Cancer Society, such as telethons, bikeathons, and walkathons are each separate and distinct types of events under this proposal.

The 30-day-once-a-year requirement also applies generally to the tax-free treatment of corporate sponsorship of sporting events, whether or not the event is directly related to the tax-exempt purpose of the recipient organization. Under this part of the proposal, corporate sponsorship of college football bowl games, the various NCAA national championship tournaments, PGA and LPGA tour events, as well as of local 10-K road races and other sporting activities conducted by hospitals, neighborhood schools, and countless charitable organizations to raise money for their educational and community programs, would remain tax free. In regard to sporting events, it is the committee's intent and understanding that the national competitions conducted by the NCAA, whether between men's or women's teams, whether in different sports, for example, ice hockey and baseball, or among different divisions in the same sport, for example, divisions 1, 2, and 3 of basketball, each constitute separate and distinct types of events under this proposal.

Finally, this bipartisan proposal clarifies that royalty income received by the local organizing committee for the 1996 Summer Olympic games and the U.S. Olympic Committee will remain tax free. There is reason to be concerned about how the IRS might view royalty income paid to the organizations charged with planning for and conducting the 1996 games because of the direction the IRS is taking in the UBIT area generally. It is projected that the 1996 summer games will cost $1.5 billion to conduct, and no public funds are expected to be allocated. This clarification simply assures the 1996 games and same tax treatment accorded the 1984 Los Angeles games by the IRS itself.

We all appreciate the role played by organizations like the Heart Association and the Cancer Society, particularly as Federal health care research funds continue to shrink. Tax-free corporate contributions to these and so many other like-minded groups mean that more money will be available to fund critical research programs.

Tax-free treatment of corporate contributions will assure the future of cultural programs for all the people, whether in the art museum, on the stage, or at the annual county fair.

Taxing the corporate sponsorship income received by college football bowl organizations could result in the end of some of the smaller bowl games and certainly would result in a significant loss of revenue to university programs. The 1991-92 bowl season resulted in the distribution of more than $64 million to more than 100 colleges and universities, which fund scholarships, academic programs, and women's athletic programs in compliance with title IX. The pre-New Year's Day Peach Bowl, played in Atlanta, attracted 40,000 out-of-town visitors in 1991, who contributed between $35 and $50 million to the local economy. Eighteen cities host annual bowl games, generating significant taxable revenue.

Taxing the corporate sponsorship income received by the NCAA also will result in the loss of revenue to women's intercollegiate athletic programs, and in the probable end of youth athletic programs nationwide funded by the NCAA. Taxing corporate sponsorship of PGA and LPGA tour events would result in fewer dollars to the numerous local charities supported by

those events—estimated last year to be approximately $25 million.

Over the years the Congress has consistently determined that charitable and corporate sponsorship contributions should be tax free. The courts have upheld the circumstances in which the Congress has determined that they should remain so. The IRS disagrees. Where will the millions, the hundreds of millions of dollars that fund the tax-exempt community's objectives come from if we allow corporate sponsorship income to be taxed away? The IRS does not have the answer to this question. We do. Vote yes on H.R. 5645.

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Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5645 is a collective effort by several members of the Ways and Means Committee, Mr. JENKINS, Mr. CHANDLER, Mr. ANTHONY, and Mr. MCDERMOTT.

The bill is intended to address the tax issues surrounding corporate sponsorship of events conducted by charitable organizations. This legislation has been prompted by the release earlier this year by the Internal Revenue Service of audit guidelines that created more fear than certainty. Charities across the country, from college bowls to local fairs and zoos, have been subjected to audits.

This bill is intended to say that the covered corporate sponsorships, which now provide a significant part of the necessary funding for certain charities, will not be subjected to tax. It also provides special tax rules for the 1996 Olympic games.

The bill contains a revenue offset which taxes receipts from affinity credit cards issued by nonprofit organizations.

The bill's revenue offset codifies the position already being taken by IRS that receipts from affinity credit cards issued by nonprofit organizations are taxable. This provision will bear watching as the bill moves further through the legislative process to see whether opposition to the revenue offset develops.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I oppose this legislation, and I do so respectfully. We are here today because the Internal Revenue Service made a decision. The Treasury Department decided that the bowls have gone over whatever ill-defined line there is and should not be entitled to the kind of tax break they have gotten in the past.

Let me be very clear, the Treasury is not saying that county fairs, that fundraising activities for cultural events, that the Olympics in Atlanta, should not be entitled to special tax treatment. What they are saying is that the college bowl system has changed dramatically in the last 10 or 15 years, and in fact it has changed.

The question from a tax policy standpoint is are the bowls given a special advantage in the marketplace that their competition might not be allowed? I think it is a valid question that our committee has had no hearings on and that Treasury intends to have hearings on to try to define for every organization around the country what the appropriate standards should be.

Mr. Speaker, it is clear to anyone with an objective view that what was a college bowl game has changed dramatically, and in fact the bowls have moved to be small superbowls as opposed to the bowl system that we have all grown up to know and care about.

In fact, it is no longer the Sun Bowl in El Paso that features teams from that part of the country; it is now the John Hancock, Inc., Bowl. It is not just the Cotton Bowl anymore; it is the Mobil Cotton Bowl, and Mobil is written across the field and players have Mobil insignias on their uniforms. And in fact other companies have gotten into the business.

Now we have the Poulon Weedeater Bowl and the Blockbuster Video Bowl. These organizations know full well exactly what they are getting for their money.

College athletics in some cases have become too commercialized. In the bowls it has gone way beyond any bounds of what is appropriate for education. This has led, unfortunately, to some very embarrassing situations.

The University of Oregon, the Ducks, played in the Freedom Bowl and earned $600,000 for that participation. The university itself netted $5,000 after the bowl game. That is just wrong. That is not what the bowls should be set up to accomplish.

The Washington Times reported this morning that the John Hancock Insurance Co. bragged that by sponsoring the John Hancock, Inc., Bowl, they got $5.1 million worth of advertising for only a $1.6 million investment. That is not the goal of the college bowl games. That is not what our universities should be all about.

Now, I understand that this bill will likely pass on the floor tomorrow, and I understand that it may become law. Should it not, however, I would hope that the NCAA, that the bowls themselves, that the Congress, and that the Treasury Department, take a second look at what these bowls are about and see if we can define some guidelines that would bring them within the gambit of what their goals should have been and have been in the past. I think that is the only important thing that we can do.

Mr. Speaker, finally, we learned just in the last few days how this provision is paid for. As the gentleman from Georgia [Mr. JENKINS] stated earlier, it is paid for by taxing affinity cards. This is a very important revenue source for many nonprofit organizations across this country, including colleges and universities. The American Heart Association, the Sierra Club, the National Wildlife Federation, and the American Rivers Conservation Council all oppose this bill, and they do so because of the way the bill is paid for.

Mr. Speaker, I think we should defeat this legislation. I think we should go back to the drawing board. We should respectively try to make these bowls the best that they can be, what they ought to be, and let us try to make tax policy that is driven by tax policy considerations, and not by the fact that all of us like golf or all of us like college football, and let us try to make some decisions that make good sense for the tax policy and taxpayers of this country.

Mr. ANTHONY. Mr. Speaker, today, we are considering a proposal that will insure that countless works of charity undertaken by nonprofit organizations in our districts are protected from the long reach of the IRS. As you know, the IRS recently issued audit guidelines that for good reason have sent a panic through the local nonprofit community.

The audit guidelines propose to tax corporate sponsorship payments received by local charities. For instance if a soft drink manufacturer sponsors signage or other promotional material, your local county fair may be subject to the new guidelines. If a charity is subject to tax, 34 percent of the money received from the sponsor will be diverted from community service in your hometown and sent to Washington in the form of taxes. This all from an administration that prides itself with its vision of 1,000 points of light as a way to deal with the mounting social problems facing our already strapped local communities. How can these 1,000 points of light work if 34 percent of their funds are being used to pay Federal income taxes?

I have joined with ED JENKINS, ROD CHANDLER, and JIM MCDERMOTT in seeking a solution that merely codifies a U.S. circuit court case that the IRS has chosen not to follow. Our solution does not change current law, but merely provides more certainty to a gray area of the Internal Revenue Code. Our bill says that an event is not "regularly carried on" if an event is held only once a year by the nonprofit entity and that event does not transpire over a period that exceeds 30 consecutive days. Under current law, if an event is not "regularly carried on", its income is not subject to the unrelated business income tax.

All of us have a festival, a county fair, or other charitable event that benefits the people back home. I have a charitable golf tournament in my district that has generated significant assistance for Opportunities, Inc. over the past 3 years. Opportunities, Inc. is a nonprofit organization in Texarkana, AR, that works with developmentally disabled children and adults. I don't know about you but I would hate to be the one to tell the people in Tex-

arkana, AR, that they have 34 percent less to work with to make the lives of these citizens a little better.

You may have heard from the IRS that it is premature to take legislative action to clarify this area of the law. They may have told you they are conducting hearings so that they can narrow the impact of their guidelines. While some representatives of the IRS are speaking with a voice of reason, other officials continue to take the hard line. As Members of Congress, it is our duty to define the law and determine how it will impact our constituents. Today is the right time to act. For the sake of the charitable organizations throughout the country and those in your district, I ask you to vote for this bill.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in opposition to H.R. 5645. As many of you know, I am very concerned with the direction which college athletics have been taking, particularly in regard to the commercialization of college sports. The bill before us today exacerbates this tendency, not mitigates it.

The bill is a definite setback toward defining a clear boundary between nonprofit college athletics and for-profit business ventures. By exempting certain organizations from the so-called unrelated business income tax for proceeds from sponsorship of certain events, we are providing preferential tax treatment for the commercialization of college sport. This tax shelter is geared specifically to the sponsorship payments given to college universities in connection with football bowl games. Consequently, this bill will encourage universities to secure the largest sponsorship payments possible.

The legislation will favor large and athletically powerful institutions and conferences, thus widening the gap between funds available for these entities and for other institutions. Such funds are of importance to both athletic programs and other campus activities, which makes it imperative that we promote policies which ensure a fairer distribution of revenues. Allowing college athletics to continue to look like a business, and act like a business, without playing by the rules of a business will only contribute to the continued demise of college athletics. Unfortunately, such demise ultimately comes at the expense of the student-athlete.

As I have stated previously, because the NCAA has proven its inability to clean its own house, a benevolent dictator should step in to assert itself in the governance of college sports. I believe Congress, with the help of the college presidents, should perform this task. The Collegiate Athletic Reform Act, which I introduced last July, proposes fundamental reforms that will restore the emphasis on education at our Nation's universities. The primary concern, to facilitate change, should be in the area of financial reform.

The bill before us today takes us in completely the wrong direction. If schools persist in treating college athletics as a business, it is only fitting that everyone else—the athletes, the IRS—treat them as a business as well. For this fundamental reason, I have serious reservations about the tax exemption for sponsorship proceeds of the Olympics and other events (H.R. 5645), and urge my colleagues to oppose it.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5645.

The question was taken.

Mr. ANDREWS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RELATING TO RETIREMENT AND SURVIVOR ANNUITIES FOR CERTAIN EX-SPOUSES OF THE CIA AND TO THE TAX TREATMENT OF CERTAIN DISABILITY BENEFITS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5651) to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits.

The Clerk read as follows:

H.R. 5651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANNUITY BENEFITS FOR CERTAIN EX-SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SEC. 101. SURVIVOR ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) SURVIVOR ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System (CIARDS) and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), shall be entitled, except to the extent such person is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act; or

(B) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act.

(2) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act.

(b) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION OF ANNUITY.—

(1) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section shall commence—

(A) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1992, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former wife or husband reaches age 50; and

(B) in the case of any other former wife or husband, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former wife or husband was married dies;

(ii) the 60th day after October 1, 1992; or

(iii) the date on which the former wife or husband attains age 50.

(2) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(d) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(e) APPLICATION.—

(1) TIME LIMIT; WAIVER.—A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1993. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(2) RETROACTIVE BENEFITS.—Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1992.

(f) RESTORATION OF ANNUITY.—Notwithstanding subsection (e)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1992, under subsection (b)(1) or (c)(2).

(g) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

(1) ENTITLEMENT.—Except as provided in paragraph (2), this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code.

(2) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by paragraph (1) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

SEC. 102. RETIREMENT ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) RETIREMENT ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in section 101(a)(1) shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees).

(2) REDUCTION IN RETIREMENT ANNUITIES.—

(A) AMOUNT OF REDUCTION.—An annuity payable under this section shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

(B) DEFINITION OF TERMS.—For purposes of subparagraph (A):

(i) APPORTIONMENT.—The term "apportionment" means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

(ii) COURT ORDER.—The term "court order" means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(b) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION.—

(1) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this section—

(A) shall commence on the later of—

(i) October 1, 1992;

(ii) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act; or

(iii) such former wife's or husband's 50th birthday; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(ii) the date on which the annuity of the participant terminates.

(2) DISABILITY ANNUITIES.—Notwithstanding paragraph (1)(A)(ii), in the case of a former wife or husband of a disability annuitant—

(A) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(3) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any other annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(4) APPLICATION.—

(A) TIME LIMIT; WAIVER.—An annuity under this section shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1993. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) RETROACTIVE BENEFITS.—Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before October 1, 1992.

(d) RESTORATION OF ANNUITIES.—Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1992, under subsection (b)(1) or (c)(1)(B).

(e) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this subsection, any reference in this section to a participant's CIARDS annuity shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986.

(f) SAVINGS PROVISION.—Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

SEC. 103. HEALTH BENEFITS.

(a) IN GENERAL.—Section 16 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ELIGIBILITY OF FORMER WIVES OR HUSBANDS.—(1) Notwithstanding subsections (a) and (b) and except as provided in subsection (d), an individual—

"(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

"(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

"(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1), except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)".

SEC. 104. SOURCE OF PAYMENT FOR ANNUITIES.

Annuities provided under sections 101 and 102 shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).

SEC. 105. EFFECTIVE DATE.

Sections 101 through 103 shall take effect as of October 1, 1992. No benefits provided pursuant to those sections shall be payable with respect to any period before that date.

TITLE II—TAX TREATMENT OF CERTAIN RETIREMENT BENEFITS

SEC. 201. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross in-

come under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY], the principal sponsor of this fine piece of legislation.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 5651. First, let me thank the leadership of both the Ways and Means and Intelligence Committees, Congressmen ROSTENKOWSKI, GIBBONS, ARCHER, MCCURDY, SHUSTER, and GEKAS, for their great assistance in bringing this bill to the floor today. H.R. 5651 addresses two complicated areas of pension and tax law, but it has important consequences for individuals who have served our country and our local communities.

In the main, H.R. 5651 recognizes the contributions made by certain former spouses of Central Intelligence Agency employees and provides them much needed retirement security.

Throughout the 1980's, Congress enacted legislation to provide greater retirement equity for the spouses of Federal Government employees. The CIA Spouses' Retirement Equity Act of 1982 provided that qualified former spouses of CIA officers would presumptively receive upon divorce a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of Agency services prior to divorce. The qualified former spouses would also be awarded a similar share of the officer's survivorship benefits. These presumptive amounts could be adjusted by court order or spousal agreement.

This right, which is substantially the same as that provided to similarly situated former spouses of foreign service officers, has been extremely important for the financial security of older women facing divorce from clandestine officers of the CIA. We are all now well aware of how difficult it has been for women to secure an equitable division of marital assets upon divorce, and the financial deprivation that usually results. These difficulties have been compounded for CIA spouses who have been unable to reveal in open court basic details of their personal circumstances.

Under the 1982 law, unfortunately, in order to qualify as a CIA former spouse, an individual not only had to have been married to a CIA employee during at least 10 years of creditable service, but 5 years had to have been spent outside the United States by both marriage partners.

The Subcommittee on Legislation of the Permanent Select Committee on Intelligence, which I chair, has become aware that the 5-year overseas rule for the spouse has disqualified from retirement and survivorship benefits many former spouses whose sacrifices for family and country have been as great as those of the former spouses who met the requirement of the rule. These women also provided great support to their husbands and to the Agency by maintaining cover, accepting frequent transfers, and participating in service-related activities. They bore all family responsibilities stateside alone while the officer served overseas, and agreed to the extra demands on family income of maintaining two households. Like other CIA spouses, they found employment opportunities, when not precluded by the nature of the officer's work, to be very limited, and they too experienced the stress of living with secrecy and the fear for the physical safety of their partners. The subcommittee has found that these women were in some cases prevented from meeting the 5 years overseas rule by days because they were not allowed by the Agency to accompany the officers to war zone assignments or because they needed to bring a sick child back to the United States for medical care.

Congress last year repealed the 5-year overseas rule for former spouses divorced after December 4, 1991. H.R. 5651 addresses the plight of a relatively small number of individuals divorced before the repeal. It enables them to receive on a prospective basis retirement and survivor benefits equivalent to the amount they would have been presumptively been awarded, provided they meet the other former spouse requirements. In addition, these individuals will be allowed to purchase Federal health insurance benefits on the same terms available to other CIA former spouses.

Mr. Speaker, the tales of some of the women who will benefit from this legislation have been shared with the Subcommittee on Legislation, and they are heart rending. We are talking about people who were—and are—every bit as dedicated to the highest ideals of the Central Intelligence Agency as anyone employed there, but who have paid great costs financially and emotionally for their service.

I have had discussions about this bill with Mr. SHUSTER, the ranking minority member of the Intelligence Committee, and with Mr. GEKAS, the ranking minority member of the Subcommittee on Legislation, either directly or through staff, and I share their concern that any potential fiscal year 1993 shortfall to the CIARDS fund as a result of this legislation be addressed. I have assured both of these fine gentlemen from Pennsylvania, and the officials of the Central Intelligence Agency, that I will not push for final enactment of this bill until the potential fiscal year 1993 shortfall is remedied.

Mr. Speaker, the Subcommittee on Legislation held a lengthy hearing on issues facing former spouses on May 22, 1992. At this hearing, witnesses from the Association of American Foreign Service Women and an association of CIA spouses made a forceful case for the need to extend former spouse legislation to spouses who had not met the 5-years overseas rule. This is not a concept objected to by the Central Intelligence Agency or by the leadership of the Intelligence Committee. In fact, since the enactment of the Central Intelligence Agency Former Spouses' Retirement Equity Act of 1982, the Congress on three occasions has enacted legislation to address the needs of qualified former spouses where divorce or retirement had taken place prior to the effective date of the act.

Unfortunately, despite the substantial savings that have been made in the Intelligence Authorization Act of fiscal year 1993, the Intelligence Committee does not have within its jurisdiction as a wide range of options as would be desirable when it comes to the offsets required under the Budget Act to make improvements in the CIA retirement and disability system. Although the subcommittee undertook a massive rewrite and revision of the Central Intelligence Agency Retirement Act of 1964 for certain employees in the fiscal year 1993 intelligence authorization act, it limited the changes it made, in all but two minor matters, to technical adjustments.

Frankly, I was very frustrated by this situation, and made clear at each step in our legislative process that I would continue to work to extend former spouse legislation. We have today a solution to the roadblock—a bill which is under the joint jurisdiction of the Intelligence and Ways and Means Committees, and included in a package that includes Budget Act offsets. We thus have the opportunity to recognize today the unpaid and unsung contributions of CIA spouses and to ensure they enjoy basic retirement security.

The second section of H.R. 5651 simply excludes from gross income pay-

ments made to police and fire officials as a result of heart disease or hypertension incurred in the course of employment and misclassified for Federal tax purposes as a result of State errors.

This statutory change is necessary because a State law error in several States, including Connecticut, caused the IRS to rule that these benefits received by police and fire officials are taxable. These benefits were intended to be treated as workmen's compensation. For example, the error in the Connecticut State statute was the "irrebuttable presumption" that heart and hypertension conditions were the result of hazardous work conditions. This means that any policemen or firefighter who developed a heart condition or hypertension was automatically deemed to qualify for these benefits on the basis that the nature of the job caused the medical condition. The words "irrebuttable presumption" made the benefits taxable.

In Connecticut, at least, the State law has been corrected so that while there is a presumption that such conditions are the result of hazardous work, the State or municipality involved could require medical proof. Simply deleting the "irrebuttable presumption" made the benefits satisfy the IRS definition of workmen's compensation.

Therefore, all this section would do is to exempt from income those payments received by these individuals as a result of faulty State law but only for the past 3 years—1989, 1990, and 1991. From January 1, 1992 forward, those already receiving these benefits would have to meet the standard IRS test.

The importance of this amendment is that these individuals were led to believe that by following State law their benefits were exempt from Federal income tax. The cities and towns involved believed that they followed State law and therefore all parties involved believed that these benefits were not subject to tax.

However, the IRS currently has an audit project ongoing in Connecticut, and several other States, and has deemed these benefits taxable. All this section says is that all parties involved made a good faith effort to comply with what they thought the law was. The States were in error and where that error has been rectified these individuals on disability should not required to pay 3 years back taxes plus interest and penalties.

Again, I urge support of the House for this bill.

□ 1310

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Republican members of the Committee on Ways and Means have heard no objection to this bill. It is my understanding it is supported by the Permanent Select Committee on Intelligence. We do not object to passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the description given of the issue by the gentlewoman from Connecticut [Mrs. KENNELLY] is very accurate, and requires no embellishment. The only consideration that was brought to our attention, and in particular to mine when we were prepared to come to the floor today, was the fiscal implications; whether or not what would occur here in the natural course of the fielding of this legislation would violate the pay-as-you-go concepts that have been embedded into our budget process. I was worried whether or not the Office of the Budget was in approval of the funding sources for this piece of legislation.

Because of colloquies that we were able to undertake among the minority and majority members in the Select Committee on Intelligence, we are assured, and we want to put it on the RECORD, that once this legislation moves reasonably and foreseeably to the conference committee, that we will make certain through our representatives on that committee that the funding source will not violate pay-as-you-go, and will reasonably fund the proposed legislation.

Mr. GIBBONS. Mr. Speaker, I yield such time as she may use to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I would like to thank the gentleman from Pennsylvania [Mr. GEKAS] for those remarks. I do absolutely understand what he is saying and agree with what he is saying, and I make it very clear today that I understand, and unless it is pay-as-you-go, it cannot go.

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I want to thank the gentlewoman from Connecticut [Mrs. KENNELLY] and the other Members for all their hard work on this important measure. I am pleased to be associated with this piece of legislation, H.R. 5651. The bill will help to right a wrong that has been done to some of the most dedicated public servants in this country, police officers and firefighters, people who serve in critically important, and stressful, and difficult jobs. As a result, they are often the victims of stress-related diseases that cause heart problems and hypertension.

The State of Connecticut long ago recognized that these health problems were related to the pressures that firefighters and police officers suffer on the job, and began to award nontaxable pensions to these retired men and women who could not work due to the heart and hypertension problems. The Connecticut law did not require evidence of a direct relationship between a person's service as a police officer and a firefighter and the development of these diseases.

In 1991 the IRS held that these pensions were taxable and came looking to these disabled workers for back taxes. Over the last year the IRS has proceeded to levy taxes on these benefits and has proceeded to demand that these disabled public servants pay back taxes on 1989, 1990, and 1991 benefits as well. These were people who were complying with the law as best they knew it and were receiving disability benefits after years of public service.

The IRS has also threatened to assess penalties and interest on these retirees if they did not pay the taxes promptly. Under H.R. 5651, as described by the gentlewoman from Connecticut [Mrs. KENNELLY] and others, the IRS would be prohibited from collecting back taxes from those currently receiving heart and hypertension pensions for the years 1989, 1990, and 1992. This legislation would only impact those who are now, after many years of collecting these pensions, being asked for back taxes. It would not impact the tax status of future awards.

Today the disabled firefighters and police officers have been put on notice and are complying with their tax obligations. These disabled public servants deserve the relief granted by this bill, and I urge passage of H.R. 5651.

Mr. MCCURDY. Mr. Speaker, title I of H.R. 5651 concerns the Central Intelligence Agency Retirement and Disability System [CIARDS], a matter that is within the jurisdiction of the Permanent Select Committee on Intelligence. The Intelligence Committee's Subcommittee on Legislation has, under the able leadership of the gentlewoman from Connecticut [Mrs. KENNELLY] and her predecessor, the gentleman from New York [Mr. MCHUGH] devoted considerable effort to ensuring that CIARDS offers a retirement system to clandestine Central Intelligence Agency [CIA] officers as similar as possible to those available in the foreign service and civil service.

The fiscal year 1992 Intelligence Authorization Act contained an important CIARDS amendment which eliminated a requirement that a former husband or wife of a CIARDS participant, or former participant, must have spent 5 years outside the United States to qualify for former spouse benefits in the event of divorce. This requirement had operated to disallow the payment of benefits to divorced spouses who had been unable to meet the 5-year requirement through no fault of their own, often because operational conditions made it impossible for them to accompany their spouse overseas or because they had to return to the United States to care for family members who were ill. Unfortunately, the elimination of the 5-year rule, while making substantially more equitable the definition of "spouse" for retirement benefit calculations,

had to be made prospectively because of the dictates of the Budget Enforcement Act.

When the fiscal year 1992 intelligence authorization was enacted, and the change in the 5-year rule became effective, we knew that there were a relatively small number of spouses, divorced before the date of enactment, who would continue not to qualify as former spouses and therefore not be entitled to retirement benefits. Mrs. KENNELLY has repeatedly made clear her intention to assist these individuals if it were legislatively possible to do so. I have supported that intention, and am therefore pleased that a way has been found, through the bill now before us, to address the requirements of the Budget Enforcement Act so that the benefits of the elimination of the 5-year rule may be made available to those the Intelligence Committee could not assist in the authorization process.

I understand the concern of the CIA that enactment of this legislation not produce a shortfall in fiscal year 1993 CIARDS funding. I believe that concern can be resolved as the legislative process continues. In that regard, I note Mrs. KENNELLY's assurances to our committee's ranking Republican, Mr. SHUSTER, and the ranking Republican on the Legislation Subcommittee, Mr. GEKAS. I will certainly do whatever I can to be of assistance.

Mr. Speaker, H.R. 5651 is important legislation which deserves the support of the House. I want to compliment Congresswoman KENNELLY on her tireless efforts to ensure that the contributions to the Nation made by those whose spouses were clandestine intelligence officers are properly recognized.

Ms. DELAURO. Mr. Speaker, thank you, Congresswoman KENNELLY, and other Members, for all your hard work on this important measure. I am pleased to be associated with this legislation, H.R. 5651, because it embodies one of the most basic reasons we are all here—to stand up for our constituents against the injustice of an often overzealous bureaucracy.

This bill will help right a serious wrong that has been done to some of the most dedicated public servants in this country—police officers and firefighters. People who serve in critically important, stressful, and difficult jobs. As a result, they are often victims of stress-related diseases that cause heart problems and hypertension.

The State of Connecticut long ago recognized that these health problems were related to the pressures firefighters and police officers suffer on the job, and in 1971 it began to award nontaxable pensions to these retired men and women who could not work due to heart and hypertension related problems.

In 1991, the IRS held that these pensions were taxable, and came looking to these disabled workers for back taxes.

Over the last year, the IRS proceeded to levy taxes on these benefits. But they were not content to simply tax 1992 and future benefits, they demanded that these disabled public servants pay back taxes on their 1989, 1990, and 1991 benefits as well. These were all people who were complying with the law as they knew it, and were receiving disability benefits after years of public service. Many individual tax assessments were more than $10,000. The IRS also threatened to assess penalties and interest on these retirees if they did not pay these back taxes promptly.

Under H.R. 5651, the IRS would be prohibited from collecting back taxes from those currently receiving heart and hypertension pensions for the years 1989, 1990, and 1991. This legislation would only impact those who are now—after many years of collecting these pensions—being asked for back taxes. It would not impact the tax status of future awards. Today, the disabled fire-fighters and police officers have been put on notice and are complying with their tax obligation.

These disabled public servants deserve the relief granted by this bill. There is no question about what they have given to their State, country, and communities, and no question that they deserve our help. We have an opportunity today to help people who have made careers out of helping others. We have a chance to right a wrong that has been done to them, and remove a heavy burden they should not be forced to carry in their retirement. I urge passage of H.R. 5651.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5651.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMITTING TAX-EXEMPT BONDS TO BE ISSUED TO FINANCE OFFICE BUILDINGS FOR THE UNITED NATIONS

Mr. GIBBONS. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5639) to permit tax-exempt bonds to be issued to finance office buildings for the United Nations.

The Clerk read as follows:

H.R. 5639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX-EXEMPT FINANCING FOR UNITED NATIONS OFFICE BUILDINGS.

(a) IN GENERAL.—A bond described in subsection (b) shall be treated as described in section 141(e)(1) of the Internal Revenue Code of 1986, but section 147(d) of such Code shall not apply to such bond.

(b) BOND DESCRIBED.—A bond is described in this subsection if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance any office building (and land which is functionally related and subordinate thereto) for the United Nations or any agency or instrumentality thereof.

(c) EFFECTIVE DATE.—This section shall apply to bonds issued after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL], the author of this legislation.

Mr. RANGEL. Mr. Speaker, I rise to bring before the House H.R. 5639, a bill to authorize the issuing of tax-exempt bonds to finance offices for agencies of the United Nations.

Now that Germany has been reunified the German Government is moving its capital from Bonn back to Berlin. Thus, there will be a great deal of vacant office space in Bonn. As with any responsible government the German Government believes it has a need to put people back in Bonn to keep the local economy going.

To repopulate Bonn the German Government has offered several U.N. agencies now located in New York City free office space and moving expenses.

These agencies are UNICEF, the U.N. Development Fund, the U.N. Population Fund, and the U.N. Fund for Women.

The loss to New York City and the Nation beyond the blow to the international prestige is a loss of over 2,300 jobs and $200 million in salaries and other expenses.

To keep these agencies in New York City Mayor David Dinkins, in the face of the city's acute financial crises, is willing to have the city make sacrifices because of the importance of keeping these agencies in the city and the United States. The city has offered to consolidate these agencies in a few office buildings that the city would buy.

To finance the purchase of these buildings and keep the rents low the city will have to use tax-exempt debt. Unfortunately, the Internal Revenue Code does not provide for the use of tax-exempt bonds to finance facilities that would benefit the United Nations. The United Nations is not considered a government agency by the Tax Code. This bill would make the United Nations an eligible purpose for the use of proceeds of tax-exempt bonds.

Hopefully, between the lower interest allowing for lower rents and other inducements the city will offer there will be enough of an incentive for these agencies to stay.

Because the bonds are under the State bond cap and New York State generally used up all of its cap, New York will issue no more tax-exempt bonds than it now issues. Thus, there should be, at worst, a negligible revenue loss over the current status.

I want to make clear that the State Department and the U.S. Mission to

the United Nations have indicated their support for New York City's efforts to retain the U.N. agencies.

I believe my colleagues will agree New York City should not have to take on the German Government by itself. The Federal Government should provide help through this provision.

Mr. GIBBONS. Mr. Speaker, I reserve the balance of my time.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5639. The bill is limited and narrow, but appropriately so. H.R. 5639 would allow the United Nations to use tax-exempt bonds to acquire additional space.

State and local governments and charitable organizations have access to tax-exempt bonds; this bill would give the United Nation access to tax-exempt financing in this one circumstance. The bill permits the United Nations to use the tax-exempt bonds only to acquire new facilities in New York, and the bonds would count against New York's bond volume cap. I urge your support for the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, this is a very worthy bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5639.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO TAX-EXEMPT BONDS FOR GOVERNMENT-OWNED HIGH-SPEED INTERCITY RAIL FACILITIES

Mr. GIBBONS. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5653) to amend the Internal Revenue Code of 1986 to exempt the full amount of bonds issued for Government-owned high-speed intercity rail facilities from the State volume cap on private activity bonds and to require reporting of certain income and real property taxes.

The Clerk read as follows:

H.R. 5653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR GOVERNMENT-OWNED HIGH-SPEED INTERCITY RAIL FACILITY BONDS FROM STATE VOLUME CAP.

(a) IN GENERAL.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 (relating to exemption for certain bonds) is amended by adding at the end thereof the following new sentence:

"Paragraph (4) shall be applied without regard to '75 percent of' in the case of any bond which is part of an issue referred to therein if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit (determined in accordance with section 142(b)(1)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1994.

SEC. 2. INFORMATION REPORTING OF INCOME TAXES AND REAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E of the Internal Revenue Code of 1986 (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes or real property taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local real property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name, address, and TIN of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E of such Code is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E of such Code is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(3) REGULATORY AUTHORITY.—Section 6050E of such Code is amended by adding at the end thereof the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section in cases where real property taxes are paid by a person on behalf of another person."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E of such Code is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050E and inserting the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or received in calendar years after 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

□ 1230

Mr. GIBBONS. Mr. Speaker, the gentleman from Pennsylvania [Mr. COYNE] is the sponsor of this proposal and the gentleman from New York [Mr. RANGEL], will speak in his stead.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. Speaker, this bill would require that State and local governments properly inform taxpayers about any user fees which are not currently deductible from Federal taxes. State and local governments would not have the responsibility for determining which fees are nondeductible. The bill requires the Secretary of the Treasury to issue regulations providing guidance for enforcing this provision.

This is the funding part of the legislation which the gentleman from Pennsylvania [Mr. COYNE] has introduced, which would give us an opportunity to establish the United States as a player in the development of the cutting edge high-speed rail technology. The bill would enable State and local governments to use effectively their tax-exempt bond authority for the development of governmentally owned high-speed rail facilities.

This proposal simplifies the treatment of high-speed rail bonds by eliminating the requirement that 25 percent of a bond's value be allocated against a State's bond volume limitation. Under the current law, 75 percent of a high-speed rail bond's value is already outside of the cap.

The intent of this proposal, Mr. Speaker, is to place high-speed rail bonds on an equal footing with airport and dock bonds which are 100 percent outside the bond value cap.

Since 1988 the Internal Revenue Code has allowed the issuance of tax-exempt bonds for high-speed intercity rail facilities but not rolling stock. I urge the support of the House for this bill.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise reluctantly in opposition to this bill. While I certainly see merit in its effort to make high-speed rail part of our transportation infrastructure, its revenue offset will prove to be quite controversial.

H.R. 5653 would impose another unfunded mandate on State and local governments. This bill will force them to change accounting systems, information collection, and tax reporting. Any additional revenue the Federal Government receives from this change will be greatly outweighed by the administra-

tive burdens on State and local governments. Unlike the Federal Government, State and local governments have been making hard choices and balancing their budgets. The last thing we need is the Federal Government making their jobs harder and picking up revenue at their expense.

Within the last several days, Members of Congress have received letters from county and other local governments expressing grave concern about this unfunded mandate. In light of the concern expressed by the people who would have to implement this provision, I think more careful study and analysis needs to be undertaken before any such change is made.

I would note at this point that the Committee on Ways and Means has not held a hearing on this particular proposal.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I can understand the concern expressed by the minority that there are questions with respect to the revenue raiser for this bill. I certainly do not favor measures which will impose administrative burdens on our counties. I speak in behalf of the principle of trying to create these types of bullet trains or intercity type of fast transportation. I would emphasize that in order to qualify for tax-exempt financing outside the State volume cap, the bond financed property must be governmentally owned.

I think this bill would encourage investment in new mass transportation systems that the country desperately needs. My own State of Texas is entertaining the possibility of a bullet train, and many problems remain to be worked out. But we do know overall that rapid transportation, interstate and intrastate, is clean, it is safe, and it puts a lot of people to work. It is one of the safest ways to move people, and though we may have some disagreement on how to raise revenue to pay for it as we move forward, this measure should be advanced so that at least we can try to work out our differences as the process moves forward. I think this is a good proposal that the gentleman from New York [Mr. RANGEL] has offered on behalf of the gentleman from Pennsylvania [Mr. COYNE].

Mr. GRANDY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in opposition to H.R. 5653, a bill that exempts tax-exempt bonds issued to finance Government-owned high-speed intercity rail facilities from the State activity bond volume caps.

I believe that consideration of this bill under suspension of the rules is inappropriate. There have been no formal hearings on this particular bill that I am aware of. It seems to me that it is very unwise to pass such legislation without subjecting it to the full hearing process.

I would like to focus my objection to the bill on the mischief it could cause in the State of Texas. In May 1991, the Texas High-Speed Rail Corp. was awarded the franchise to build a 200-mph train to serve the major cities in Texas. The corporation beat out the competition mainly because of their pledge to build the system without using public money.

Over the past year, the proposed rail project has raised considerable controversy throughout the areas of Texas that will be affected by it. The people who live and work along the proposed train route are loudly protesting the project, citing loss of land, loss of mobility, possible ill effects on cattle and crops, as reasons for opposing the train. Others have asked the question, what is the need—the purposed served? Thus far, a purpose or need has not been demonstrated to many who have studied the issue. Partly because of this controversy, the corporation has found it difficult to find financing for the project.

In addition to the purpose and land use concerns, a number of us are concerned that the corporation will turn to public funds to build this controversial project. As I said earlier, the corporation originally pledged to use only private funds. However, recent quotes from supporters of the project lead me to believe otherwise. The following quote is from a news article in the Houston Post that discussed a possible supportive relationship between H.R. 5653 and the Texas high-speed rail project, in spite of the fact that the bonds referred to in the bill could only be used by Government-owned enterprises.

> But backers of the Texas rail projects say there are a number of ways to get around the Government ownership provision, including having the State take ownership of the bullet train in name while leasing it back to the private owners.

After reading this statement I believe it is clear that the corporation has grossly misled the people of Texas in promising to provide them with a privately funded rail project, and intends to use whatever means necessary to secure public funding. I feel that the project is premature, there is no evidence that demonstrates a need for a high-speed train, particularly one that will be disruptive to, and possibly confiscate, family farms and ranches. Mr. Speaker, do you know who will get left holding the bag should the project owners wheedle their way around the restrictions on these bonds, then default on bonds and the project? The Texas taxpayers, that's who. And how many rail projects in this country don't wind up being heavily subsidized by the Federal Government?

High-speed rail projects should be funded on their own merits by the private sector, not paid for a public that has little need or use for such a system.

Mr. Speaker, I object to the passage of H.R. 5653 under suspension of the rules because I believe that the effects of the bill need to be heard through the committee hearing process. Failing that, the Members of the House should at least have the opportunity to vote on the bill.

□ 1330

Mr. GRANDY. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the bill also, and my principal concern is that of unfunded mandates.

We talk a great deal about it. We shift a great deal of responsibility to local governments.

I want to tell you that in a small State, in a small community, local governments are burdened about as heavily as they can be. In the long run, my friends, I think one of the things that you are going to see and be most concerned about in this Congress is an active Congress seeking to do all kinds of good things for everyone with no money to do it with, and we will shift those costs either to local governments or, indeed, to employers.

So my leader, the minority spokesman, talked about hearing from national groups of county officials and others. I want to tell you about a group that comes from Carbon County, WY, a very small county having difficulty in the economy. They are concerned about this. They are concerned about the effort to pay for this provision of $150 million to require counties to report to taxpayers and the IRS the amount of property taxes paid, that is, deductible for Federal income tax purposes. The requirement applies to all taxing authorities and would be effective on January 1, 1994.

Let me give you some of the difficulties that a county would have, and that is making a determination as to whether a charge is a tax or a fee. For example, IRS findings include where part of an amount paid to a county water district covered maintenance charges and bond tax that the amount could not be determined, the entire amount of the deduction was disallowed. Taxpayer's one-time tap fee paid for the hookup to the city sewer system was characterized as a special assessment for an improvement benefiting the taxpayer's property and, hence, was held to be nondeductible as a capital improvement and on and on they go.

So, Mr. Speaker, we are dealing here with an additional imposed burden on

local government, not only the cost of this copy of this notice to be sent to IRS without a Social Security number, by the way, so it makes it very ineffectual, but also to have to make the determinations not clearly made in the bill.

Mr. Speaker, I rise in opposition to the bill.

Mr. GRANDY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Let me just expand a little bit on what the gentleman from Wyoming talked about in terms of the unintended consequences of H.R. 5653.

The concern that the gentleman expressed and the concern that I mentioned in my remarks and that the gentleman from Texas [Mr. FIELDS] expanded upon is that we are perhaps unintentionally unleashing a potential section 89 on local governments. Try to imagine a local government attempting to separate which costs of a road project are solely for new construction and which are for maintenance. They would be obligated to do that under H.R. 5653.

If the coin bill becomes law, our State and local governments would need to completely overhaul their accounting systems, buy new equipment, add staff, all of which would be paid for with taxpayer dollars. City and county tax collectors rarely ever match Social Security numbers to property tax records. The tremendous burdens placed on these local governing boards to match property tax records and Social Security numbers would shift resources from other local services like police, fire protection, and education to compliance for this measure.

Another Federal burden on cities that does not improve life in the cities is not something we should be supporting at this time.

I can reiterate from my own personal experience, because I have small communities, sometimes under 10,000 citizens, that now have full-time employees doing nothing but complying with Federal paperwork.

This proposal has technical problems, because it would require the local tax collector to make a determination or get a ruling from the IRS about each item on the tax bill and segregate out those items deductible and those that are not deductible. This is a completely new reporting requirement, and there is not very much time, and there is not very much experience either, in the IRS or at the local level in making these kinds of determinations.

While this provision would apply to tax returns filed on taxes paid in 1994, it would be unadministerable for a period of time, because the IRS would be required to make determinations on basically every use of property tax money. Every city is then going to feel the need to file for determinations on just about every special assessment or use of property tax dollars, and the $2,000 filing fee for each of these determinations along with the inevitable backlog of filings will make this even more difficult to comply with.

Mr. Speaker, with those criticisms, I urge the House to reject H.R. 5653 at this point. Obviously this is an item that needs to be discussed in hearings with the proper committees of jurisdiction.

Mr. COYNE. Mr. Speaker, today the House has an opportunity to establish the United States as a player in the development of cutting edge high-speed rail technologies.

This bill would enable State and local governments to use effectively their tax-exempt bond authority for the development of governmentally owned high-speed rail facilities. My proposal simplifies the treatment of high-speed rail bonds by eliminating the requirement that 25 percent of a bond's value be allocated against a State's bond volume limitation. Under current law, 75 percent of a high-speed rail bond's value is already outside the cap.

The intent of this proposal is to place high-speed rail bonds on an equal footing with airport and dock bonds, which are 100 percent outside the bond volume cap. Since 1988, the Internal Revenue Code has allowed the issuance of tax-exempt bonds for high-speed intercity rail facilities but not rolling stock. Trains using such facilities must operate at speeds in excess of 150 miles per hour.

Unfortunately, the 25-percent bond volume cap allocation requirement places high-speed rail bonds in competition against industrial revenue bonds, mortgage revenue bonds, and other long-standing bond issues. My bill ends this anomaly in the Code and provides States with the ability to promote the development of modern, high-technology, high-speed rail transportation systems.

Enactment of this proposal will assist States in every region of the country where plans for high-speed rail systems are on the table. High-speed rail systems are now in various stages of planning and development in Pennsylvania, California/Nevada, Illinois, Minnesota, Florida, the Northeast corridor, Ohio, Texas, and Washington.

The United States has been unacceptably slow to join other advanced industrial nations in developing high-speed rail systems. We are losing ground quickly to Japan, Germany, and other Western European nations in building environmentally friendly high-speed rail systems.

The Federal Government has long played a central role in building highways and airports. We need a similar commitment to ensure the development of U.S. high-speed rail systems. The facts are that no new national transportation systems have been developed commercially in the history of our country without a significant commitment at the Federal level. High-speed rail systems using state-of-the-art, steel-wheel-to-steel technologies and systems using advanced, innovative magnetic levitation technologies will not proceed without this support.

The United States led early research efforts on maglev, but today we are at risk of losing out to foreign competitors in this field. This is exactly what happened with VCR technology which was lost to foreign competitors. High-speed rail systems using maglev technology would have the potential of relieving urban transportation congestion by offering reliable intercity transportation at speeds of up to 310 miles per hour.

The city of Pittsburgh, which I am proud to represent, is home to efforts to place the United States once again at the cutting edge of maglev research and development. Pittsburgh is the home of the Mellon Institute's High-Speed Ground Transportation Center at Carnegie-Mellon University. In addition, steps are being taken to develop the commercial potential of maglev technologies.

High-speed rail systems offer an answer to increased congestion on the Nation's highways and at the Nation's airports. The elimination of this gridlock will alleviate a significant inefficiency in the U.S. economy. According to the U.S. Transportation Department, traffic delays will cost $50 billion a year in lost wages and wasted gasoline by the year 2005. The FAA estimates that air traffic congestion will affect 74 percent of air passengers, compared with 39 percent in 1986.

High-speed rail systems provide significant environmental benefits. Earlier this year, Ms. Dawn Erlandson, tax policy director, Friends of the Earth, testified before the Ways and Means Committee in support of the use of tax-exempt high-speed rail bonds. She noted that assuming regional high-speed rail systems were phased in starting in 2000, the cumulative nationwide energy savings would be 6.6 billion barrels of oil over the first decade of the 21st century.

The use of tax-exempt high-speed rail bonds has been endorsed by nearly every major environmental group. In addition to Friends of the Earth, groups supporting high-speed rail bonds include the Sierra Club, the Union of Concerned Scientists, the National Wildlife Federation, the National Audubon Society, and the Natural Resources Defense Council.

My proposal includes a revenue offset which makes it deficit neutral. This offset would simply require States and local governments to provide taxpayers with the information they need to comply with existing tax law for claiming itemized deductions.

Under current law, taxpayers may claim an itemized deduction for real property taxes paid to State and local governments, but may not claim a Federal tax deduction for State and local government user fees. The revenue offset would simply require State and local governments to provide taxpayers with accurate information regarding the amount of tax deductible real property taxes.

This proposal has the added benefit of protecting taxpayers from Internal Revenue Service penalties for claiming incorrect itemized deductions. The General Accounting Office is currently completing an exhaustive study of this issue which will provide the IRS with much of the information required to pursue action against taxpayers claiming incorrect property tax deductions.

Mr. Speaker, high-speed rail merits effective access to State and local government tax-exempt bonds. This bill simply places high-speed rail on an equal footing with airports and docks. High-speed rail should have an opportunity to compete on a level playing field with

other modes of transportation. Eliminating the 25-percent allocation requirement provides high-speed rail systems with that opportunity.

Mr. RAHALL. Mr. Speaker, I rise in opposition to H.R. 5653, a bill to exempt Government-owned high speed intercity rail facility bonds from the State volume cap.

At first glance, Mr. Speaker, the bill seems harmless enough. But on second and third reading, it is yet another unfunded Federal mandate which imposes tremendous new costs and additional administrative burdens on local governments. And the costs are applied to all taxpayers, whether you ever have a bullet train in your neighborhood or not.

I can't tell you, Mr. Speaker, how often Congress has done just that in the past—imposing more and more congressional mandates on localities, while yanking every other kind of support you can think of—leaving cities strapped for money and going bankrupt—just trying to comply with or deal with unfunded mandates.

All you have to do, is look at congressionally mandated wastewater and sewage treatment, or safe drinking water requirements that States, cities, and towns have to meet, and then look at the dwindling funds from the Federal level to help them pay for the improvements necessary in order to know that it just is not fair. States, towns, and cities can't fill the funding gaps anymore. And they can't raise the money or leverage it or appropriate it to pay for the mandates we mindlessly impose upon them. The resources just are not there.

This bill, Mr. Speaker, actually requires local taxing authorities to send a notice to the taxpayers and to the IRS, stating which taxes are deductible under Federal income tax rules. The local tax collector would have to make a determination, or get a ruling from the IRS, as to each charge included on the tax bill. And, if push comes to shove, in the administrative confusion bound to follow, the IRS can change its mind.

I shudder to think of the administrative chaos that would ensue administratively—not only for counties and cities, but school districts as well. School districts have got enough problems as it is.

I shudder to imagine a local government attempting to separate which costs of a road project are solely for new construction, and which are for maintenance.

Bullet trains, Mr. Speaker, are already 75 percent exempt from the cap. If a State desires to commit State funds or dedicate part of the State's bond cap, they could build these projects right now.

As it is, under this bill, if the cap is lifted taxpayers across the Nation will end up paying for projects that the beneficiary States refuse to fund for themselves, and that all States will not necessarily benefit from.

Afterall, the bullet train is not just like airports. The tax law requires airports to be publicly operated; the bullet train will be privately operated.

I am not quite ready to vote for this bill, Mr. Chairman. Perhaps a little more study, a few public hearings, a little more research into the technologies to be relied upon for future operation and maintenance—the way we usually try to do business around here.

Maybe after knowing a lot more about the probable effects of eliminating the cap, I can vote for such a bill. But not today.

Mr. CONDIT. Mr. Speaker, I rise in opposition to H.R. 5653, legislation to remove existing barriers in the ability of State and local governments to issue Federal tax-exempt high speed rail bonds. I do not oppose this legislation because I oppose the development of high speed rail transit systems. In fact, I believe high speed rail to be one of the solutions to our intercity transit problems. However, I oppose this legislation because the revenue offset provision will impose another unfunded Federal mandate on our local governments.

Under this revenue offset provision, State and local governments would be directed to provide taxpayers and the Internal Revenue Service with a notice stating which taxes are deductible under Federal income tax rules. This unfunded Federal mandate will impose tremendous new costs and additional administrative burdens on local governments. In fact, there is still some question as to whether our localities even have the resources to provide this information. Very few local governments have Social Security numbers on file and matched to property tax records. Without a Social Security number on the notice, the information will be useless to the IRS. In addition, there will be no way for the IRS to match this data with other Federal or State income tax files.

While H.R. 5653 has the admirable goal of advancing high speed rail, the Federal Government should not pass the costs on to our already financially strapped localities. If the Congress wants to provide beneficial tax treatment for the issuance of Federal tax-exempt high speed rail bonds, then the Federal Government should pay for it.

Mr. GRANDY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5653.

The question was taken.

Mr. FIELDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the nine bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5400) to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans, as amended.

The Clerk read as follows:

H.R. 5400

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 Service Programs for Homeless Veterans Act of 1992".

SEC. 2. PILOT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs shall establish and operate, through September 30, 1995, a pilot program under this Act to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans.

(b) COMPREHENSIVE CENTERS.—The pilot program shall include the establishment of no more than four additional demonstration programs at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of specialized services, which may include those services authorized under sections 1712A, and 1730 of title 38, United States Code, section 115 of Public Law 100-322 (38 U.S.C. 1712 note), section 801(b) of Public Law 100-628 (102 Stat. 3257), and any other provision of law under which the Secretary may provide services to homeless veterans.

(c) PLACEMENT OF VETERANS BENEFITS COUNSELORS.—The pilot program shall also include the services of veterans benefits counselors at—

(1) no more than 45 sites at which the Secretary provides services to homeless chronically mentally ill veterans pursuant to section 115 of Public Law 100-322 (38 U.S.C. 1712 note);

(2) no more than 26 sites at which the Secretary furnishes domiciliary care to homeless veterans pursuant to section 801(b) of Public Law 100-628 (102 Stat. 3257);

(3) no more than 12 centers which provide readjustment counseling services under section 1712A of title 38, United States Code; and

(4) each of the demonstration sites established under subsection (b).

SEC. 3. GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs, during fiscal years 1993, 1994, and 1995, shall make grants to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

(b) CRITERIA FOR AWARD OF GRANTS.—The Secretary shall establish criteria and requirements for the award of a grant under this section, including criteria for entities eligible to receive such grants. The Secretary shall publish such criteria and requirements in the Federal Register not later than 90 days after the date of the enactment of this Act. In developing such criteria and requirements, the Secretary shall consult with the National Coalition for Homeless Veterans and to the maximum extent possible shall take into account the findings of the assessment of needs of homeless veterans

conducted by the Secretary under section 5. The criteria established under this section shall include the following:

(1) Specification as to the kind of projects for which such grant support is available, which shall include (A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans, and (B) procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the purposes set forth in subsection (a).

(2) Specification as to the number of projects for which grant support is available, which shall include provision for no more than 25 service centers and no more than 20 programs which incorporate the procurement of vans as described in paragraph (1).

(3) Appropriate criteria for the staffing for the provision of the services for which a grant under this section is furnished.

(4) Provisions to ensure that the award of grants under this section (A) shall not result in duplication of ongoing services in excess of needs identified under section 5, and (B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(5) Provisions to ensure that an entity receiving a grant shall meet applicable State and community fire and safety requirements, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to real property to be used by a grantee in carrying out the grant.

(6) Specifications as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of any project for which support is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs of a grantee, except as provided for under section 4. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the expansion, remodeling, alteration, acquisition, or procurement provided for under this section.

(d) ELIGIBLE ENTITIES.—The Secretary may not make a grant under this section unless the applicant for the grant—

(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section (except that a nonprofit entity described in section 1718(b)(2) of title 38, United States Code, and which was established by employees of the Department of Veterans Affairs shall not be eligible for a grant under this section);

(2) has demonstrated that adequate financial support will be available to carry out the project for which the grant has been sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) has agreed to meet the applicable criteria and requirements established under subsection (b) (and the Secretary has determined that the applicant has demonstrated the capacity to meet those criteria and requirements).

(e) APPLICATION REQUIREMENT.—An entity described in subsection (d) desiring to receive assistance under this section shall submit to the Secretary an application. The application shall set forth—

(1) the amount of the grant requested with respect to a project;

(2) a description of the site for such project;

(3) plans, specifications, and the schedule for implementation of such project in accordance with requirements prescribed by the Secretary under subsection (b); and

(4) reasonable assurance that upon completion of the work for which assistance is sought, the program will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided will serve clients who are not receiving such services as veterans.

(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant to an applicant under this section unless the applicant, in the application for the grant, agrees to each of the following requirements:

(1) To provide the services for which the grant is furnished at locations accessible to homeless veterans.

(2) To maintain referral networks for, and aid homeless veterans in, establishing eligibility for assistance, and obtaining services, under available entitlement and assistance programs.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services under the grant.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 4.

(5) In the case of an application for a grant for a service center for homeless veterans, that—

(A) such center shall provide services to homeless veterans during such hours as the Secretary may specify in requirements established under subsection (b) and shall be open to such veterans during such hours on an as-needed, unscheduled basis;

(B) space at such center will be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center; and

(C) such center shall be equipped and staffed to provide, or to assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary; and

(D) such center shall be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this subparagraph.

(6) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

SEC. 4. PER DIEM PAYMENTS.

(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 3 (or an entity eligible to receive a grant under section 3 which after the date of enactment of this Act establishes a program which the Secretary determines carries out the purposes described in section 3) per diem payments at such rates as the Secretary shall prescribe by regulation for services furnished to any homeless veteran—

(1) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(2) for whom the Secretary, within three working days, has authorized the provision of services;

if such veteran is eligible for such services in a facility of the Department.

(b) LIMITATION.—The amount of per diem payments made with respect to a veteran under this section may not exceed one-half of the cost to the grant recipient (or other eligible entity) of providing such service.

(c) IN-KIND ASSISTANCE.—In lieu of per diem payments under this section, the Secretary may, with the approval of the grant recipient, provide in-kind assistance (through the services of Department employees and the use of other Department resources) to a grant recipient (or entity eligible for such a grant) under section 3.

(d) INSPECTIONS.—The Secretary may inspect any facility of an entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be made to an entity under this section unless the facilities of that entity meet such standards as the Secretary shall prescribe.

SEC. 5. ASSESSMENT OF NEEDS OF HOMELESS VETERANS.

(a) REGIONAL ASSESSMENTS.—The Secretary of Veterans Affairs shall require the director of each medical center and the director of each regional benefits office of the Department (1) to assess the needs of homeless veterans living within the area served by the medical center or regional office, and (2) to catalogue programs of the Department, of other departments and agencies of the Federal, State, and local governments, and of nongovernmental organizations, which provide services to homeless persons in such area.

(b) MATTERS TO BE INCLUDED.—Each such assessment shall—

(1) be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area;

(2) identify the needs of homeless veterans with respect to—

(A) health care;

(B) education and training;

(C) employment;

(D) shelter;

(E) counseling; and

(F) outreach services;

(3) indicate the extent to which the needs referred to in paragraph (2) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations; and

(4) be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) USE OF ASSESSMENT.—The Secretary shall compile such assessment information for use in program planning and to assist in carrying out the provisions of this Act and other provisions of law under the jurisdiction of the Secretary of Veterans Affairs relating to assistance to homeless veterans.

SEC. 6. OUTREACH SERVICES.

(a) ASSIGNMENT OF VBA EMPLOYEES.—The Secretary of Veterans Affairs shall assign such employees of the Veterans Benefits Administration as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veter-

ans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.

(b) LIMITATION.—No funds may be expended for the purpose of subsection (a) unless those funds are specifically identified for such purpose through the appropriations process.

SEC. 7. EXTENSION AND EXPANSION OF PROGRAMS FOR HOMELESS VETERANS.

(a) Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting "1995".

(b) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended in subsection (c), by striking out the period at the end of the first sentence and inserting in lieu thereof "and, if funds remain available, to other homeless veterans who need such services, but the Secretary shall administer the provision of such services in a manner which gives priority to, and facilitates access to services for, homeless veterans who have a chronic mental illness.".

SEC. 8. AUTHORITY TO MAKE PROPERTIES AVAILABLE FOR HOMELESS PURPOSES.

Section 3735 of title 38, United States Code, is amended—

(1) in subsection (a),

(A) in paragraph (2)—

(i) by inserting ", lease, lease with an option to purchase, or donate" after "sell"; and

(ii) by inserting "or lease or donation" after "sale"; and

(B) in paragraph (3)(B), by inserting ", leased, or donated" after "sold"; and

(2) in subsection (b), by striking out "September 30, 1993" and inserting in lieu thereof "December 31, 1995".

SEC. 9. AUTHORITY TO LEASE CERTAIN PROPERTY OF THE DEPARTMENT OF VETERANS' AFFAIRS FOR EXTENDED LEASE TERMS.

(a) AUTHORITY.—Notwithstanding section 8122(a)(1) of title 38, United States Code, and subject to subsection (b), the Secretary of Veterans Affairs may lease to a representative of the homeless for a term in excess of three years any real property at the West Los Angeles Veterans Affairs Medical Center for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services under section 501(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(e)). Any such lease shall be subject to the provisions of section 501(f) of such Act (42 U.S.C. 11411(f)).

(b) LIMITATION.—The Secretary may not lease real property under subsection (a) for a term in excess of three years to a representative of the homeless unless the representative agrees to use the property only as a location for the provision of services to homeless veterans and the families of such veterans.

(c) DEFINITION.—In this section, 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)).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act *(other than section 8)* $48,000,000 for each of the fiscal years 1993, 1994, and 1995. No funds may be used for the purposes of this Act *(other than section 8)* unless expressly provided for in an appropriation law. Nothing in this Act shall be construed to diminish funds for, or continuation of, existing programs administered by the Secretary of Veterans Affairs to serve veterans.

SEC. 11. ANNUAL REPORTS.

Not later than May 1 of each of 1994, 1995, and 1996, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this Act. Each such report shall, to the extent feasible, include information on (1) the number of veterans assisted, (2) the services provided, and (3) the Secretary's analysis of the operational and clinical effectiveness and cost-effectiveness of the programs established under, or with assistance provided by, this Act.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Florida [Mr. STEARNS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 5400, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5400 is a comprehensive bill designed to help needy, homeless veterans. There have been reports that 30 percent of those who are homeless are veterans. Yet, of $761 million which Congress appropriated in fiscal year 1992 for major programs authorized by the Stewart B. McKinney Homeless Assistance Act, the $33 million which support VA programs for homeless veterans represents only 4.3 percent of the total amount. This thin slice of the total funding allocated to assist homeless veterans contrasts starkly with the number of homeless veterans in the streets of every major city in the country.

Veterans deserve better and this bill would authorize an additional $48 million in fiscal year 1993 to help alleviate the problem.

Mr. Speaker, the Congressional Budget Office estimates that H.R. 5400 would increase direct spending by $4 million in fiscal year 1993 and less than $500,000 in fiscal years 1994 and 1997.

Last Thursday, our committee ordered H.R. 5008 reported to the House. This bill contains cost saving provisions that total more than $197 million in fiscal year 1993. The bill will offset the total spending in several bills reported by the committee, including the bill now under consideration. We expect to bring H.R. 5008 to the floor before the August recess.

I call this to the attention of my colleagues in order to assure them that our committee will not report any direct spending bills this session unless we have reported measures to offset the cost.

Mr. Speaker, the bill was crafted by several members of the committee. The distinguished gentleman from West Virginia, HARLEY "BUCKY" STAGGERS," is the chief sponsor of the bill and deserves much credit for his leadership. HARLEY held several hearings, including some in the field, to gather information and data on the problems homeless veterans face in everyday living.

Since becoming chairman of the Subcommittee on Housing and Memorial Affairs, the gentleman from West Virginia was quick to do several things to enhance the lives of homeless veterans.

Previous bills he spearheaded have resulted in the establishment of transitional housing for veterans who participate in compensated work therapy programs. He is responsible for the enactment of legislation making it possible for nonprofit organizations to lease housing units from the VA for use as transitional group residences for veterans suffering from alcohol and drug abuse.

So the bill currently before us is one of several bills coming out of his subcommittee designed to provide much needed benefits for homeless veterans.

I also want to acknowledge the work of the gentleman from Massachusetts, the Honorable JOE KENNEDY, who introduced his own bill, H.R. 2648, last year that would expand programs for homeless veterans, with emphasis on nonprofit organizations.

The gentleman from Illinois, the Honorable LANE EVANS has been very much involved in programs to help the homeless and he was part of the team that developed this bill.

The gentlelady from California, one of the new members of the committee, the Honorable MAXINE WATERS, is another member of the group who helped draft the bill we are considering today. Two amendments offered by the gentlelady to provide specific help to homeless veterans in Los Angeles were adopted when the full committee marked up the bill last Thursday.

DAN BURTON and BOB STUMP made major contributions in drafting this bill, and I thank both of them for their cooperation and hard work.

I'm grateful to all members of the committee who worked together to get a good bill to the floor.

This is truly a bipartisan effort and I'm most grateful for the way everyone has worked together on this measure.

I now yield to the gentleman from West Virginia [Mr. STAGGERS].

Again, I want to thank the gentleman from West Virginia for the strong and active leadership he has provided as chairman of the Subcommittee on Housing and Memorial Affairs. So much has been done to reform VA housing programs under his leadership.

When he assumed the chairmanship, he proposed several reforms that had a dramatic impact in reducing the inventory of VA foreclosed properties. Mr. STAGGERS restructured the loan guaranty program, making it more fiscally sound. He constantly resisted administration proposals to increase loan fees, which has been no easy task considering the budget problems that have been with us for several years.

Mr. STAGGERS gave the national cemetery system a shot in the arm when it was most needed by holding numerous hearings to expose deficiencies in the program and get additional funds through the Appropriations Committee to correct those deficiencies.

I know I speak for all Members when I say thank you for the service the gentleman has rendered to our Nation's veterans. They are fortunate to have him in the Congress working in their behalf. They will miss him when he leaves the House a the close of this Congress and so will we.

□ 1340

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EVANS] to explain this piece of legislation.

Mr. EVANS. Mr. Speaker. I appreciate the chairman bringing this legislation to the floor today and the gentleman's leadership on this issue.

I also rise in praise for the gentleman from West Virginia [Mr. STAGGERS] for his offering of this legislation.

I also join in praising the gentleman from Massachusetts [Mr. KENNEDY] who is reaffirming his traditional family commitment to the underprivileged and poor of our country by bulldogging this legislation through the process.

I also want to salute the gentlewoman from California [Ms. WATERS] for her leadership on this issue as well.

Mr. Speaker, the first thing I learned in the Marine Corps boot camp was that you were never supposed to leave anyone behind, and yet that is exactly what has happened to so many of our veterans who live on the streets of our cities and in the poor rural parts of our country.

From the streets of the District of Columbia to the beaches of California, veterans from every peacetime era and armed conflict since World War II, including the Persian Gulf war, are among the homeless. They constitute between 30 and 50 percent of America's homeless and it is estimated that between 150,000 and 250,000 veterans are homeless on a nightly basis in our Nation across the country.

It is a national tragedy that homeless veterans are denied the very privileges and rights that they fought to protect and that we take for granted everyday.

These men and women do not want to be homeless. They do not want to leave their friends and family. Most are high school graduates and more than one-third have either attended or graduated from college. Nevertheless, many have fallen victim to the continuing recession, high housing and medical costs, job skills that are not transferable to the general work force, and often, post-traumatic stress disorder [PTSD]—an illness for which few, it any, homeless veterans receive treatment.

One veteran I know is homeless despite being a qualified medical technician. The VA delayed authorizing medical treatment for his service-connected disorder and he lost both his job and his home. Now he and his wife are living in a local shelter here in the District of Columbia looking for a job, and still fighting with the VA.

Unfortunately, this story is played out around the country daily. Programs for homeless veterans remain far from fully funded and without exception, there are more eligible persons than spots in the programs. In fact, the Federal Government only has three authorized programs, that specifically target homeless veterans. Accordingly, 16 States do not have any federally funded programs and many others only have programs in one city in their States.

Thankfully, organizations around the country have noted this failure and sought to fill the void. Groups such as the National Coalition for Homeless Veterans [NCHV] have successfully established programs to assist homeless veterans return to, and remain in, mainstream society. For their dedication to our veterans, I would like to personally thank the homeless veteran service providers around the country. I especially want to thank the board of the NCHV—Bill Elmore of the Missouri Veterans Leadership Program, Ralph Cooper of the Veterans Benefits Clearinghouse, Jerry Washington of Base Camp, Robert Van Keuren of the Vietnam Veterans of San Diego, Michael Blecker of Swords to Plowshares, Ken Smith of the Vietnam Veterans Workshop, and Stephen Peck of Far from Home—as well as Joan Alker of the National Coalition of the Homeless.

These groups, however, are limited by the funding that they receive. While veterans comprise one-third of the homeless, programs that which target them receive less than 5 percent of the Stewart B. McKinney Homeless Assistance Act funds. This year, such programs will only receive about $34.5 million of the $792 million appropriated under the McKinney Act.

We are not advocating a redistribution of the existing McKinney Act funds. Such action would only complicate the problem by eliminating programs that benefit the entire homeless population. Rather, we seek to both increase overall funding and establish new programs.

As citizens and elected Representatives, we must join the battle against homelessness. We need to ensure that food, temporary shelter, clothing, medical care and mental health counseling, job training and referrals, and other essentials are made available to homeless veterans.

For these reasons, I urge you to support passage of H.R. 5400, The Comprehensive Service Programs for Homeless Veterans Act of 1992. Working with homeless veterans service providers, Representatives STAGGERS, KENNEDY, WATERS, and I drafted this unique legislation that will undoubtedly benefit homeless veterans and their families.

H.R. 5400 authorizes the Secretary of Veterans Affairs to establish up to four new comprehensive homeless centers, authorizes the services of veterans benefits counselors at certain homeless chronically mentally ill sites, at VA domiciles and vet centers. These veteran benefits specialists will be able to augment the range of services now provided.

The bill will also solidify the responsibilities of Federal, State, and local governments to help homeless veterans by authorizing the Secretary to provide grant support, up to 65 percent, to assist in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance. Per diem payments and in-kind services to grantees on behalf of a homeless veteran would also be authorized.

Lastly, H.R. 5400 authorizes the Secretary to make properties available for homeless purposes through leasing, leasing with option to buy and donations, assigns certain VBA employees to conduct outreach and requires the VA to assess the needs of homeless veterans living within the areas served by VA medical centers and regional offices.

Mr. Speaker, America's veterans have always answered the call to duty when freedom or this great Nation is threatened. Today, we have the opportunity to answer the call of need of America's homeless veterans. I, therefore, urge favorable consideration of this measure.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. STEARNS. Mr. Speaker, I rise today in support of H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

I want to commend Chairman MONTGOMERY, the ranking minority member, Mr. STUMP, subcommittee chairman, Mr. STAGGERS, and ranking subcommittee member Mr. BURTON for

their efforts in developing H.R. 5400 and bringing to the floor this outstanding program on behalf of homeless veterans.

On February 26, 1992, the committee heard testimony regarding several innovative and positive approaches to the problems of homeless veterans. These programs focused on the chronic problems experienced by our country's veterans. These outreach services sought to combine clinical care, and rehabilitation efforts, that include among other things, substance abuse treatment and job training.

Obviously, this type of comprehensiveness is an effort to move beyond simple crisis intervention and bring substantial and long term assistance for the homeless veteran's reintegration into society.

The uniqueness of this approach cannot be overstated. Comprehensive rehabilitation worked. Instead of simply giving money to build shelters for homeless veterans, the VA will continue its efforts to assist the veteran as a whole person. An old proverb states that you can feed a man for one day or you can teach him to fish and he and feed himself for a life time. And that is precisely what this bill is going to do.

I commend this approach.

Mr. Speaker, I want to conclude my remarks by calling attention to how we are going to pay for these programs.

The Veterans' Committee is painfully aware that the VA cannot sustain its commitment to the VA health care system if other veterans programs have their budgets further stretched to pay other deserving VA programs. It becomes a paradox of robbing Peter to pay Paul. It is not good policy to develop worthwhile veteran programs and pay for them by pilfering other veteran programs. This member knows of no VA service or benefit that is so over budgeted that it can afford to have its funds cut for use in another program no matter how meritorious.

In light of that reality, the bill contains language which authorizes $48 million through the Stewart B. McKinney Homeless Assistance Act. Of the $761 million which Congress appropriated in fiscal year 1992 for this act for assisting our Nation's homeless, only 4.3 percent went to the homeless veteran, a group that comprises nearly one-third of our Nation's homeless population. Therefore, it seems only appropriate that one-third of the money used to fight homelessness comes from the McKinney fund. This does no violation to the McKinney Act as the money will go to the homeless.

Therefore, Mr. Speaker, I commend this bill to the full House.

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Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume in order to thank the gentleman from Florida [Mr. STEARNS] for helping on this bill today. I note also that the gentleman from Arkansas [Mr. HAMMERSCHMIDT], also on our committee, is in support of this legislation.

Mr. Speaker, it is a good bill, a worthwhile measure. I urge my colleagues to support the bill.

Mr. STAGGERS. Mr. Speaker, I would first like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his distinguished leadership and his contributions to, and strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP], and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and the subcommittee for their efforts and support. I especially want to acknowledge the work and contributions of the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], and the gentlelady from California [Ms. WATERS], without whom this bill would not have been possible. The individual members of the subcommittee have worked hard together to develop this legislation and I would like to thank each of them for their excellent contributions as well.

Mr. Speaker, H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992, will expand the scope of VA's existing programs for the homeless and seed new ones.

In its report to the Committee on the Budget on the President's proposed budget for fiscal year 1993, this committee identified among its recommendations a need to expand and create new programs to combat homelessness among veterans. The committee stressed that for many homeless veterans, psychiatric and medical problems exacerbate conditions which have led to dependence on homeless shelters or even to living on the streets.

Those problems have been a focus of committee concern over a period of years. Accordingly, the committee has helped shape, nurture and monitor a series of new VA programs targeted at rehabilitating homeless veterans. The most extensive of these are a 27-site residential rehabilitation program centered in VA domiciliaries and a 45-site VA-administered, community-based program aimed at homeless veterans with chronic psychiatric problems. Both these efforts combine outreach, clinical care, and rehabilitation, including such elements as substance abuse treatment and job training, to offer a degree of comprehensiveness which provides participants not simply crisis intervention, but a real hope for reintegration back into society.

These VA programs have expanded modestly since their inception as their successes have won recognition and respect. Yet, of $761 million which Congress appropriated in fiscal year 1992 for major programs authorized by the Stewart B. McKinney Homeless Assistance Act, the $33 million which support these 2 VA programs represents only 4.3 percent of the total. This thin slice of the total funding allocated to assist the homeless contrasts starkly with estimates projecting that one-third of America's homeless are veterans.

In view of such findings, the committee has gone on record as strongly supporting increased McKinney Act funding for existing VA programs. The committee has clearly documented the need for such funding, as well as the gains to be realized from linking existing programs targeted at homeless veterans with expansions of VA compensated work therapy projects and transitional housing programs. At the same time, while recognizing the important role to be played by VA in combating homelessness, the committee acknowledges that homelessness is also very much a societal and community problem. VA certainly has expertise it can share. This one Federal department cannot be seen, however, as solely responsible for addressing the complex array of problems which create and prolong homelessness, even among veterans. Indeed, the successes VA has had in helping this population underscore the importance of networking—among governmental and nongovernmental entities—to leverage the resources needed to develop effective programs.

In weighing the needs of homeless veterans, the committee has adopted a multipronged approach. It has proposed an expansion in the scope of existing VA programs and, through the reported bill, would seed new ones. Underlying the bill is the belief that veterans should receive a greater share of McKinney Act funding, and that with such increased support, VA rehabilitative programs—in concert with the community—can become a model in combating the ills underlying homelessness.

The bill is structure so as to proscribe the use of funds to carry out the new programs authorized in the bill unless such funds are expressly provided for in an appropriation law. H.R. 5400 would require $4 million in direct spending, which will be offset by H.R. 5008 which is scheduled for floor consideration next week. The remainder of funding is subject to the availability of appropriations of $48 million for each of fiscal years 1993, 1994, and 1995 to carry out its provisions. Hopefully, the funding will be made available when the House Appropriations Committee moves the VA, HUD, independent agencies appropriations bill of 1993 later this week.

GRANTS

Mr. Speaker, H.R. 5400 would call for the VA to establish a 3-year program of grant support to assist public or nonprofit private entities to establish new programs to serve homeless veterans. Grant support would be available to aid in establishing new programs to provide one or more of the following services: outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance.

The purpose of these grants is to develop services not previously available and to target those services primarily to veterans. Grants are to be targeted particularly to areas which, on the basis of VA-conducted needs assessments, are shown to have the greatest need for such services.

The grant program reflected in this measure incorporates elements of VA's successful State home construction grant program authorized in subchapter III of chapter 81 of title 38, U.S. Code. As in the State home program, grants under the bill would be available to support up to 65 percent of capital start-up costs, although such grants could not be used

to pay for operational costs such as staffing. Like the State home program, grantees are not required to use the grant to provide services to veterans exclusively. A grantee may, for example, offer services to veterans and their family members, but must design and operate any program established with the grant in such a way that it provides at least 75 percent of its assistance to veterans. Under this measure, grants could be used to expand, remodel, alter, or acquire existing buildings for use as transitional housing or other facilities to serve homeless veterans.

The committee envisions that grantees will include, though not necessarily be limited to nonprofit private entities, operating under the constraints of limited budgets. In view of this consideration, the bill makes specific provision for a grant applicant meeting its start-up costs in whole or in part through provision of in-kind services.

PER DIEM PAYMENTS

Mr. Speaker, H.R. 5400 would require VA to institute a program of per diem payments under VA-prescirbed criteria. Payments under this provision, and subject to VA's criteria, would be made for particular services which those entities have furnished to a homeless veteran if the veteran were eligible to receive those services from a VA facility. The bill provides for making payments to both recipients of a grant under the reported bill as well as to entities which would have been eligible for a grant but which after the date of enactment of the bill have, through other means, established a program which carries out the bill's purposes.

Reflecting provisions of the State home per diem program, the bill limits the amount VA may pay. The bill provides that such a payment may not exceed half the cost to the applicable provider of furnishing the pertinent service or services.

AUGMENTATION OF VA PROGRAMS

Mr. Speaker, while H.R. 5400 seeks to expand VA-community partnerships to help meet the needs of homeless veterans, the committee also hopes through this measure to improve the effectiveness of VA's own efforts to serve these veterans. It does so through a number of provisions.

As stated previously, the Veterans' Health Administration has many programs that provide service to the homeless. Some of these programs include: Homeless Chronically Mentally Ill [HCMI]; Domiciliary Care for Homeless Veterans [DCHV]; Compensated Work Therapy/Independent Living Housing [CWT/ILH] Program; Community Residential Care [CRC] Program, and the Readjustment Counseling Service [RCS]. In most locations, these services are not coordinated, but function independently.

Therefore, H.R. 5400 would authorize the Secretary to establish and operate, through September 30, 1995, a pilot program to expand and improve the provision of VA benefits and services to homeless veterans by: First, including the establishment of no more than four additional comprehensive homeless centers and, second, authorizing the placement of veteran benefit counselors at no more than 45 VA sites where the Secretary provides services to homeless chronically mentally ill veterans, at not more than 26 sites at which the VA furnishes domiciliary care to homeless veterans, and at no more than 12 centers and at the four new comprehensive homeless centers.

Experience with the Dallas Comprehensive Homeless Center which opened in September 1990 and the Brooklyn Comprehensive Homeless Center which opened in October 1991 demonstrated a very successful model for assistance to the homeless. Based on these successes to date, H.R. 5400 proposes to expand the testing of the comprehensive homeless center concept on a wider geographic scale.

The additional veterans benefits counselors authorized under the bill would provide improved access to, and delivery of, VA monetary benefits and services. A team approach is envisioned. VBA staff would seek out homeless veterans and families within the community. Working as a team with HCMI coordinators, DCHV staff, vet center counselors, homeless outreach specialists would provide case management to each individual to ensure that claims assistance, appropriate counseling services, and medical treatment are provided. This specialized team would be particularly active in networking with various VA and non-VA resources to meet the shelter and other needs of homeless veterans.

Another function of the VBA veterans services division is to provide fiduciary oversight service to incompetent beneficiaries. In this capacity, veterans service division employees are required to do extensive travel throughout the jurisdiction served. H.R. 5400 would enable such employees to provide additional services in these areas in the nature of outreach to homeless veterans provided such services are clearly identified and budgeted for.

ASSESSMENT OF NEEDS OF HOMELESS VETERANS

Mr. Speaker, the bill would require the Secretary to assess the needs of homeless veterans. The Secretary would require the Director of each VA medical center and VA regional benefits office to assess the needs of homeless veterans living within their respective service areas. The assessment would be coordinated with representatives of State and local governments, other appropriate departments, and agencies of the Federal Government, as well as nongovernmental organizations that have experienced working with the homeless in that area and would focus on the areas of health care, education and training, employment, shelter, and outreach services. The Secretary would use the assessment in program planning and to assist in carrying out the provisions of the bill and other provisions of law under the Secretary's jurisdiction.

EXTENSION AND EXPANSION OF PROGRAMS FOR HOMELESS VETERANS

Mr. Speaker, as stated previously, the Homeless Chronically Mentally Ill [HCMI] Program targets homeless veterans with psychiatric difficulties and operates out of 43 VA medical facilities located in 26 States and the District of Columbia. The basic components of the HCMI Program are: active community-conducted outreach services, psychiatric and medical assessment and treatment, intensive case management, and residential rehabilitation. Since the program's inception, over 46,600 homeless veterans have been clinically assessed and over 11,800 have been placed in community-based residential treatment facilities. The bill extends authority for the Secretary to continue this highly successful program from September 30, 1992, to September 30, 1995.

Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988—Public Law 100–628; 102 Stat. 3257—authorizes appropriations for the treatment of homeless veterans who have a chronic mental illness disability. H.R. 5400 would amend Public Law 100–628 to authorize the use of moneys under the HCMI Program for any homeless veteran, if funds remain available, provided the Secretary administers the provision of such services in a manner which gives first priority to, and facilitates access to services for homeless veterans who have a chronic mental illness.

VA ACQUIRED PROPERTIES

Mr. Speaker, Public Law 100–198, the Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987, enabled the VA to sell acquired properties at discounted prices to State and local agencies, as well as nonprofit organizations, to provide shelter to the homeless.

Under VA regulations, to be eligible for sale under this program, the property must have been on hand for 6 months or more and be available for an as is cash sale. The sale price for such property is 50 percent of the latest listing price for cash.

It is the committee's understanding that only 8 properties have been sold under this program. Although the VA's inventory has decreased from an alltime high of 25,175 in March 1988 to its current inventory of 12,800—it's lowest point since December 1981—the committee believes that there are a number of homes located in areas appropriate for use by the homeless. Therefore, the reported bill authorizes the Secretary to make such properties available through leasing, leasing with option to buy or through donations. In promulgating its regulations, the Secretary may consider the regulations of the Department of Housing and Urban Development under the McKinney Act supportive housing demonstration lease-option agreement.

AUTHORITY TO LEASE PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS FOR EXTENDED LEASE TERMS

Mr. Speaker, Public Law 100–322 prohibits VA from excessing or otherwise disposing of property located at the west Los Angeles VA Medical Center. Title 38, United States Code [USC], section 8122, authorizes VA to outlease land or buildings for a term not exceeding 3 years. In accordance with title V, Public Law 100–77—42 USC 11411—section 501, VA is obliged to lease its unutilized and underutilized property, which has been determined both suitable and available to an approved homeless provider for a term of not less than 1 year, unless the applicant requests a shorter term.

H.R. 5400 would grant authority for the Secretary of Veterans Affairs to lease real property at the west Los Angeles VA Medical Center for a term in excess of 3 years to a representative of the homeless. The lease would be based on an application from the representative of the homeless, approved by the Secretary of Health and Human Services,

under provisions of the Stewart B. McKinney Homeless Assistance Act. For purposes of the reported bill, the term "representative of the homeless" shall have the meaning given such term in section 501(g)(4) of the Stewart B. McKinney Homeless Assistance Act—42 USC 11411(g)(4).

AUTHORIZATION OF APPROPRIATIONS

Mr. Speaker, there are authorized to be appropriated to carry out the reported bill $48 million for each of the fiscal years 1993, 1994, and 1995. No funds may be used for the reported bill, with the exception of section 8, unless expressly provided for in an appropriation law. Nothing in the reported bill diminishes funds for continuation of existing programs administered by the Secretary.

ANNUAL REPORTS

Lastly, H.R. 5400 requires the Secretary to submit an annual report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, no later than May 1 of each of 1994 and 1995. Each report shall include the number of veterans assisted, the services provided, and the Secretary's analysis of the operational and clinical effectiveness and cost effectiveness of the programs established under the bill.

Mr. Speaker, America's veterans have always answered the call to duty when freedom or this great Nation is threatened. Today, we have the opportunity to answer the call of need of America's homeless veterans. I therefore urge favorable consideration of this measure.

Mr. KENNEDY. Mr. Speaker, H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992, is a culmination of 3 months' work between Mr. STAGGERS, Mr. EVANS, and myself. My distinguished colleagues and I combined our legislative ideas into one bill, H.R. 5400, in the hopes of getting the most possible funds for homeless veterans.

As part of our commitment to our Nation's deserving soldiers, let's not forget that a quarter million of them now live on the streets in every State of this country. This bill seeks to get veterans back into homes by improving existing VA homeless programs, initiating a Federal grant program to assist community-based organizations in starting and maintaining homeless veteran programs, and preventing homelessness by allowing the VA to lease or donate property to homeless veteran programs.

Many Members of Congress have already cosponsored my original homeless veterans bill, H.R. 2648. The bill we are voting on here today is actually an improvement. The original bill I authored established three types of programs: Drop-in service centers where veterans could have received outreach services such as benefits and legal assistance; mobile support teams which would have used medically equipped vans to bring services to veterans in hard to reach areas; and transitional housing programs which would have provided veterans in temporary residential programs with a wide array of medical and social services, including job training.

H.R. 5400 does all of that and more. It requires regional officers and medical center directors to assess the needs of the homeless veterans in each region so that programs can be developed to meet their specific needs. H.R. 5400 then gives community-based providers the means to develop and maintain homeless veteran programs by establishing a Federal matching grant program.

In short, this bill provides homeless veteran providers with maximum input into developing programs, and maximum support in maintaining them. It also significantly enhances existing VA homeless programs. I urge my colleagues to support this legislation, so that we can fund these desperately needed programs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

First, I wish to commend the chairman of the VA subcommittee with jurisdiction over this bill, Representative STAGGERS, and the ranking member, Representative BURTON of Indiana, for their hard work in crafting this legislation.

H.R. 5400 contains several effective measures to address the plight of our Nation's homeless veterans. Specifically, the bill would provide the Secretary of Veterans Affairs with the authority to establish comprehensive homeless centers. These centers would provide an array of services such as transitional housing, rehabilitation, job training and employment counseling.

Furthermore, H.R. 5400 requires local VA medical center and regional office directors to assess the needs of homeless veterans living within their area of service.

It is a sad irony that many of our Nation's homeless men and women were at one time members of our Nation's armed services. It is only fitting that we take action to assist them in getting back on their feet.

I urge my colleagues to support H.R. 5400.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5400, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELSINKI HUMAN RIGHTS DAY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 310) to designate August 1, 1991, as "Helsinki Human Rights Day."

The Clerk read as follows:

S.J. RES. 310

Whereas August 1, 1991, is the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas the Helsinki accords were agreed to by the Government of Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech and Slovak Federal Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States have recognized that the free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of State or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the participating States;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet

fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1992, the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other fifty-one Helsinki signatory States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Joint Resolution 310, designating August 1, 1992, as "Helsinki Human Rights Day."

This measure, which is similar to legislation we have passed in previous years, was considered by the Committee on Foreign Affairs and reported favorably on July 22, 1992. The resolution was also referred to the Committee on Post Office and Civil Service which, because of the timeliness of the measure, waived consideration so that we could bring it to the floor today. I would like to thank the distinguished chairman of the Post Office Committee for his cooperation in this regard.

Mr. Speaker, while the Helsinki signatory countries, particularly those of Eastern and Central Europe, have made great strides in ensuring respect for human rights and fundamental freedoms in their countries in the last 2 years, serious problems still remain. Whether it is the vicious civil war in the former Republic of Yugoslavia with the deplorable ethnic cleanup imposed by Serbian authorities, or the plight of the Kurdish minority in Iraq and Turkey, the denial of the rights of ethnic or religious minorities continues to jeopardize these nations' progress toward democratization and the peace and prosperity of the entire region. Recent and disturbing events in several countries involving ethnic minorities demonstrate the need to continue to emphasize protection of human rights, especially ethnic and minority rights. These issues were highlighted at the recently completed summit of the 52 nations participating in the CSCE process which was held July 9 and 10 in Helsinki, Finland.

This resolution calls upon the President to commemorate August 1, 1992, as Helsinki Human Rights Day. It also urges the President to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki Final Act by all Helsinki signatories. The President is also requested to develop new proposals to advance the human rights objectives of the Helsinki process. I commend the chairman of the Helsinki Commission and chief sponsor of the resolution, Mr. HOYER, for his continuing efforts in this regard and I urge immediate adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my strong support for this resolution, and I commend my good friend, Chairman DANTE FASCELL, for his leadership in bringing this important resolution before the House today.

Senate Joint Resolution 310 designates August 1, 1992, as "Helsinki Human Rights Day." As many of my colleagues know, August 1 marks the 17th anniversary of the signing of the Helsinki accords in 1975. For each of those 17 years, Congress has passed resolutions designating August 1 as "Helsinki Rights Day."

The more than 50 nations who signed the Helsinki accords pledged themselves to respect human rights, including the right to freedom of thought and conscience for all. They pledged themselves to promote laws and practices that would respect fundamental human rights.

Unfortunately, for most of those 17 years, half of Europe was under the grip of Communist dictatorships. Despite the fact that most of these regimes had freely signed the Helsinki accords, they routinely violated the spirit and letter of the accords.

Nevertheless, we here in the United States and those in the rest of the free world continued to insist that the peoples then living under Communist rule were entitled to the same rights as we ourselves enjoyed.

I am pleased to say that this year, for the first time ever, we can celebrate the collapse of communism throughout Europe and the triumph of the values contained in the Helsinki accords. From the Atlantic to the Urals, people and governments are embracing the ideals of democracy and individual rights.

However, as recent events in Bosnia and other parts of Yugoslavia clearly demonstrate, the United States must continue to make the promotion of human rights a cornerstone of its European policy. There are still people in parts of Europe and the former Soviet Union whose fundamental rights are being violated.

The Helsinki accords provide the blueprint for a Europe that is whole and free. By designating August 1 as "Helsinki Human Rights Day," the Congress will send a message to the peoples of Europe that we will continue to work to protect their hard-won freedom.

Mr. HOYER. Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission, I rise in strong support of Senate Joint Resolution 310, legislation designating August 1, 1992, as "Helsinki Human Rights Day." I would like to take this opportunity to thank my distinguished colleagues, LEE HAMILTON, the chairman of the Europe and Middle East Subcommittee, and GUS YATRON, the chairman of the Human Rights and International Organizations Subcommittee, who have been tireless leaders over the years in the struggle for human rights throughout the world. We will miss GUS in the next Congress and his undaunting pursuit of human rights. Finally, I want to thank the chairman of the House Foreign Affairs Committee, DANTE FASCELL, who was instrumental in creating the Helsinki Commission and making the principles of the Helsinki Final Act a beacon for the transition to democracy that has swept Eastern and Central Europe and the Commonwealth of Independent States.

Mr. Speaker, Senate Joint Resolution 310 was introduced by the cochairman of the Helsinki Commission, Senator DENNIS DECONCINI and is identical to House Joint Resolution 508, which I, along with the other eight members of the Helsinki Commission and many more of my colleagues have introduced here in the House.

August 1, 1992, marks the 17th anniversary of the gathering in Helsinki of representatives from the 35 nations of Europe and the United States and Canada to sign the Final Act of the Conference on Security and Cooperation in Europe. This agreement marked a beginning of a new hope—a new hope to ease strained East-West relations; a hope for new exchanges of ideas and technologies; a hope that ever country might some day feel a sense of security within their own borders, and most importantly, for those suffering under the yoke of communism, a hope for a drastic improvement in fundamental freedoms and human rights.

This resolution, Mr. Speaker, in my opinion, reaffirms that hope. The breakup of the Soviet

Union, the creation of the Commonwealth of Independent States and the addition of 17 new members into the CSCE provides a fresh and exciting opportunity for further advancement of the goals of the Helsinki accords. Yet as we have witnessed in the last year, the fall of communism and the yearning for democracy have not instantaneously cured all of the human rights problems which have festered within the dark shadow cast by the former Iron Curtain. The death of communism has unleashed a new spectrum of problems—which we must, with a new sense of vigor, seek to address. The conflicts in Bosnia, Nagorno-Karabakh, Georgia, and Trans-Dniestr are examples of the new kind of crises that the new CSCE must confront.

Just recently, President Bush signed in Helsinki a new declaration which reinforces our common conviction that human rights form the cornerstone of security. The recent Helsinki meeting established a High Commissioner for National Minorities, who will help investigate and resolve problems involving national minorities in the early stages. Progress was also made in coordinating the institutions, mechanisms, factfinding missions, and political consultative processes that the CSCE has now established. Perhaps most important of all, agreement was reached on the principle that the CSCE may undertake peacekeeping in order to supervise and maintain cease-fires, monitor troop withdrawals, and provide humanitarian and medical aid.

The problems facing the 52 signatory nations present perhaps an even greater challenge than those of the past. In this respect, the ability of CSCE to manage change—not prevent it—will be its litmus test in the future. In that regard, the United States, along with all of the members of the CSCE, must remain dedicated, determined, and unwavering in its commitment to these accords. I urge adoption of this joint resolution and once again thank my colleagues for their prompt action on this legislation.

Mr. PORTER. Mr. Speaker, as one of the original sponsors of Senate Joint Resolution 310 and as a member of the Helsinki Commission, I am pleased to rise in strong support of this resolution which designates August 1, 1992, as Helsinki Human Rights Day.

The signing of the Helsinki accords on August 1, 1975, marked the start of a dynamic process which has led to historic changes in Europe over these past few years. When the leaders of 35 countries met in Helsinki to sign the Final Act of the CSCE, tensions between East and West were strong and cooperation between the two sides on matters relating to human rights and the rule of law was virtually nonexistent. Now, 17 years later, the countries of Eastern Europe are free, the Soviet Union has collapsed and democracy and peaceful change through free and fair elections is taking root through the region. The CSCE process deserves credit for its role in bringing about a common commitment to human rights and fundamental freedoms across Europe.

Although the cold war is over, the work of the CSCE is not over. It can now play a critical role in helping to address the issues facing postcold war Europe, such as the tensions over nationality which have arisen most notably in Yugoslavia and in newly independent countries of the CIS. The CSCE can also develop its role to ensure the full implementation of human rights guarantees in each of the 52-member countries. The task of the Helsinki process should now be to make irreversible the democratic advancements that have been made in Eastern Europe and the former Soviet Union and to consolidate mechanisms for preventing conflict and preserving peace throughout Europe.

Because the CSCE process has been such a useful forum to monitor international compliance to the Helsinki accords, I believe that model of the Helsinki Commission should be applied to other international agreements. For this reason, I have recently introduced legislation to create a Rio Commission.

The Rio Commission would oversee progress toward the policy goals produced at the U.N. Conference on Environment and Development [UNCED] in Rio de Janeiro in June. Like the Helsinki Commission, the Rio Commission would be composed of Members of Congress and the executive branch and would keep track of how the United States and UNCED conferees are implementing the commitments they made at the Earth summit to achieve environmental protection and sustainable development. It is my hope that by establishing a Rio Commission, we will make as much progress on Earth summit goals as we have made on the commitments that were included in the Helsinki accords.

I am pleased to join my colleague, STENY HOYER, chairman of the Helsinki Commission, in marking the anniversary of the signing of the Helsinki accords and I urge the adoption of this resolution.

Mr. BROOMFIELD. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House pass the Senate joint resolution, Senate Joint Resolution 310.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE ACT OF 1991

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3537) to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes.

The Clerk read as follows:

H.R. 3537

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 "Civil Tiltrotor Development Advisory Committee Act of 1991".

SEC. 2. CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter in this section referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least 1 representative of the Department of Transportation.

(B) At least 1 representative of the Federal Aviation Administration.

(C) At least 1 representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) QUALIFICATION.—Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed under the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) CHAIRPERSON.—The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed under the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) DUTIES.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determine the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltroter aircraft and establishing the infrastucture necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) REPORT.—Not later than the 365th day following the date of the first meeting of the Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, H.R. 3537 is an important step in ensuring that civil tiltrotor technology will become a part of our national Transportation system. This bill to define its parameters directs the Secretary of Transportation to establish a Civil Tiltrotor Advisory Committee. That Committee or Commission, as it may well be called, is the next logical step in the process of developing civil tiltrotor technology.

Mr. Speaker, NASA and FAA last year issued a comprehensive report on civil tiltrotor technology. The report concluded that commercial tiltrotor would be technically feasible, economically viable, and substantially would benefit airports and air travelers by relieving pressure on airport runway capacity.

□ 1400

The primary purpose of the advisory committee would be to identify specific needs in the Nation's airport infrastructure, as well as air space regulatory changes that may be needed to effectively incorporate tiltrotor aircraft into the Nation's air transportation system. The Commission would also examine the appropriate role for the Federal Government and for the private sector in the future development of the civil tiltrotor. That advisory committee would include high level DOT, FAA, and NASA officials, as well as experts from State and local government and from the private sector.

How important is this V-22 technology? Well, at a recent conference I attended where there were participants from overseas, Japanese Government officials observed that they had been studying this technology for quite some time, found it very attractive and very exciting for high density market locations and that, quote, if the United States will develop this technology and build the aircraft, we will buy it. And they said, "But if you choose not to do so, sell us the technology; we'll build it and sell it back to you." If we do not proceed with the civilian application of civil tiltrotor, I am convinced that that is exactly what will happen. We will wind up somehow seeing this technology get into foreign hands, be developed overseas, and sold back to the United States.

The areas of this country where tiltrotor has civilian applications are precisely here on the east coast, precisely here on the west coast, where we have high density market areas, high concentrations of population and high frequency of short travel, and in this age of hub and spoke aviation, of short distance travel of the population to the hub airport, and there to be distributed out across the United States or into international markets, that is where we need such aircraft that can move into dense markets, not occupy a great deal of runway space and yet move large numbers of people very efficiently.

So, Mr. Speaker, I hope we will move ahead with this commission, identify the needs, the problems, and move on with the technology of actually developing the aircraft for civilian use.

I cannot conclude without observing, as all of us noted with shock, and dismay and concern, the crash of a V-22 Osprey in the Potomac River just a few days ago. An inquiry is already underway. The cause, as we have seen in other similar crashes of developmental aircraft, will be found and, with the proper application of technology, will be fixed. I am confident we will be able to proceed with this technology, but that incident makes it all the more important for us to move ahead with this broad-based Commission, to examine all the aspects of the application of the V-22 tiltrotor technology to civilian purposes.

I urge the adoption of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my appreciation to the chairman of our Aviation Subcommittee, the gentleman from Minnesota [Mr. OBERSTAR] and ranking member, the gentleman from Pennsylvania [Mr. CLINGER] for their work on this bill.

It is well known that airport congestion and airline delays continue to be serious problems in this country. They are bound to get worse in the future as air traffic increases.

Building new airports to relieve the congestion is expensive and often unpopular because of the noise associated with them.

Tiltrotor aircraft could help to solve the congestion and delay problems. They take off and land like helicopters and can operate from heliports located downtown or from separate areas on existing airports.

When operating from downtown areas, tiltrotor aircraft could save passengers time by allowing them to avoid street congestion that would otherwise be encountered in driving to and from the airport. Once airborne, the aircraft engines tilt forward to speed passengers to their destination.

It has also been suggested that this aircraft could play an important role in drug enforcement programs, search and rescue missions, and disaster assistance efforts.

Despite all these advantages, the tiltrotor program seems to be in a holding pattern at the moment. The problem is that we are faced with a chicken-and-egg type problem. Aircraft manufacturers are reluctant to build tiltrotor aircraft in large numbers without some airline orders. But airlines are reluctant to order the aircraft until these new planes have been built and demonstrated to be reliable.

Unfortunately, the tiltrotor program suffered a terrible set-back recently when one of the planes crashed into the Potomac River. While this tragedy certainly justifies a reassessment of the program, it should not necessarily cause us to abandon it. If the technical experts can fix the problem that caused this accident, tiltrotor technology could still provide significant benefits to inner-city travelers. And if we do not build the tiltrotor, the Japanese or some other foreign country probably will.

I agree with the gentleman from New Jersey [Mr. ROE] when he says, it is important to keep this issue alive. The advisory committee created by this bill can help to do that. This advisory committee will also be able to answer questions about the costs, feasibility, safety, and economic viability of the tiltrotor concept. I support this initiative and urge the House to approve this bill.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no further requests for time on our side. I just in conclusion want to observe that the tiltrotor represents 21st-century technology. It is technology on which, once again, the United States is on the leading edge. We have advanced the state of the art. We are positioned to move ahead with something very exciting in civil aviation. We ought not to lose the opportunity to do so.

I want to take this opportunity also to thank my colleague, the gentleman from Pennsylvania [Mr. CLINGER], for the time that he has devoted with me to the development of this legislation.

I compliment him on his splendid work and contribution, as always, in the field of aviation.

I urge enactment of this legislation.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. WELDON. Mr. Speaker, as an original cosponsor of H.R. 3537, the Civil Tiltrotor Development Advisory Committee Act of 1991, I rise in support of this bill. Tiltrotor technology has proven itself successful and the potential for this technology in civil aviation is tremendous. In order to continue the cooperation between military and civilian interests in tiltrotor technological development, however, the establishment of this advisory committee is imperative.

While the military continues development of the tiltrotor aircraft for military use, the Federal Aviation Administration will certify a derivative for civilian use. FAA oversight of production will hasten the transfer of this technology from the military to our civilian transportation system. This legislation will facilitate coordination between all Federal agencies involved in tiltrotor development efforts. This is certainly a minimal investment for such a huge potential payoff.

I hope my colleagues realize the potential for civilian tiltrotor aircraft and help support their development by supporting H.R. 3537.

Mr. ROE. Mr. Speaker, H.R. 3537 is an important step in ensuring that civil tiltrotor technology will become part of our national transportation system.

The bill directs the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee. The Commission is the logical next step in the process of developing civil tiltrotor technology.

Last year, NASA and FAA issued a comprehensive report on civil tiltrotor technology. That report concluded that commercial tiltrotors would be technically feasible, economically viable, and of great benefit to the Nation's airport capacity if steps were taken to develop the infrastructure to support tiltrotor operations. Our Aviation Subcommittee held a hearing and received testimony 2 years ago that led to similar conclusions.

The Advisory Commission created by the bill now before us would conduct the necessary analysis and identify specifically what needs to be done by the Federal Government and the private sector to ensure that tiltrotor aircraft become an integral part of our transportation system.

Without this Commission to provide a focus on what needs to be done with respect to incorporating tiltrotor technology into our transportation system, I believe we will see little more than lipservice to this potentially revolutionary technology.

This bill makes possible a dramatically different and improved transportation system for the 21st century.

Finally, as everyone knows, a V-22 Osprey tiltrotor aircraft crashed last week in the Potomac River. It will likely take some time for this tragedy to be fully investigated and understood, but it should in no way deter our efforts to clear the way for civil tiltrotor technology from being incorporated into our transportation system. We should recognize that the aircraft that did crash is a developmental aircraft. Whatever the cause of the accident, we can expect to see the problem understood and fixed, and the overall program continued.

The work of the Advisory Committee is parallel to the military program. While this accident is certainly a setback in the military program, there is every reason for us to continue to proceed on the civil side. The work of the Advisory Committee does not hinge on the investigation of the accident. The bill's purpose is to address financial and infrastructure issues associated with the civil tiltrotor.

In conclusion, Mr. Speaker, I urge adoption of this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 3537.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE XIII OF THE FEDERAL AVIATION ACT OF 1958 RELATING TO AVIATION INSURANCE

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5465) to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance, as amended.

The Clerk read as follows:

H.R. 5465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department of agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

SEC. 2. EXTENSION OF PROGRAM.

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

SEC. 3. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 5465, a bill to reauthorize for 5 years the Aviation Insurance Program included in title XIII of the Federal Aviation Act. This is the program which provides air carriers with Government-sponsored insurance when commercial insurance is unavailable or available at unreasonable rates due to world events. The need for this long-established program of war risk insurance, as it is conveniently called, was underscored during the Desert Shield and Desert Storm operation of the gulf conflict.

□ 1350

If we had not had war risk insurance, commercial air carriers simply would not have been able to operate in the Persian Gulf area, either on a commercial basis or in pursuit of government policies and programs as they were under contract to do. The U.S. Government simply would not have had the necessary airlift capability to undertake the swift and efficient deployment of the military personnel and goods without that available commercial capacity, and that capacity in the private sector would not have been available if the air carriers had not been able to have in place insurance to cover possible losses for entering a war zone.

The significance of commercial air operations is underscored by the fact that more than 6,000 flights were operated on behalf of the United States military, carrying personnel and goods into the Persian Gulf area. Those operations received nonpremium insurance. That is, the carriers paid a fee of only $200 per aircraft for that insurance. More than 40 commercial flights received premium insurance. That is, they paid the Government a premium for the insurance they received. Happily or fortunately, there were no claims for damage or loss in the course of the gulf conflict. But unexpectedly and surprisingly, the Government did earn approximately $600,000 on the insurance that was provided for those operations.

Clearly, this is not a program that has been subject to abuse. It has been activated only a handful of times during the course of the history of this program, but when we have needed it, it has been essential. Based on our experience in the gulf and based on the testimony the subcommittee received during two hearings on the subject, we proposed to modify the existing program in some important aspects.

The bill authorizes the Government to provide insurance for carriers who operate domestic flights, that is, in the domestic United States on behalf of the military, in contrast to the existing program that insures only the international leg of operations. We found that those operations were continual. They started at one point in the domestic United States, terminated intermediately at another point in the United States, and then continued to an international destination. The entire operation, not just one leg of it, should have been covered, and that is what this legislation will do.

Second, the bill will direct a report by the General Accounting Office to be undertaken, with findings and recommendations on how the program has operated and in what ways it can be improved beyond those provided in this legislation.

We recommend this GAO study based upon concerns about the approval process necessary to receive the aviation insurance. There has been a number of concerns by private carriers that the process became overly complex and delayed and could be streamlined, and we think a GAO inquiry into the matter can provide some recommendations for streamlining the process. Carriers should know significantly in advance of operations whether they will be receiving insurance in order to notify passengers and in order to make necessary arrangements. I can cite from personal experience how complex that process can become, because I was called by a carrier at one point in the gulf conflict when the carrier did not know when it was going to operate. There were two Departments of Government, neither talking to each other, both of them unnecessarily delaying the operation, and I had to get involved in bringing them together and resolving the conflict. That should not happen. It ought to operate smoothly. The GAO ought to be able to study the issue and provide us some sound recommendations.

Finally, Mr. Speaker, the legislation authorizes the Government to insure the ground support operations necessary to service those flights operated on behalf of the Government. Presently, the program is authorized only to insure flights.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the War Risk Insurance Program is a little-known, but potentially very important, Federal program. It was first authorized in 1951 and has been used only sparingly since. However, it did play an important role during the Persian Gulf conflict. It was used to insure flights carrying troops and supplies to the Middle East.

In the past, the reauthorization of the War Risk Program had been handled routinely. Frequently we accomplished it without even the need to hold a hearing. However, experience gained during the Persian Gulf war justified a closer look at the program this time.

Our hearings on this subject focused on the issue of extending war risk coverage to domestic flights. Currently, war risk policies cover only international flights, but the airlines urged us to extend the program to domestic flights as well.

I am pleased that the bill addresses this issue, at least in part. It would extend the War Risk Insurance Program to some domestic flights, primarily those flights that carry troops and supplies for the Defense Department.

Another source of complaints about the War Risk Program concerned the bureaucracy and the redtape that airlines had to endure to get insurance coverage for specific flights. While the bill does not address this problem directly, it does require the General Accounting Office to study the matter and make some recommendations. This will give us a chance to revisit this issue once we have the benefit of GAO's analysis.

Mr. Speaker, the Public Works and Transportation Committee undertook a thorough review of the War Risk Insurance Program. I appreciate the time that the subcommittee chairman, Mr. OBERSTAR, and the ranking member, Mr. CLINGER, spent becoming familiar with the details of this highly technical program. I support this bill that is the result of those efforts, and commend Chairman ROE for moving it expeditiously through the full committee.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I want to again offer my compliments to my ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], for his participation throughout the several hours of hearings we held on this issue and for the time he has devoted to shaping the legislation and bringing about the support we needed in committee to bring this bill to the House floor.

I want to offer my compliments especially to the staffs on both sides of the subcommittee who have labored long and hard, listening to the many interests and concerns on the side of both the military and the Department of Transportation, as well as the carriers involved, and who have done a splendid job in shaping this legislation.

Mr. ROE. Mr. Speaker, I rise in strong support of H.R. 5465, a bill to reauthorize for 5 years the Aviation Insurance Program in title XIII of the Federal Aviation Act. This program provides commercial air carriers with Government-sponsored insurance when commercial insurance is unavailable or is available at unreasonable rates due to world events.

The War Risk Insurance Program provided vital to the country's national interest during the Persian Gulf conflict when our Nation's carriers operated flights on behalf of the military. During the conflict, commercial insurance for flights to the Middle East increased so dramatically that operations to the area would have been prohibitively expensive if the Government had not been able to provide insurance. The kind of civil airlift that proved so necessary to our country's success in Desert Shield and Desert Storm would not have been available if air carriers were not assured that adequate insurance was being provided for their operations.

Desert Shield and Desert Storm exemplify the need to reauthorize this program without delay. Prior to the Persian Gulf conflict, this program had been used only a handful of times. Yet, when the need arose for this program to be implemented on a large-scale basis, on relatively short notice, the program succeeded in providing the necessary insurance and effectively assisting in the military effort.

In addition to reauthorizing the Aviation Insurance Program for 5 years, H.R. 5465 expands the existing program to authorize the Government to insure domestic flights being operated by commercial carriers on behalf of the Government. The present program authorizes insurance for international flights only. The committee considers that this expansion is necessary to ensure that there is no gap in insurance coverage when carriers are operating flights on behalf of the Gov-

ernment. Without the assurance that adequate insurance is available, carriers may choose not to operate flights on behalf of the Government, which would seriously reduce the Government's airlift capability.

The bill also requires the General Accounting Office to study how the Aviation Insurance Program operated during Desert Shield and Desert Storm. The GAO report will make recommendations to Congress about how the program could be improved.

Mr. Speaker, I urge my colleagues to support this very important legislation.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill, H.R. 5465.

The SPEAKER, pro tempore Mr. McDERMOTT. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 5465, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING ADDITIONAL TIME TO NEGOTIATE A LAND DISPUTE IN SOUTH CAROLINA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5566) to provide additional time to negotiate settlement of a land dispute in South Carolina.

The Clerk read as follows:

H.R. 5566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Suits on possessory land claims may be commenced against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, within the area claimed in the suit Catawba Indian Tribe of South Carolina against State of South Carolina, et al., Civil Action No. 80-2050 (D.S.C.).

(2) Tens of thousands of such suits would be costly to all parties, including the Federal judicial system, and would create a burden upon interstate commerce.

(3) The filing of such suits may be averted by settlement if additional time is made available for the parties to negotiate and implement the terms of settlement.

(4) The Congress has authority to enact this legislation under the Indian Commerce Clause and the Interstate Commerce Clause of the Constitution; and the Department of Justice concurs in this construction of Article I of the Constitution.

SEC. 2 PURPOSE.

The purpose of this Act is to prevent the social, economic, and judicial disruption that would result from the commencement of law suits against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, and the burden on interstate commerce that such suits would impose. The parties to the above reference suit require additional time in which to negotiate and implement the terms of settlement; and if such time is made available, it may avert the necessity of thousands of law suits. The purpose of this Act is not to revive, renew, or extend any claim barred by any period of limitation, repose, or time bar as of the effective date of this Act.

SEC. 3 STATUTE OF LIMITATION.

(a) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, bars any claim brought by or on behalf of any Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester Counties, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or any treaty, as of the date of enactment of this Act, such period of limitation or repose, or other defense based wholly or partly on passage of time, shall bar any such claim, without regard to whether such claim has already been filed.

(b) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, has not barred any claim, filed or unfiled, by or on behalf of an Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester County, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or treaty, as of the date of the enactment of this Act, the running of any such period of limitation or repose, or any other defense based wholly or partly on the passage of time, shall be suspended as of the date of the enactment of this Act until October 1, 1993. On October 1, 1993, the time upon which any such defenses are based shall resume running. The period of time remaining for any time-related defense to become a bar to any such claim shall be the same on October 1, 1993, as it was immediately prior to the date of the enactment of this Act. Nothing in this subsection shall be construed to affect the application of any period of limitation, repose, or time bar to the claim of any individual Indian which is pursued under any Federal or State law generally applicable to non-Indians as well as Indians.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure before us, H.R. 5566.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5566 sponsored by Mr. SPRATT, preserves the legal status of the land claims of the Catawba Tribe of Indians of South Carolina 1 year. Unless this bill passes, the tribe is prepared to sue approximately 27,500 landowners in the State of South Carolina and will do so to meet the statute of limitations deadline which the tribe asserts falls on October 19 of this year. The tribe would be serving the defendant landowners at the end of this month to meet this deadline unless this legislation is passed immediately. Mere service of process in this case would result in great expense to both the tribe and the defendants.

This is an urgent matter and the committee has expedited its procedures to accommodate the tribe, the landowners and the State because the parties are engaged in negotiations which will hopefully result in a fair and equitable settlement of the Catawba claims.

This measure has the support of the administration, the tribe, the State, and the South Carolina delegation. I urge my colleagues to support it.

H.R. 5566

PURPOSE

The purpose of H.R. 5566 is to suspend the running of the limitations periods applicable to an Indian claim for damages and possession of land in York and Lancaster Counties, South Carolina. This bill is not intended to affect in any way the substantive claims or defenses either side may assert in the litigation of this claim. The bill does not address or affect litigation of this claim. The bill does not address or affect the substance of the land claim, or reflect any congressional intent to modify the claim or any defenses land holders may have to such claim, other than to suspend for a stated time statutory and common law periods of limitation and repose that may apply to the claim.

BACKGROUND

On October 28, 1980, a suit was filed in the U.S. District Court for South Carolina entitled *Catawba Indian Tribe of South Carolina* v. *State of South Carolina, et al.* The plaintiff, (the "Catawbas") alleges that in treaties made with the British Government in 1760 and 1763, a tract of 144,000 acres in South Carolina was reserved to the Catawbas; and that in return for guarantees of quiet possession, the Catawbas ceded the remainder of their lands held under aboriginal title. The Catawbas further allege that in 1840, the State of South Carolina, without federal participation or approval, negotiated a "treaty" with the Catawbas, attempting to extinguish Indian title so that the lands could be conveyed to non-Indians. The Catawbas allege that South Carolina failed to honor its promise to acquire a new reservation for the Catawbas. The Catawbas further allege that the 1840 "treaty" was void under federal law and thus conveyed no interest in the reservation lands to the non-Indian occupants. On December 14, 1943, the State of South Carolina, the Catawbas, and the federal Office of In-

dian Affairs entered into a "Memorandum of Understanding," providing for the extension of federal benefits to the Catawbas. The Catawbas contend that this MOU established a federal trust relationship. On July 1, 1962, by virtue of the "Catawba Division of Assets Act," 25 U.S.C. Section 931-938, the Catawbas' relationship with the federal government was terminated.

After a three-year effort to settle the claim without disruptive litigation failed, the Catawbas on October 28, 1980, filed suit in the U.S. District Court to regain possession of 140,000 acres in the U.S. District Court to regain possession of 140,000 acres purportedly ceded by the 1840 treaty. The suit was filed as a defendant class action naming 76 defendants as representatives of a defendant class then estimated to number 27,500. The Catawbas sought immediate certification of the defendant class, but the District Court, over their objection, postponed consideration of class action status in favor of first considering the named defendants' motion to dismiss based on the effects of the Catawba Division of Assets Act ("Act"). The court then dismissed the case, holding that the Catawba Division of Assets Act ratified the 1840 treaty, extinguished the Catawbas existence as a tribe and the federal trust responsibility for the land claim, and made state statutes of limitations applicable to the claim in such a way as to bar the claim. In 1984, the United States Court of Appeals for the Fourth Circuit reversed the District Court. *Catawba Indian Tribe of South Carolina* v. *State of South Carolina*, 740 F.2d 305 (4th Cir. 1984) (en banc, per curiam); (adopting panel opinion, 718 F2d 1291, 4th Cir. 1983). In 1986, the United States Supreme Court, reviewing only the question of whether the Catawba Division of Assets Act resulted in the application of South Carolina statutes of limitations to the claim, reversed the Fourth Circuit and held that state statutes of limitations should be borrowed and applied to the claim as a result of the Act. However, the court did not decide what effects their application would have on the claim. The Supreme Court instead remanded that question to the Fourth Circuit Court of Appeals. *State of South Carolina* v. *Catawba Indian Tribe of South Carolina*, 476 U.S. 498 (1986).

In, 1989, the Fourth Circuit ruled that because of South Carolina's prohibition against tacking (adding together) successive periods of adverse possession to achieve 10 years under the statute of limitations, the Catawbas' claim would be barred against only those named defendants who had possessed the land for 10 continuous years between July 1, 1962, which was the effective date of the Catawba Division of Assets Act, when state law became applicable to the Catawbas, and October 28, 1980, when the law suit was filed. *Catawba Indian Tribe of South Carolina* v. *State of South Carolina*, 865 F. 2d 1444 (4th Cir. 1989, en banc), cert. denied, 491 U.S. 906 (1989).

The case was remanded to the District Court and over the Catawbas' objection, the court postponed consideration of the plaintiff's class action motion in order to determine which of the seventy-six named defendants could establish ten continuous years' of adverse possession and thus be dismissed from the case. The court dismissed twenty-nine named defendants and thousands of acres from the claim. The court then took up the plaintiff's motion for class certification, and on February 19, 1991, the court ruled (1) that if the Catawbas were to prevail against the remaining named defendants, that would not affect the value and marketability of the lands of the absent class members, because many of them would have a statute of limitations defense, and (2) that no defendant class exists because the filing of the complaint and class action motion in 1980 did not toll the running of the applicable statutes of limitations. The court held that because of South Carolina's 20-year presumption of a grant, under which tacking is permitted, time continued to run against unnamed defendants after the claim was filed in 1980, and this common law presumption operated to bar the remainder of the claim. In addition, the District Court held that the 20-year limitations doctrine did not require an affirmative showing by each defendant that the land claimed by them had been adversely possessed for the twenty-year period. Both issues (dismissal based on adverse possession and denial of class certification) are currently before the Fourth Circuit on appeal and on mandamus petition respectively. Case Nos. 90-2446 and 91-2341.

By calculation of the Catawbas' attorneys, there was approximately 20 months left in the 20-year limitation period when the Catawbas filed their suit on October 28, 1980; or in other words, the Catawbas filed suit 18 years and 4 months after July 1, 1962. Because the District Court's rulings on February 19, 1991, on tolling and on the operation of the 20-year doctrine are not yet final, the Catawbas contend that in order to protect their claim, they must assume that the District Court will be reversed. They assume (1) that the running of state limitations periods was tolled by the filing of the complaint in 1980, and (2) that South Carolina law does require an affirmative factual showing that each parcel of land has been possessed adversely for the requisite period before the Catawbas' land claim can be barred. Thus, under these assumptions, as of February 19, 1991, when the District Court denied class certification, the statute of limitations began running again. As a result, the Catawbas believe that they now have less than 3 months in which to file suits against individual land holders before the 20-year limitations period expires on or about October 19, 1992. Unless the Fourth Circuit issues a Writ of Mandamus directing the District Court to certify a defendant class, or if no decision is issued soon by the Fourth Circuit, the Catawbas believe that they have no choice but to proceed against the current occupants of the land in question, now estimated to number about 40,000. The Catawbas' attorneys have informed the Committee that they must file their suits by September 2, 1992 in order to fulfill the requirements for service by the deadline of October 19, 1992.

ANALYSIS

The Supreme Court has recognized that the Catawbas assert a federal cause of action. *State of South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498, 507 (1989); see *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661 (1974) (Oneida I). The Court of Appeals for the Fourth Circuit, on remand from the Supreme Court, held that the Catawba land claim arises under federal law for purposes of federal court jurisdiction under 28 U.S.C. Sections 1331, 1337, and 1362. *Catawba Indian Tribe* v. *South Carolina*, 865 F. 2d 1444, 1455-56 (4th Cir. 1989) (en banc); cert. denied, 491 U.S. 906 (1989). While the applicable periods of limitations derive from state statutory and common law, they have been made applicable to the Catawbas' cause of action by virtue of Congressional enactment—the Catawba Division of Assets Act. In the absence of this Act, there would be no statute of limitations, state or federal, applicable to the Catawbas' possessory claim. *State of South Carolina* v. *Catawba Indian Tribe of South Carolina*, 476 U.S. 498, 507-508 (1986); *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240-244 (1985) (Oneida II: "in the absence of a controlling federal limitations period, the general rule is that a state limitations period for an analogous cause of action is borrowed and applied to the federal claim."). Thus, the Catawba Division of Assets Act applied the normal rule that state law limitations periods would be borrowed and applied to the Catawbas' federal claim as a matter of federal law. See 476 U.S. at 518: "These are federal claims, [citing Oneida I] and the statute of limitations is thus a matter of federal law [citing Oneida II]." Justice Blackmun dissenting.

Because Congress, in the exercise of its plenary power over Indian affairs, permitted the borrowing of state law limitations periods for application to the Catawbas' claim, Congress may, through the exercise of that same power, preempt the application of the state limitations periods and suspend their applicability and operation for a period of time. It is not the intent of Congress to dictate or direct how state law is to be interpreted. The Department of Justice, in a June 24, 1992, letter to Senator J. Strom Thurmond, Senator Ernest F. Hollings, and Congressman John M. Spratt, Jr. concurred in this conclusion.

That Congress for a time may have permitted the federal courts to borrow South Carolina's analogous limitations periods and apply them to this land claim is no impediment to Congress' reassertion of the federal power in an area over which Congress has plenary authority. Many cases recognize federal power to insulate Indians form state power even after state power has attached *United States* v. *John*, 437 U.S. 634 (1978); *United States* v. *McGowan*, 302 U.S. 533 (1938) (land in Nevada purchased after statehood by the federal government and held in trust for Indians was Indian country); *Winters* v. *United States*, 207 U.S. 564 (1908); *Eastern Band of Cherokee Indians* v. *Lynch*, 632 F. 2d 373 (4th Cir. 1980). The last case is especially instructive. The Eastern Band of Cherokees was similar in its history to the Mississippi Choctaw involved in *United States* v. *John*, supra, in that they stayed in the east while others of the tribe were removed to the west. They became citizens of the State, bought some land for a reservation, and became incorporated under state law. The state taxed their lands and those lands were lost for nonpayment of taxes. The federal government redeemed those lands, took them in trust, and passed a statute in 1924, allowing state taxation of one additional year after which time it was no longer allowed. The state attempted to tax income earned on the reservation and to tax personal property thereon, but the court held that federal law preempted such authority.

CONCLUSION

Congress does not seek to revive any tribal claims that have already been barred. However, Congress may direct that the statute of limitations applicable to Indian claims be extended, as it did repeatedly in amending 28 U.S.C. Section 2415.

□ 1420

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Minnesota has already addressed the provisions of the bill in detail, and the need for its swift passage, so I will sim-

ply note that I add my support of H.R. 5566 to that of the tribe, the landowners, and the State of South Carolina.

I hope that the parties to Catawba Indian Tribe versus South Carolina will use the opportunity afforded by this bill to reach a fair and equitable settlement of the tribe's land claim.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT], the principal sponsor of this legislation.

Mr. SPRATT. Mr. Speaker, I rise in support of H.R. 5566. I introduced this bill to avoid massive disruption in my congressional district, disruption which would surely result if some 40,000 law suits were commenced against landholders in York, Lancaster, and Chester Counties, SC. To prevent the commencement of these suits, this bill must enacted before the recess in August. For that reason, I wish to express my gratitude to Chairman MILLER and Congressman YOUNG and Congressman RHODES for allowing this legislation to be considered on an expedited basis, as well as the gentleman from Minnesota [Mr. VENTO] and the gentleman from Wyoming [Mr. THOMAS].

The legislation is short and simple, but its background is long and complex. There is not enough time to cover it fully, but I need to give a summary to explain the purpose of this bill and why it is so urgent.

On October 28, 1980, a case entitled Catawba Indian Tribe of South Carolina versus State of South Carolina, et alia, was filed in the U.S. District Court for South Carolina. The plaintiff sued 76 defendants, alleging that a treaty made between the Catawbas and the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State of South Carolina, and 150 years later, the plaintiff seeks to recover the land and trespass damages. Among the 76 defendants are the State of South Carolina, local governmental entities, and major landholders. I was among the defendants named, because I then owned approximately 830 acres of land within the area claimed, and now own approximately 810 acres. When the suit was filed in 1980, the plaintiff moved to have the named defendants certified as a class representing not only their own interests but also the interests of all other landholders similarly situated in the claim area. The district court did not rule on plaintiff's motion for class action certification at the time, but instead granted the defendants' motion for dismissal. In 1986, the Supreme Court reversed the district court in part, but held that the land claim alleged by the plaintiff was subject to the statutes of limitation of State of South Carolina after July 1, 1962.

When the suit was finally remanded to the district court, the plaintiff renewed its motion for class action certification, which the court denied in February 1991. Because of the court's denial of class action certification, plaintiff's attorneys have announced that the plaintiff will have to sue an estimated 40,000 landowners in York, Lancaster, and Chester Counties, South Carolina. Attorneys for the plaintiff calculate that the 20-year period of limitations will run out on October 19, 1992; consequently, the plaintiff is preparing to file thousands of lawsuits by late August of this year.

The bill I am introducing would suspend the running of any period of limitations that has not already expired until October 1, 1993. Thus, it would grant both parties additional time within which to work out terms of settlement.

It goes without saying that 40,000 lawsuits would create chaos. Even though the vast majority of landowners would probably have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgment. All of this would be costly; and while the suits were pending, it would be difficult to transfer land and obtain title insurance.

Since the fall of 1989, Gov. Carroll A. Campbell, Jr., and I have sought to settle the entire suit out of court. We have made progress and narrowed the gap on most of the major issues. However, we have not yet reached full agreement; and even if we had, we would not be able to consummate a settlement agreement by enacting State and Federal legislation before October 19, 1992. At this point, the only way to avoid thousands of lawsuits, and the disruption they would cause, is to give the parties more time to negotiate and implement a settlement agreement.

This is the sole purpose of this legislation. It would not prevent the plaintiff from bringing thousands of lawsuits before October 19, 1992, if it chooses; but it would give the plaintiff another option: not suing now and negotiating instead for settlement. The bill would suspend until October 1, 1993, only those periods of limitation that have not run out by the effective date of this act. It would not revive, renew, or extend any claim barred by any period of limitation or repose, or any other time bar, as of the effective date of this act.

Before preparing this bill, I, along with Senator THURMOND and Senator HOLLINGS, sent a proposed draft of it to the Attorney General for review. I am submitting for the record a copy of our letter to the Attorney General and a copy of the favorable opinion letter received from Assistant Attorney General W. Lee Rawls, on June 24, 1992. I request unanimous consent that these documents be included in the RECORD immediately following my statement.

In addition, I submitted the bill for review to our South Carolina attorney general, Travis Medlock; and to Hale and Dorr, the law firm representing the State of South Carolina in this suit. And in developing the bill, I have worked with the law firm representing the plaintiff, the Native American Rights Fund [NARF] of Boulder, CO. As I already mentioned, we submitted the draft legislation to the Attorney General for his review and opinion at the specific request of NARF. The draft of the bill I am filing today differs somewhat from the draft submitted to the Attorney General; but the changes were sought by the Native American Rights Fund in order to strengthen the bill. The Native American Rights Fund is satisfied that the bill, as drawn, protects their client's interests as much as legally possible.

I have made clear what this bill is intended to do. I also want to make clear what this bill is not intended to do. This bill is not intended to affect in any way the substantive claims or defense either side may assert should the Catawbas' land claim be litigated. In drafting this bill, it was explicitly agreed by the Catawbas and by the landowners' attorneys that this legislation would not touch the substantive merits of their claim, but would merely suspend any period or statute of limitations until October 1, 1993, so that there would be additional time to negotiate. No party or court should read into this legislation any other meaning. In summary, this legislation does not address or affect the substance of the Catawbas' land claim, or reflect, even implicitly, any congressional intent to modify the Catawbas' claim or any defenses landowners may have to such claim, other than to suspend for a fixed period of time statutory and common law periods of limitation and repose that may apply to the claim.

In particular, H.R. 5566 does not state or imply whether the Catawbas are an Indian tribe today or were a tribe at any time relevant to their claim. Nor does the bill state whether any trust relationship ever existed between the Catawbas and the Federal Government. These are issues for a court to resolve if this land claim is litigated. Congress does not speak to these or any other such issues in this legislation.

I have disclosed to the House that I own land in the area claimed by the Catawbas and that I am a defendant in the suit now pending. I have a substantial interest in the outcome of this litigation. For the past 2 years, I have kept the House Committee on Official Standards of Conduct informed of my personal interest in the suit and my efforts to settle the claim. Within cer-

tain constraints, the committee has advised me that I may work for settlement of the claim, though I should not introduce settlement legislation. In regard to this bill, a staff attorney with the committee has advised me that since I am a named defendant already, this legislation will not affect my status in the pending suit, and I can introduce the bill and support its passage. To the extent that this bill allows more time for negotiation and settlement, it serves my personal interests, but it clearly serves the interests of some 30,000 to 40,000 constituents who own land in the area claimed by the Catawbas.

For the RECORD I include the correspondence referred to earlier.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 16, 1992.

Hon. WILLIAM P. BARR,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL BARR: We are writing to request an opinion from the Justice Department as to the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. A copy of the proposed legislation is enclosed.

In 1980, the Catawba Indian Tribe of South Carolina brought suit against 76 defendants alleging that a treaty made with the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State, and the Catawbas seek to recover the land. The Catawbas moved to have the named defendants certified as a class, but the district court denied their motion for class action certification. The Catawbas have, therefore, announced that the tribe will sue approximately 27,500 individual landowners in York, Lancaster, and Chester Counties, South Carolina. Lawyers for the tribe are convinced that the 20-year statute of limitations, applicable under South Carolina law, runs out October 19, 1992; consequently, they are preparing to file their suits by late August 1992. The draft legislation we are proposing would grant the Catawba Indian Tribe of South Carolina an additional eight months in which to sue.

Obviously, 27,500 lawsuits would create chaos. Even though the vast majority of landowners would have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgement. All of this would be costly; and while the suits were pending, it would be difficult to buy or sell land and virtually impossible to obtain title insurance.

Governor Campbell and Congressman John Spratt have been negotiating since the fall of 1989 to settle the entire suit out-of-court. They have made significant progress and believe that they are close to an agreement. However, they will not be able to settle the suit and have an agreement consummated by state and federal legislation by October 19, 1992. The only way to avoid some 27,500 suits is to extend the deadline for eight additional months. This is what the draft bill is designed to accomplish.

The South Carolina Attorney General's office, the attorneys representing the State, and attorneys for the title insurance companies have all reviewed the legislation and find it in acceptable form. Attorneys for the tribe have also reviewed the legislation. In principle, they do not oppose an extension and are willing to refrain from filing the suits if Congress extends the deadline.

The Catawbas' suit came before the Supreme Court in 1986 on appeal of an order of dismissal. The Court noted that the Catawbas' relationship with the federal government had been terminated as of July 1, 1962; and in the termination act, Congress provided that as of the date of termination "all statutes of the United States that affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner they apply to other persons or citizens in their jurisdiction." Consequently, the Supreme Court held that South Carolina statutes of limitation as to suits for recovery of land applied to the Catawbas. As indicated above, the Catawbas' attorneys now believe that the applicable South Carolina statute will run on October 19, 1992.

There is no federal statute of limitation applicable to their claim; but the tribe's attorneys believe that Congress probably has the authority under the Constitution to extend the time for filing the individual suits. However, they are not convinced of this conclusion, and they are concerned that if Congress passed a law extending the statute, a court might find that the deadline remained October 19 because the law is unconstitutional. The tribe's attorneys have requested a letter opinion from the Department of Justice confirming Congress's authority to provide additional time.

As you will see, the draft legislation cites Congress's authority under the Commerce Clause. There is no question that the filing of these suits would cause a significant impact on commerce in the claim area of 225 square miles, and specifically on interstate commerce since York and Lancaster Counties lie on the North Carolina border. However, if necessary, the legislation could also cite Congress's plenary authority over Indian matters.

If we are to avoid the suits and gain time for negotiating settlement, this bill must be passed before the August recess. Therefore, time is of the essence. We would appreciate your response within a week, at the latest. Thank you very much for your assistance.

Respectfully,

STROM THURMOND,
U.S. Senate.
ERNEST HOLLINGS,
U.S. Senate.
JOHN M. SPRATT,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 12, 1992.

Hon. WILLIAM P. BARR,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: In conjunction with the enclosed letter I have cosigned with Senators Thurmond and Hollings regarding draft legislation affecting the Catawba claim, I should disclose that I have an interest in the outcome of the suit.

I am one of approximately 75 defendants named in *Catawba Indian Tribe of South Carolina, Inc.* vs. *State of South Carolina*, Civil Action No. 80-2050, now pending in the District Court of South Carolina. The Catawbas intended for the named defendants to be constituted as a class representative of the 25,000-30,000 landowners in the claim area. The district court denied their motion for certification of the class, and the Catawbas have sought to have the Fourth Circuit Court of Appeals mandamus the court to certify the class. The Court of Appeals has not yet rendered a decision.

I own approximately 800 acres in the claim area. Along with about 55 other defendants, I moved for summary judgement, and the district court entered an order releasing my land from the suit and dismissing the suit as to me. However, the Catawbas have appealed the summary judgement orders issued by the district court. I expect my defense of title to prevail on appeal as to some 700 acres, but the Catawbas my obtain a reversal as to a tract of some 100 acres.

On October 14, 1990, I wrote the House Committee on Official Standards in order to present my situation and ask for guidance on how I could proceed. The Committee advised me not to introduce settlement legislation so long as I remained a defendant, but allowed me to engage in settlement negotiations with government officials and with the Catawbas, provided I disclosed my interest in the matter, which is the purpose of this letter.

Respectfully,

JOHN M. SPRATT, Jr.,
Member of Congress.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 24, 1992.

Hon. John C. Spratt,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SPRATT: This is in response to your request for the views of the Department of Justice on the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. The draft bill would have the effect of tolling the statute of limitations applicable to the Tribe's claims if the statute has not already run. We have briefly analyzed the draft bill in light of pertinent legal and constitutional issues. In our view, the legislation is constitutional.

The purpose of the proposed legislation is to preserve, for a brief period, the current legal status of the Tribe's claims under the applicable statute of limitations so that the parties have time to complete settlement discussions, and thereby avoid massive and burdensome litigation of the claims. The bill would provide that if the applicable statute of limitations has run by the date of its enactment, then all claims subject to it filed or unfiled, will remain barred. However, if the applicable statute of limitations has not run by the date of enactment, then

"* * * any action by a plaintiff shall be treated as commenced on the date of the enactment of this Act if such action is commenced on or before April 15, 1993[,] and any amendment to an existing claim, if otherwise permissible, shall be treated as if commenced on April 15, 1993."

The fundamental issue is whether Congress has the power to alter the statute of limitations applicable in this case. We would conclude that Congress has that power. First, the cause of action in the Catawba case is one "arising under" federal law for purposes of 28 U.S.C. 1331. The Fourth Circuit explicitly so held in *Catawba Indian Tribe* v. *South Carolina*, 865 F.2d 1444 (4th Cir. 1989) (en banc), and the Supreme Court so stated in *South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498, 507 (1985), although the issue was not squarely before the Supreme Court.

The Supreme Court first squarely recognized the federal character of such Tribal land claims in *Oneida Indian Nation* v. *County*

of Oneida, 414 U.S. 661 (1974), and generally stated that the rules for decision of such claims were federal in character. *Id.* at 674. In a subsequent decision in that same case, the Court specifically ruled that state statutes of limitation do "not apply of their own force to Indian land title claims." *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240 n.13 (1985). Instead, such statutes are "borrowed and applied to the federal claim * * *" if the application of the state statute is not inconsistent with federal law. Id. at 240.[1]

This conclusion would appear to resolve two potential constitutional issues. First, it makes clear that the draft bill would effect no violation of the Tenth Amendment or other principles of state sovereignty. Congress clearly has the power under the Commerce Clause of Article I to regulate in this area. Tolling the statute of limitations applicable in this case would be merely an exercise of that power. It would do nothing more than alter a "borrowed" statute of limitations that, absent congressional action, has served as the applicable bar. The bill thus neither commandeers state legislative processes nor contains a direct mandate to states. Compare *New York* v. *United States*, Slip Op. at 28–29 (Supreme Court, June 19, 1992) (invalidating federal statutory provision requiring states that do not provide for disposal of low-level radioactive waste generated in state to take title to and assume liability for that waste). Cf. *Hodel* v. *Virginia Surface Mining and Reclamation Association*, 452 U.S. 264 (1980) (exercise of federal powers that preempt state law does not impermissibly intrude on state sovereignty).

Second, the bill does not appear to create separation of powers problems by interfering with the judicial function. By changing the applicable statute of limitations, Congress in the draft bill is compelling a change in the law, rather than a particular result or finding under old law. The Supreme Court has upheld this type of congressional action where it has been challenged as improperly affecting pending litigation. See *Robertson* v. *Seattle Audubon Society*, 112 S.Ct. 1407 (1992). In *Robertson*, the Court upheld a federal statute that altered the legal standard required under certain environmental statutes with respect to certain timber sales in the Pacific Northwest. The Court rejected the plaintiffs' claim that the provision at issue was an impermissible "statutory directive," holding that "[a] statutory directive binds *both* the executive officials who administer the statute *and* the judges who apply it in particular cases * * *. Here, our conclusion [is] that what Congress directed—to agencies and courts alike—was a change in the law, not specific results under old law." Id. at 1414 (emphasis in original).

Because it is within Congress's plenary power to alter a federal statute of limitations, we do not believe that accomplishing that end through a "deeming" provision such as proposed section 2(b) would interfere with judicial powers in violation of Article III of the Constitution. Since Congress could state that "any statute of limitations that has not expired on the date of enactment of this bill is extended to April 15, 1993," it would not be problematic for Congress to provide that any claims subject to such an unexpired statute of limitations on the date of enactment of the bill shall be treated as if filed before the date of enactment.

In conclusion, in our view the draft bill would not violate any applicable constitutional principles. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

CATAWBA NATION,
Rock Hill, SC, July 13, 1992.

Re H.R. 5566.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN MILLER: On June 3, 1992, the Executive Committee of the Catawba Indian Tribe of South Carolina met and voted unanimously to support legislation that would suspend the running of limitations periods applicable to the Tribe's land claim. The Catawba Tribe has, since it first undertook to resolve this claim in 1977, sought to avoid disruptive litigation in favor of a consensual settlement. Our attorneys have reviewed H.R. 5566 and are satisfied that it is drafted in such a way as to provide as much protection to our claim as can be provided. Our support for H.R. 5566 is based on our understanding that Congress does have the authority to enact such legislation.

I will be happy to provide further information or comment if you desire. Thank you for your consideration.

Sincerely,

GILBERT B. BLUE,
Chief, Catawba Indian Tribe.

□ 1420

Mr. VENTO. Mr. Speaker, I thank the gentleman from South Carolina for his detailed explanation of this. I think all of us understand the year extension of time is modest, considering the time and the magnitude of the issue that is being resolved. We hope that this time will result in a settlement and a fair result for the native Americans and other title owners in South Carolina.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 5566, a bill to extend the statute of limitations regarding a land dispute involving the Catawba Indian Tribe over land in the State of South Carolina. It is my understanding that plaintiffs, defendants and potential defendants in the pending law suit are supportive of this legislation, and passage of this bill will increase the likelihood of consensual settlement of the litigation.

Mr. Speaker, while I support this legislation, I want to emphasize that I intend to continue my efforts to obtain passage of H.R. 5562, a bill to restore Federal recognition to the Catawba Nation. The two bills are independent of one another, and while Federal restoration may eventually be a part of the final settlement of the ongoing litigation, there is no reason for Congress not to restore recognition to these Indians, and every reason, including fairness and justice, that we do.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 711) to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co., as amended.

The Clerk read as follows:

H.R. 711

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 "Railroad Right-of-Way Conveyance Validation Act".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 5, the conveyances described in section 3 (involving certain lands in Nevada County, State of California) and section 4 (involving certain lands in San Joaquin County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyances of land in Nevada County, State of California, referred to in section 2 are as follows:

(1) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and David G. 'Otis' Kantz and Virginia Thomas Bills Kantz, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–15995 in the official records of the county of Nevada.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Antone Silva and Martha E. Silva, his wife, grantees, recorded June 10, 1987, as instrument number 87–15996 in the official records of the county of Nevada.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Charlie D. Roeschen and

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[1] The Supreme Court in a variety of contexts has held that state statutes of limitations are "borrowed" in cases where gaps are left in federal law. These borrowed statutes of limitations thus apply as a matter of federal law, rather than of their own force and effect. The Supreme Court has applied this general "state borrowing" doctrine in countless cases, including the *Catawba* case. 476 U.S. at 507 & n. 18 (citing cases). See also *Lampf, Pleva, Lipkind, Prupis & Petgrow* v. *Gilbertson*, 111 S.Ct 2773, 2778–82 (1991) (recognizing borrowing rule but holding that state statute of limitations does not apply where Congress intended federal bar to apply); *Del Costello* v. *International Brotherhood of Teamsters*, 462 U.S. 151, 158–63 1983) (same).

Renee Roeschen, husband and wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15997 in the official records of the county of Nevada.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel F. Nevarez and Margarita Nevarez, his wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15998 in the official records of the county of Nevada.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Susan P. Summers, grantee, recorded June 10, 1987, as instrument number 87-15999 in the official records of the county of Nevada.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James L. Porter, a single man, as his sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16000 in the official records of the county of Nevada.

(7) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert L. Helin, a single man, grantee, recorded June 10, 1987, as instrument number 87-16001 in the official records of the county of Nevada.

(8) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas S. Archer and Laura J. Archer, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16002 in the official records of the county of Nevada.

(9) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Wallace L. Stevens, a single man, grantee, recorded June 10, 1987, as instrument number 87-16003 in the official records of the county of Nevada.

(10) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Sierra Pacific Power Company, grantees, recorded June 10, 1987, as instrument number 87-16004 in the official records of the county of Nevada.

(11) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Truckee Public Utility District, grantees, recorded June 10, 1987, as instrument number 87-16005 in the official records of the county of Nevada.

(12) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Dwayne W. Haddock and Bertha M. Haddock, his wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16006 in the official records of the county of Nevada.

(13) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William C. Thorn, grantee, recorded June 10, 1987, as instrument number 87-16007 in the official records of the county of Nevada.

(14) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Guadelupe Lopez, grantees, recorded June 10, 1987, as instrument number 87-16008 in the official records of the county of Nevada.

(15) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harold O. Dixon, an unmarried man, as to an undivided half interest, and Pedro Lopez, a married man, as to an undivided half interest, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16009 in the official records of the county of Nevada.

(16) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert E. Sutton and Patricia S. Sutton, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16010 in the official records of the county of Nevada.

(17) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Angelo C. Besio and Eva G. Besio, his wife, grantees, recorded June 10, 1987, as instrument number 87-16011 in the official records of the county of Nevada.

(18) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Lawrence P. Young and Mary K. Young, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16012 in the official records of the county of Nevada.

(19) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the estate of Charles Clyde Cozzaglio, grantee, recorded June 10, 1987, as instrument number 87-16013 in the official records of the county of Nevada.

(20) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Noel T. Hargreaves, an unmarried woman, as her sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16014 in the official records of the county of Nevada.

(21) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Athleisure Enterprises, Incorporated, a Nevada corporation, grantees, recorded January 24, 1989, as instrument number 89-01803 in the official records of the county of Nevada.

(22) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Richard Bwarie, a single man as to an undivided one-half interest, and Roger S. Gannam and Lucille Gannam, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89-01804 in the official records of the county of Nevada.

(23) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Campbell and Juanita R. Campbell, his wife as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01805 in the official records of the county of Nevada.

(24) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William E. Cannon and Lynn M. Cannon, husband and wife, as joint tenants as to an undivided one-half interest, and Brent Collinson and Dianne Collinson, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89-01806 in the official records of the county of Nevada.

(25) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton and Bernadette M. Eaton, husband and wife as community property, grantees, recorded January 24, 1989, as instrument number 89-01807 in the official records of the county of Nevada.

(26) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton grantee, recorded January 24, 1989, as instrument number 89-01808 in the official records of the county of Nevada.

(27) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Valeria M. Kelly, an unmarried woman, grantee, recorded January 24, 1989, as instrument number 89-01809 in the official records of the county of Nevada.

(28) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William J. Kuttel and Delia Rey Kuttel, husband and wife, grantees, recorded January 24, 1989, as instrument number 89-01810 in the official records of the county of Nevada.

(29) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas A. Lippert and Laurel A. Lippert, husband and wife, grantees, recorded January 24, 1989, as instrument number 89-01811 in the official records of the county of Nevada.

(30) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Fred J. Mahler, a single man, grantee, recorded January 24, 1989, as instrument number 89-01812 in the official records of the county of Nevada.

(31) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Francis Doyle McGwinn also known as Doyle F. McGwinn, a widower, grantee, recorded January 24, 1989, as instrument number 89-01813 in the official records of the county of Nevada.

(32) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James D. Ritchie and Susan Ritchie, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01814 in the official records of the county of Nevada.

(33) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William R. Smith and Joan M. Smith, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01815 in the official records of the county of Nevada.

(34) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Anthony J. Stile and Laura A. Stile, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01816 in the official records of the county of Nevada.

(35) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas R. Stokes, a single man, and Carla J. Stewart, a single woman, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01817 in the official records of the county of Nevada.

(36) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California Corporation, grantees, recorded January 24, 1989, as instrument number 89-01818 in the official records of the county of Nevada.

(37) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California corporation, grantees, recorded January 24, 1989, as instrument number 89-01819 in the official records of the county of Nevada.

(38) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and Harry M. Welch and Betty R. Welch, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01820 in the official records of the county of Nevada.

(39) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, grantees, recorded February 2, 1989, as in-

strument number 89-02748 in the official records of the county of Nevada.

(40) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Edward Candler and May Candler, husband and wife as community property, as to an undivided two-thirds interest; and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, as to an undivided one-third interest, grantees, recorded February 2, 1989, as instrument number 89-02749 in the official records of the county of Nevada.

(41) The conveyance entered into between the Central Pacific Railroad, grantor, and E.W. Hopkins and J.O.B. Gann, grantees, recorded April 7, 1894, in Book 79 of Deeds at page 679, official records of the county of Nevada.

(42) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and John David Gay and Elizabeth Jean Gay, as Trustees of the David and Elizabeth Gay Trust, grantees, recorded October 3, 1991, as instrument number 91-30654 of the official records of the county of Nevada.

SEC. 4. CONVEYANCES OF LAND IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of land in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ronald M. Lauchland and Lillian R. Lauchland, grantees, recorded October 1, 1985, as instrument number 85066621 in the official records of the county of San Joaquin.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bradford A. Lange and Susan J. Lange, his wife, as to an undivided one-half, and Randall W. Lange and Charlene J. Lange, his wife, as to an undivided one-half interest, grantees, recorded October 1, 1985, as instrument number 85066623 in the official records of the county of San Joaquin.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Leo G. Lewis and Vasiliki L. Lewis, and Billy G. Lewis and Dimetria Lewis, grantees, recorded October 1, 1985, as instrument number 85066625 in the official records of the county of San Joaquin.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Louis J. Bennett, grantees, recorded October 1, 1985, as instrument number 85066627 in the official records of the county of San Joaquin.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Joe Alves Correia and Leontina Correia, his wife, grantees, recorded September 1, 1970, instrument number 33915, in book 3428, page 461, of the official records of the county of San Joaquin.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Willard H. Fike, Jr., and Dorla E. Fike, his wife, grantees, recorded January 7, 1988, instrument number 88001473 of the official records of the county of San Joaquin.

(7) The conveyance entered into between Central Pacific Railway, Grantor, and Nettie M. Murray and Marie M. Hallinan, Grantees, dated May 31, 1949, recorded June 14, 1949, in volume 1179 at page 394 of the official records of the county of San Joaquin.

(8) The conveyance entered into between the Central Pacific Railway Company, a corporation, and its Lessee, Southern Pacific Company, a corporation, Grantor, and Lodi Winery, Incorporated, Grantee, dated August 2, 1938, recorded May 23, 1940, in volume 692, page 249, of the official records of the county of San Joaquin.

SEC. 5. LIMITATIONS ON VALIDATION OF CONVEYANCES.

Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3 or 4 any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

(3) diminish any of the right, title, or interest of the United States with respect to oil, gas, and other minerals, or with respect to prospecting for or mining or removal thereof, in any of the lands that are the subject of a conveyance referred to in section 3 or 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the measure before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 711, introduced by the gentleman from California [Mr. DOOLITTLE], would clear the title to certain lands in Nevada and San Joaquin Counties in the State of California that have long been in private hands, but that were originally granted for use as part of the right-of-way for the first transcontinental railroad. As a result, the United States has a reversionary interest in these properties.

The bill would ratify past conveyances of these tracts by the railroad, so far as it involves the surface estate, thus removing the cloud arising from the reversionary interest.

The Interior Committee amended the bill to include two additional transactions, both related to the same tract of land in the town of Truckee, CA. Information about this tract was provided after the bill's introduction and our hearing on it. The committee also adopted a second amendment, requested by the administration, to make more clear that the United States is reserving any mineral rights it now has in the railroad lands covered by the bill, although not asserting any claim to minerals that are not owned by the United States.

Mr. Speaker, I believe the bill as so amended is not controversial, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 711, which was introduced by Mr. DOOLITTLE, a member of the Interior Committee.

H.R. 711, which has been described in detail by Chairman VENTO, would legalize, validate, and confirm 50 conveyances of right-of-way lands in Nevada and San Joaquin Counties in California. These lands, which originally were part of 1862 grants to the railroads by the U.S. Government, are within the 400-foot-wide right-of-way originating from the 1862 land grant.

Most of the conveyances in this bill are within the town of Truckee, CA, and are occupied by homes, other structures, and front yards—some of which have been in existence for over 100 years.

H.R. 711 is intended to validate the physical occupation and ownership of individual property owners of these tracts. In doing so, it will remove the ambiguity surrounding the titles of these tracts.

Mr. Speaker, I urge my colleagues to support H.R. 711.

Mr. DOOLITTLE. Mr. Speaker, I am pleased to have this opportunity to speak in support of H.R. 711. First, I want to thank both the chairman of the Interior Committee and the chairman of the Subcommittee on National Parks and Public Lands for their help in moving this legislation. I also appreciate the hard work of the members on these committees.

H.R. 711 would legalize, validate, and confirm the conveyance of a portion of the railroad right-of-way located within the State of California which was originally granted by act of Congress on July 1, 1862. As introduced, H.R. 711 is comprised of 48 parcels of land and reaches into Nevada and San Joaquin Counties. Additional parcels were added in committee. These parcels form parts of the 400-foot-wide right-of-way granted to the Central Pacific Railway Co. [CP], now known as the Southern Pacific Transportation Co. [SP].

The city of Truckee, CA, as well as many small communities, was destined to grow up astride the original transcontinental line, and as growth manifested itself, homes and other structures were built within and encroaching upon the right-of-way. Property owners in Truckee are disproportionately affected by having 40 of the 50 parcels in their city. Many of these residences, structures, and front yards have been in existence since the late 1800's and early 1900's. To further complicate matters, there is difficulty in identifying the precise location of the original transcontinental line as it passes through the town of Truckee. For purposes of the conveyances, surveys provided by SP have been utilized.

The intent of this legislation is to validate the physical occupation and ownership of indi-

vidual property owners and to remove the ambiguity of title relating to any portion of the property which may fall within the right-of-way as originally granted to CP. The ambiguity to title affects marketability as well as the ability of an individual to secure institutionalized financing. Only through legislation can the owners obtain clear title to the land they have held and paid taxes on for decades.

Mr. Speaker, I know of no formal opposition to H.R. 711, and I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I urge the passage of the bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING EXCHANGE OF LANDS IN COLORADO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1182) to authorize and direct the exchange of lands in Colorado, as amended.

The Clerk read as follows:

H.R. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Eagle and Pitkin Counties in the State of Colorado (hereinafter in this Act referred to as the "Counties") are offering to convey to the United States approximately one thousand three hundred and seven acres of patented mining claim properties owned by the Counties within or adjacent to the White River National Forest (hereinafter in this Act referred to as the "National Forest inholdings"), including approximately six hundred and sixty nine acres of inholdings within the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells Snowmass Wilderness Areas;

(2) the properties identified in paragraph (1) are National Forest inholdings whose acquisition by the United States, would facilitate better management of the White River National Forest and its wilderness resources; and

(3) certain lands owned by the United States within Eagle County comprising approximately two hundred and seventeen acres and known as the Mt. Sopris Tree Nursery (hereinafter in this Act referred to as the "nursery lands") are available for exchange and the Counties desire to acquire portions of the nursery lands for public purposes.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide the opportunity for an exchange whereby the Counties would transfer to the United States the National Forest inholdings in exchange for portions of the nursery lands;

(2) to provide an expedited mechanism under Federal law for resolving any private title claims to the National Forest inholdings if the exchange is consummated; and

(3) after the period of limitations has run for adjudication of all private title claims to the National Forest inholdings, to quiet title in the inholdings in the United States subject to valid existing rights adjudicated pursuant to this Act.

SEC. 2. OFFER OF EXCHANGE.

(a) OFFER BY THE COUNTIES.—The exchange directed by this Act shall be consummated if within ninety days after receipt of the Secretary's appraisal findings pursuant to subsection 3(c) of this Act, the Counties offer to transfer to the United States, pursuant to the provisions of this Act, all right, title, and interest of the Counties in and to approximately—

(1) one thousand two hundred fifty eight acres of lands owned by Pitkin County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 1–53 on maps entitled "Pitkin County Lands to Forest Service", numbered 1–11, and dated April 1990, except for parcels 20 (Twilight), 21 (Little Alma), the Highland Chief and Alaska portions of parcel 25 depicted on map 7, and parcel 52 (Iron King) on map 11, which shall remain in their current ownership; and

(2) forty-nine acres of land owned by Eagle County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 54–58 on maps entitled "Eagle County lands to Forest Service", numbered 12–14, and dated April 1990, except for parcel 56 (Manitou) on map 14 which is already in National Forest ownership.

(b) EXCHANGE BY THE SECRETARY.—Subject to the provisions of section 3, within ninety days after receipt by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") of a quitclaim deed from the Counties to the United States of the lands identified in subsection (a) of this section, the Secretary, on behalf of the United States, shall convey by quitclaim deed to the Counties, as tenants in common, all right, title, and interest of the United States in and to approximately one hundred and thirty-two acres of land (and water rights as specified in section 7 and the improvements located thereon), as generally depicted as tract A on the map entitled "Mt. Sopris Tree Nursery", dated October 5, 1990.

SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.

(a) RESERVATIONS.—In any conveyance to the Counties pursuant to section 2, the Secretary shall reserve—

(1) all right, title, and interest of the United States in and to approximately eighty-five acres of land (and improvements located thereon), which is generally depicted as tracts B (approximately twenty-nine acres) and C (approximately fifty-six acres) on the map referred to in section 2(b);

(2) water rights as specified in section 7(a); and

(3) any easements, existing utility lines, or other existing access in or across tract A currently serving buildings and facilities on tract B.

(b) REVERSION.—It is the intention of Congress that any lands and water rights conveyed to the Counties pursuant to this Act shall be retained by the Counties and used solely for public recreation and recreational facilities, open space, fairgrounds, and such other public purposes as do not significantly reduce the portion of such lands in open space. In the deed of conveyance to the Counties, the Secretary shall provide that all right, title, and interest in and to any lands and water rights conveyed to the Counties pursuant to this Act shall revert back to the United States in the event that such lands or water rights or any portion thereof are sold or otherwise conveyed by the Counties or are used for other than such public purposes.

(c) EQUALIZATION OF VALUES.—(1) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture shall complete appraisals of the lands to be exchanged pursuant to subsections (a) and (b) of section 2 of this Act, taking into account any effects on the value of such lands resulting from the use restrictions and reversionary interest imposed by subsection (b) of this section and any other factors that may affect value. The sum of $120,000 shall be deducted from the value of the Counties' offered lands to reflect any adverse claims against such lands which may be adjudicated pursuant to section 5 of this Act.

(2) The appraisals shall utilize nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

(3) On the basis of such appraisals, the Secretary shall make a finding as to whether the values (after the deduction described in paragraph (1)) of the lands to be exchanged are equal and shall immediately notify the Counties as to such finding. If the values are not equal, any cash equalization which would otherwise be owed to the Counties by the United States shall be waived. Any equalization amount which may be owed to the United States by the Counties shall be satisfied through conveyance to the United States, within five years of the date of transfer of the nursery lands to the Counties pursuant to section 2(b) of this Act, of additional lands or interests in lands, acceptable to the Secretary, which the Counties own on the date of enactment of this Act or may acquire after such date. Such additional lands shall have a value as approved by the Secretary at least equal to the amount owed plus annual interest on such amount or unconveyed portion thereof, as applicable, at the standard rate determined by the Secretary of the Treasury to be applicable to marketable securities of the United States having a comparable maturity. Interest shall accrue beginning on the date the nursery lands are transferred to the Counties pursuant to section 2(b) of this Act.

(d) RIGHT OF FIRST REFUSAL.—The Secretary may dispose of any or all of the nursery lands reserved pursuant to subsection (a) of this section for fair market value under existing authorities, except that the Secretary shall first offer the Counties the opportunity to acquire the lands. This right of first refusal shall commence upon receipt by the Counties of written notice of the intent of the Secretary to dispose of such property, and the Counties shall have sixty days from the date of such receipt to offer to acquire such properties at fair market value as tenants in common. The Secretary shall have sole discretion as to whether to accept or reject any such offer of the Counties.

SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM LANDS.—The National Forest inholdings acquired by the United States pursuant to this Act shall become a part of the White River National Forest (or in the case of portions of parcels 39, 40, and 41 depicted on map 9, and a portion of parcel 54 of map 12, part of the Gunnison and Arapaho National Forests, respectively) for administration and management by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) WILDERNESS.—The National Forest inholdings that are within the boundaries of the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas shall be incorporated in and deemed to be a part of their respective wilderness areas and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST INHOLDINGS.

(a) QUIET TITLE ACT.—Notwithstanding any other provision of law and subject to the provisions of subsection (c) of this section, section 2409a of title 28, United States Code (commonly referred to as the "Quiet Title Act") shall be the sole legal remedy of any party claiming any right, title, or interest in or to any National Forest inholdings conveyed by the Counties to the United States pursuant to this Act.

(b) LISTING.—Upon conveyance of the National Forest inholdings to the United States, the Secretary shall cause to be published in a newspaper or newspapers of general circulation in Pitkin and Eagle Counties, Colorado, a listing of all National Forest inholdings acquired pursuant to this Act together with a statement that any party desiring to assert a claim of any right, title, or interest in or to such lands must bring an action against the United States pursuant to such section 2409a within the same period prescribed by subsection (c) of this section.

(c) LIMITATION.—Notwithstanding section 2409a(g) of title 28, United States Code, any civil action against the United States to quiet title to National Forest inholdings conveyed to the United States pursuant to this Act must be filed in the United States District Court for the District of Colorado no later than the date that is six years after the date of publication of the listing required by subsection (b) of this section.

(d) VESTING BY OPERATION OF LAW.—Subject to any easements or other rights of record that may be accepted and expressly disclaimed by the Secretary, and without limiting the title to National Forest inholdings conveyed by the Counties pursuant to this Act, all other rights, title, and interests in or to such National Forest inholdings if not otherwise vested by quitclaim deed to the United States, shall vest in the United States on the date that is six years after the date of publication of the listing required by subsection (b) of this section, except for such title as is conveyed by the Counties, no other rights, title, or interest in or to any parcel of the lands conveyed to the United States pursuant to this Act shall vest in the United States under this subsection if title to such parcel—

(1) has been or hereafter is adjudicated as being in a party other than the United States or the Counties; or

(2) is the subject of any action or suit against the United States to vest such title in a party other than the United States or the Counties that is pending on the date six years after the date of publication of a listing required by subsection (b) of this section.

(e) COSTS AND ATTORNEYS' FEES.—(1) At the discretion of the court, any party claiming any right, title, or interest in or to any of the National Forest inholdings who files an action against the United States to quiet title and fails to prevail in such action may be required to pay to the Secretary on behalf of the United States, an amount equal to the costs and attorney's fees incurred by the United States in the defense of such action.

(2) As a condition of any transfer of lands to the Counties under this Act, the Counties shall be obligated to reimburse the United States for 50 percent of all costs in excess of $240,000 not reimbursed pursuant to paragraph (1) of this subsection associated with the defense by the United States of any claim or legal action brought against the United States with respect to any rights, title, and interest in or to the National Forest inholdings. Payment shall be made in the same manner as provided in section 6 of this Act.

SEC. 6. REIMBURSEMENT TO THE UNITED STATES.

(a) IN GENERAL.—As a condition of any transfer of lands to the Counties under this Act, in addition to any amounts required to be paid to the United States pursuant to section 5(e), in the event of a final determination adverse to the United States in any action relating to the title to the National Forest inholdings, the United States shall be entitled to receive from the Counties, and the Counties shall provide to the United States, reimbursement equal to the fair market value (as determined by the appraisal used for purposes of this Act) of the lands that are the subject of such final determination.

(b) AVAILABILITY OF FUNDS.—Any money received by the United States from the Counties under section 5(e) or subsection (a) of this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (and commonly known as the Sisk Act, 16 U.S.C. 484a).

(c) IN-KIND PAYMENT OF LANDS.—In lieu of monetary payments, any obligation for reimbursement by the Counties to the United States under this Act can be fulfilled by the conveyance to the United States of lands having a current fair market value equal to or greater than the amount of the obligation. Such lands shall be mutually acceptable to the Secretary and the Counties.

SEC. 7. WATER RIGHTS.

(a) ALLOCATION AND MANAGEMENT.—The water rights in existence on the date of enactment of this Act in the Mt. Sopris Tree Nursery, which comprise water well and irrigation ditch rights adjudicated under the laws of the State of Colorado, together with the right to administer, maintain, access, and further develop such rights, shall be allocated and managed as follows:

(1) The United States shall retain all such rights associated with the five existing wells on the properties.

(2) Unless the Secretary determines that all water from the five existing wells is necessary to meet water needs of the United States, the United States shall make available to the Counties, without charge, water from the five wells to serve reasonable culinary, sanitary, and domestic uses of the existing buildings conveyed to the Counties.

(3) All federally owned irrigation rights shall be conveyed jointly to the Counties as undivided tenants in common, subject to the condition that of any transfer of lands to the Counties under this Act, if requested by the United States, the Counties shall make every effort to cooperatively provide under the authority of subsection (c) of this section, without charge to the United States, water to serve future needs of the United States, or its successors, heirs, or assigns on tract B to the extent the Counties determine appropriate commensurate with their own needs on tract A. No such provision of water to the United States shall in any way be construed to constitute an abandonment of such water by the Counties.

(b) MODIFICATION OF ALLOCATION.—If the Secretary and the Counties determine the public interest will be better served thereby, they may agree to modify the precise water allocation made pursuant to this section or to enter into cooperative agreements (with or without reimbursement) to use, share, or otherwise administer such water rights and associated facilities as they determine appropriate.

(c) COSTS OF MAINTAINING CERTAIN WELLS AND DISTRIBUTION SYSTEMS.—The Counties shall bear proportionate costs of maintaining the wells and distribution systems as a condition to the water being provided at no cost from the five existing wells pursuant to subsection (a)(2) of this section.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) TIME REQUIREMENT FOR COMPLETING OF TRANSFER.—If the Counties make a timely offer, pursuant to section 2(a), the transfers of lands authorized and directed by this Act shall be completed no later than one year after the date of enactment of this Act.

(b) BOUNDARY MODIFICATIONS.—The Secretary and the Counties may mutually agree to make modifications of the final boundary between tracts A and B prior to completion of the exchange authorized by this Act if such modifications are determined to better serve mutual objectives than the precise boundaries as set forth in the maps referenced in this Act, so long as such modification does not result in a change of more than five acres in either tract.

(c) TRACT A EASEMENT.—The transfer of tract A to the Counties shall be subject to the existing highway easement to the State of Colorado and to any other right, title, or interest of record.

(d) VALIDITY.—If any provision of this Act or the application thereof is held invalid, the remainder of the Act and application thereof, except for the precise provision held invalid, shall not be affected thereby.

(e) FOREST HEADQUARTERS AND ADMINISTRATIVE OFFICES.—The White River National Forest Headquarters and administrative offices in Glenwood Springs, Colorado, are hereby transferred from the jurisdiction of the United States General Services Administration to the jurisdiction of the Secretary, who shall retain such facilities unless and until otherwise provided by subsequent Act of Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the measure now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1182, sponsored by Mr. CAMPBELL of Colorado, would provide for a land exchange between the United States and two counties in western Colorado.

Under the exchange, the two counties would receive about 132 acres of land near the community of El Jebel, outside national forest boundaries, that were once used by the Forest Service as a tree nursery. In return, the counties would transfer to the United States about 1,300 acres of national forest inholdings, including some lands within existing wilderness areas.

The tree-farm lands are located in a part of the valley of the Roaring Fork River, between Aspen and Carbondale, where rapid development is taking place and where many residents commute into Aspen to work. The counties want to use these lands for public recreation and similar public purposes. Under the bill, the counties could not transfer the lands, and the lands would revert to ownership of the National Government if used for any purpose that would significantly reduce their open-space character.

To assure that the National Government will receive fair value in the exchange, the bill provides that the Secretary of Agriculture will complete new appraisals of the values of all the lands involved, and the counties will waive any payments that the United States might otherwise have to make, if the national forest inholdings are more valuable than the lands to be transferred to the counties. On the other hand, under the bill the counties will have to pay—in money or in land—any equalization required if the tree nursery lands are more valuable than the national forest inholdings.

The national forest inholdings were originally patented as mining claims—that is, under the mining law of 1872 they were acquired from the United States for a very low price. But the mining companies that held these lands did not pay the property taxes on them, and the counties acquired them at tax sales.

Recently, the ownership of the lands has been subject to some disputes. Claims have been filed in the State courts, alleging that the counties do not have good title.

To protect the national interest, the bill provides that when appraising the national forest inholdings, the Secretary will deduct $120,000 from their value, as a partial offset against possible costs of defending the title. The bill also provides that any disputes about the title to these inholdings must be resolved in Federal court, and requires the counties to share equally in any litigation costs exceeding $240,000 for which the court does not order reimbursement to the National Government from the party contesting the title. In the event of a successful challenge to the title of any of the national forest inholdings, the counties are required to reimburse the United States, in money or in other lands acceptable to the Secretary of Agriculture.

Mr. Speaker, this is a good bill that will enable the local governments to make appropriate public use of open space lands no longer needed by the National Government and also improve the management of very valuable national forest lands, including important wilderness areas. I want to commend the gentleman from Colorado [Mr. CAMPBELL] for his hard work and persistence as well as that of the other involved parties. They have enabled us to resolve the somewhat complicated details and to bring to the floor a sound measure that properly balances the interests of the National Government, the two Colorado counties, and all others concerned. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this proposal. The Republican side supports it as well.

The gentleman from Minnesota [Mr. VENTO] has explained it thoroughly. I think there is a couple of things that are very important. One is it has the effect of providing for local government some lands that are useful to them but not particularly useful to the Federal Government; in this case, the Forest Service.

The other, in exchange for that it locks up lands that are basically inholdings which are very difficult to manage. And after this is over, it will be a benefit to both parties.

H.R. 1182 has been thoroughly reviewed and revised by the Committee on Agriculture as well as the Committee on Interior and Insular Affairs. I believe it is a commonsense exchange and in the best interest of everyone. I urge support for H.R. 1182.

Mr. CAMPBELL of Colorado. Mr. Speaker, I am pleased to have been able to work with my friend Chairman BRUCE VENTO over the past several years on the important legislation before us today. I want to express my sincere appreciation for the dedication and hard work Chairman VENTO has put into this bill.

I introduced H.R. 1182, along with my colleagues in the Colorado congressional delegation, to allow Pitkin and Eagle Counties to acquire 132 acres of the Mount Sopris tree nursery in exchange for 1,307 acres of patented mining claims which are owned by the counties.

The Forest Service several years ago decided the entire Mount Sopris tree nursery property was no longer needed and reached agreement with the counties that would allow the counties to accommodate local public needs.

In exchange, the Forest Service would receive nearly 10 times as much land in the White River National Forest. Over half of the lands the Forest Service would acquire lie within designated wilderness areas. If these lands are not acquired by the Forest Service they have the potential of becoming a severe management problem. In fact, the Forest Service could be potentially responsible for the enormous expense of building roads and supplying utility corridors into many of Colorado's most sensitive areas.

The Forest Service and the counties attempted to complete this exchange administratively for many years. Unfortunately, the cost of clearing that title on every acre of the counties offered land on a timely basis makes an administrative exchange impossible.

Therefore, the bill establishes a process for dealing with claims that might be filed to prevent the United States from gaining quiet title to the patented mining claims it will receive from the counties pursuant to the provisions of the bill. The counties will share in the burden of paying to defeat challenges, if there are any.

H.R. 1182 was reported from both the Agriculture Committee and the Interior Committee with bipartisan support. The current draft is a product of prolonged and intense negotiations between myself, both committees, and the Forest Service. Important improvements have been made in the legislation—improvements that address the Forest Service's remaining concerns.

Under the legislation as it stands, any exchange of lands between Pitkin and Eagle Counties and the United States would occur only after the Secretary of Agriculture completes a new appraisal of the counties national forest inholdings and the Forest Service's tree nursery lands, and deducts $120,000 from the appraised value of the inholdings being offered by the counties to allow for possible costs of defending against adverse title claims.

If the appraisal determines that the tree nursery lands have a higher value than the national forest inholdings, the counties will equalize value by transfer to the United States of additional lands acceptable to the Secretary of Agriculture.

I want to express my sincere appreciation to Chairman VENTO, Chairman VOLKMER, and their staffs for their patience through these negotiations. Our difficulty in pushing forward with this proposal was particularly disconcerting considering the support the Forest Service's regional office has expressed for the transfer. Those familiar with the issue have realized that timely resolution of this transfer is imperative if the inholdings in these wilderness areas are to be protected from future development.

The bill has widespread support, ranging from the Colorado Association of Commerce and industry to the Sierra Club. It is also supported by both Colorado Senators. This bill deserves timely passage and needs to be enacted to save both the Federal Government and the local communities enormous amounts of money.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for

time on this land exchange measure, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1182, as amended.

The question was taken; and (two-thirds having voted thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE ACT OF AUGUST 7, 1961, ESTABLISHING THE CAPE COD NATIONAL SEASHORE

Mr. VENTO. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 4085) to amend the Act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PARK SYSTEM ADVISORY COMMITTEES.

(a) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) MEMBERS.—In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

SEC. 2. MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Section 703(i) of the Act of November 18, 1988 entitled "An Act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes" (Public Law 100-696; 102 Stat. 4602; 16 U.S.C. 460zz-2) is amended by striking "3 years after enactment of this Act" and inserting "3 years after appointment of the full membership of the Commission".

SEC. 3. EXTENSION OF GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMITTEE.

Section 5(g) of the Act approved October 27, 1972 (16 U.S.C. 460bb-4(g)), is amended by striking out "twenty years" and inserting in lieu thereof "thirty years".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4085, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4085 places certain conditions on the operation of Federal advisory committees for National Park System units. H.R. 4085 was introduced by Congressman STUDDS, and approved by the Committee on Interior and Insular Affairs on July 1, 1992.

Public Law 87-126, which established the Cape Cod National Seashore in 1961, included authorization for the Cape Cod National Seashore Advisory Commission. Because the Commission is subject to the Federal Advisory Committee Act, the Department of the Interior must review and approve the Cape Cod National Seashore Advisory Commission's charter every 2 years. Continuing delays in approving the Commission's charter have stalled the Commission's operation for as much as 16 months in the past few years.

H.R. 4085, as introduced, would have waived the provision of the Federal Advisory Committee Act which requires the Department of the Interior to review and approve the Cape Cod National Seashore Advisory Commission's charter every 2 years. This bill would also have allowed members of the Commission to serve after the expiration of their terms until a successor is appointed.

Testimony presented at the hearing on H.R. 4085 indicates that the problems at Cape Cod are common to many of the National Park Service committees and commissions. The delays in approving charters and appointing new members prevent these legislatively established commissions from fulfilling their responsibilities and undermine local support for these units of the National Park System.

H.R. 4085, as reported by the committee substitutes language waiving the 2-year review and approval requirements for the charters of any advisory commission or advisory committee established by law in connection with any National Park System unit. This amendment also allows members of such advisory commissions to serve after the expiration of their terms until a successor is appointed.

Exempting these legislatively established commissions from the time-consuming process of reviewing and approving the charters and allowing their members to continue to serve until successors are named assures their continuous efficient operation. The exemption has been routinely included in recent legislation establishing the National Park System advisory committees and commissions. However, 30-35 of these boards are still required to undergo the 2-year review and approval. Rather than addressing these in 30-35 separate bills, I believe this issue is best resolved through this legislation waiving the provisions of section 14(b) for any such advisory boards established by law.

H.R. 4085 also addresses the Mississippi River Coordinating Commission specifically. The law establishing the Mississippi River Coordinating Commission directed the Commission to submit a comprehensive plan for land and water use within 3 years after enactment. Unfortunately, as in many cases, the Commission's work has been delayed because the Secretary of the Interior took 18 months to appoint the Commission, leaving members with only about half that time to develop an appropriate plan. Section 2 of the bill reported by the committee changes the requirement to 3 years after the appointment of the full membership of the Commission, which allows the Commission adequate time for this purpose.

The bill approved by the committee also extends the Golden Gate National Recreation Area Advisory Committee for an additional 10 years. The Advisory Committee was established in 1972 for a 10-year term, which was extended to 20 years in 1982, and is scheduled to terminate in October 1992. The complex issues and negotiations involved in the transfer of the Presidio from the U.S. Army to the National Park Service require careful planning and significant public input and support. In order to facilitate a smooth transition, the committee has extended the advisory committee's term for an additional 10 years.

Mr. Speaker, I believe H.R. 4085 effectively addresses a problem which has prevented the smooth operation of certain National Park System units, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4085, the bill which would remove certain administrative barriers from the effective operation of the National Park Service Advisory Commissions. Originally introduced by the gentleman from Massachusetts [Mr. STUDDS], the measure would have resolved certain administrative problems which have plagued the operation of the Cape Cod National Seashore Citizens Advisory Commission.

During the hearing the committee became aware that similar problems have impacted the operation of other citizen advisory commissions. Therefore, the committee approved an amendment which would facilitate the commission charter renewal and member reappointments in about 40 National Park Service advisory commissions.

One could argue that it should not be necessary to create the commission in order for park superintendents to seek the views of local persons. We have found that the legislative establishment of these commissions has proven essential in a number of cases. Therefore, I support this bill as an attempt to streamline the administrative burdens of ensuring that these commissions continue to operate and function properly.

I would support the minor site-specific amendments to the Golden Gate and Mississippi River Commissions adopted by the full Committee on the Interior.

Mr. STUDDS. Mr. Speaker, I rise in strong support of this bill H.R. 4085 started life as a bill that I introduced to remedy a problem involving the Cape Cod National Seashore Advisory Commission.

The current law—which requires the National Park Service to approve advisory commission charters every 2 years—has become a bureaucratic nightmare. It has created needless work for the agency and made it difficult for advisory commissions to operate efficiently.

Over the Cape Code Seashore Advisory Commission's 2-year history, there have been seven periods when it either had a no charter, or a charter but no members. In fact, for a total of 59 months—nearly one-quarter of the time it was supposed to be in existence, the Commission was nonfunctional—unable to perform its important function of advising seashore officials on the myriad issues affecting the park.

My bill would have waived the requirement in current law that the charter be filed and approved every 2 years. This was a needless exercise and a waste of the taxpayer's money. It also would have provided that Commissioner would continue to serve after the expiration of their term until successors are chosen. This would at least allow the Commission to function while the Secretary was selecting new Commissions.

Evidently, the chairman of the subcommittee, Mr. VENTO, knew a good idea when he saw one. He has amended the bill to cover all advisory commissions. This is good for the National Park Service, it is good for the advisory commissions, it is good for the taxpayers.

I want to thank the gentleman from Minnesota and the chairman of the full committee, Mr. MILLER, as well as the ranking minority members, the gentlemen from Alaska and Montana, for supporting this legislation and moving it along expeditiously.

Senator EDWARD KENNEDY has introduced an identical bill in the other body and I look forward to its rapid consideration and eventual enactment.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his support and participation. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4085, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to place certain conditions on the operation of Federal Advisory Committees for National Park System units.".

A motion to reconsider was laid on the table.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2079) to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes, as amended.

The Clerk read as follows:

S. 2079

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 "Marsh-Billings National Historical Park Establishment Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to interpret the history and evolution of conservation stewardship in America;

(2) to recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of Man and Nature, statesman, lawyer, and linguist;

(3) to recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) to preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) to recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller, and Laurance Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT OF MARSH-BILLINGS NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—There is established as a unit of the National Park System the Marsh-Billings National Historical Park in Windsor County, Vermont (hereinafter in this Act referred to as the "park").

(b) BOUNDARIES AND MAP.—(1) The park shall consist of a historic zone, including the Marsh-Billings Mansion, surrounding buildings and a portion of the area known as "Mt. Tom", comprising approximately 555 acres, and a protection zone, including the areas presently occupied by the Billings Farm and Museum, comprising approximately 88 acres, all as generally depicted on the map entitled "Marsh-Billings National Historical Park Boundary Map" and dated November 19, 1991.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall administer the park in accordance with this Act, and laws generally applicable to units of the National Park System, including, but not limited to the Act entitled "An Act to establish a National Park Service, and for other purposes, approved August 25, 1916 (16 U.S.C. 1, 2-4).

(b) ACQUISITION OF LANDS.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands or interests therein within the park only by donation.

(2) If the Secretary determines that lands within the protection zone are being used, or there is an imminent threat that such lands will be used, for a purpose that is incompatible with the purposes of this Act, the Secretary may acquire such lands or interests therein by means other than donation.

(3) The Secretary may acquire lands within the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the granter, and the grantor's successors and assigns, such terms and easements shall be in a manner consistent with the purposes of the historic zone. Any changes in the operation and management of existing trails shall be subject to approval by the Secretary.

(c) HISTORIC ZONE.—The primary purposes of the historic zone shall be preservation, education, and interpretation.

(d) PROTECTION ZONE.—(1) The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such a manner and by such means as will continue to permit current and future compatible uses.

(2) The Secretary shall pursue protection and perservation alternatives for the protection zone by working with affected State and local governments and affected landowners to develop and implement land use practices consistent with this Act.

SEC. 5. MARSH-BILLINGS NATIONAL HISTORICAL PARK SCENIC ZONE.

(a) IN GENERAL.—There is established the Marsh-Billings National Historical Park Scenic Zone (hereinafter in this Act referred to as the "scenic zone"), which shall include those lands as generally depicted on the map entitled "Marsh-Billings National Historical Park Scenic Zone Map" and dated November 19, 1991.

(b) PURPOSE.—The purpose of the scenic zone shall be to protect portions of the natural setting beyond the park boundaries that are visible from the Marsh-Billings Mansion, by such means and in such a manner as will permit current and future compatible uses.

(c) ACQUISITION OF SCENIC EASEMENTS.—Within the boundaries of the scenic zone, the Secretary is authorized only to acquire scenic easements by donation.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—The Secretary may enter into cooperative agreements with such persons or entities as the Secretary determines to be appropriate for the preservation, interpretation, management, and providing of educational and recreational uses for the properties in the park and the scenic zone.

(b) FACILITIES.—The Secretary, through cooperative agreements with owners or operators of land and facilities in the protection zone, may provide for facilities in the protection zone to support activities within the historic zone.

SEC. 7. ENDOWMENT.

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is

authorized to receive and expend funds from an endowment to be established with the Woodstock Foundation, or its successors and assigns.

(b) CONDITIONS.—(1) Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Woodstock Foundation, or its successors and assigns, in consultation with the Secretary, may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediate surrounding property.

(2) No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

SEC. 8. RESERVATION OF USE AND OCCUPANCY.

In acquiring land within the historic zone, the Secretary may permit an owner of improved residential property within the boundaries of the historic zone to retain a right of use and occupancy of such property for non-commercial residential purposes for a term not to exceed 25 years or a term ending at the death of the owner, or the owner's spouse, whichever occurs last. The owner shall elect the term to be reserved.

SEC. 9. GENERAL MANAGEMENT PLAN.

Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2079, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2079 establishes the Marsh-Billings National Historical Park in the State of Vermont. S. 2079 was approved in the Senate on June 4, 1992, and was reported to the House by the Committee on Interior and Insular Affairs on July 1, 1992.

The Marsh-Billings mansion in Woodstock, VT, was the boyhood home of George Perkins Marsh, author of the 1864 book "Man and Nature" which became a basic text of America's early conservation movement. Frederick Billings, lawyer, railroad executive, and philanthropist, bought the home in 1869 and used the Woodstock estate to demonstrate scientific farming and progressive land management following the principles of George Perkins Marsh.

The Mansion, which was designated a national historic landmark in 1967, and the surrounding acres are currently owned by Laurance S. and Mary Rockefeller; Mary Rockefeller is Frederick Billings' granddaughter, and the Rockefellers themselves, especially Laurance, have made significant contributions as private benefactors of national parks and the conservation movement in general. Adjacent to the mansion grounds is the Billings farm and museum which functions both as a dairy operation and an exhibit on rural life in late 19th century Vermont.

S. 2079 establishes the Marsh-Billings National Historical Park to interpret the history and evolution of conservation stewardship in America. The park includes a historic zone of approximately 555 acres, comprised of the Marsh-Billings mansion, surrounding buildings, and the area known as Mount Tom. Also included is a protection zone of approximately 88 acres, including the areas presently occupied by the Billings farm and museum. A scenic zone outside the park boundary, including lands visible from the mansion, is established for the protection of portions of the natural setting.

The mansion and the property in the historic zone will be donated by the Rockefellers to the National Park Service. The Rockefellers have stated their intention to make a grant to the town of Woodstock to provide payments in lieu of taxes after transfer of title to the Federal Government. The Rockefellers would also endow a fund to provide for anticipated maintenance and preservation requirements of the mansion and its immediate surroundings.

The protection zone will continue under private ownership but will be restricted to compatible uses. The scenic zone will also continue under private ownership but will be restricted by the donated conservation easements to the NPS.

The Marsh-Billings National Historical Park will be the first unit of the National Park Service located solely in the State of Vermont. This park will also be one of the only National Park Service units to interpret the history and evolution of conservation in America. The National Park Service supports this legislation, and this is a very generous donation by the Rockefellers which will facilitate the recognition of the importance and trace conservation in American history during the 19th and 20th century.

□ 1450

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of S. 2079, a bill to establish the Marsh-Billings National Historical Park in Vermont.

Mr. Speaker, Mr. VENTO has already outlined the major elements of this measure. Let me just say that the story of the history of the conservation movement in America is an important one, a story which should be well interpreted within the National Park System. While there remain some questions as to whether the Marsh-Billings property is the best site at which to present that story, I have decided to support this measure.

The generosity of the Rockefeller family toward the preservation of such nationally important sites in this country as Grand Teton National Park is legendary. I note that the generosity of Mr. and Mrs. Rockefeller toward the establishment of this site is no less significant and I commend them for all their contributions in the work of preserving the heritage of this country.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I am pleased to yield such time as he may consume to the principal sponsor of this legislation, the gentleman from Vermont, Mr. BERNIE SANDERS, who as I said has been very diligently at work at the local level and with the committee members and myself to perfect and move this measure along.

Mr. SANDERS. Mr. Speaker, I thank my colleague for yielding time to me, and I want to thank Representative VENTO and his excellent staff for their months of hard work leading up to our consideration of this bill today.

Mr. Speaker, this legislation would create the very first national park in the State of Vermont—something which is very exciting and important to the people of our State. Although Vermont is well known for its natural beauty and for its leadership in environmental protection, it happens that today, over a century after the creation of America's first national parks, Vermont is one of a very few States that lacks a national park, and this legislation remedies that situation.

What is extremely exciting to me is that this beautiful homestead of George Perkins Marsh, and the surrounding 550 acres in Woodstock, VT, will be open free of charge to the people of our State and to the people of the entire country. For generations to come, therefore, our children and grandchildren will be able to enjoy this extremely beautiful and scenic site.

What is also very gratifying about this legislation is that in honoring George Perkins Marsh, a Vermonter, we are honoring one of the founders of our country's conservation movement and one of the leading environmentalists of his time. In passing this bill today we will be preserving both his boyhood home and a site for education about the environmental movement which he did so much to inspire.

Mr. Speaker, this legislation has extremely broad support in our State. My

colleagues, Senators LEAHY and JEFFORDS, and I jointly introduced the legislation last November, and the State legislature, the Governor, the town of Woodstock, and such groups as the National Park and Conservation Association have all expressed their support for the project. The administration and the National Park Service support the proposal and have worked closely with us in drafting the legislation. Its development has benefited from broad public involvement, including the participation of such groups as the Woodstock Town Board of Selectmen, the Woodstock Planning Commission, the State government, and private conservation and business groups. This public involvement was exemplified by the meeting in Woodstock last summer at which the Rockefellers presented their idea to the town, and I am pleased that the National Park Service is committed to continuing public involvement in the months and years to come.

Mr. Speaker, when George Perkins Marsh called for a new relationship to our environment in his book, "Man and Nature," a century and a quarter ago, he was a voice crying in the wilderness. But his words inspired the growth of a movement which has become one of the most powerful political forces of our time. I am proud today that we can preserve this birthplace of the environmental movement, which will be a permanent reminder of the need for our society to begin to live in harmony with the natural world.

Once again, I thank my colleague for all his help on this bill.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the passage of this new unit in the Park System, the Marsh-Billings Historic Site, a site which largely really has been donated to us by the Rockefeller family. As I said, they have been extraordinarily interested and generous in providing both natural and cultural settings across the country either to expand parks or to establish them, and in this one they are literally donating one of their residences which has a rich history in the State of Vermont, and its ramifications go well beyond the State in terms of our American culture and heritage.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2079, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

EXTENDING LEASE FOR CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5291) to provide for the temporary use of certain lands in the city of South Gate, CA, for elementary school purposes as amended.

The Clerk read as follows:

H.R. 5291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY USE OF CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES.

Nothwithstanding section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8(f)(3)), the city of South Gate, California, is hereby authorized to extend the existing lease (dated June 8, 1988) between the city of South Gate and the Los Angeles Unified School District on approximately three acres of South Gate Park for temporary elementary school purposes for a period not to exceed 8 years from the date of enactment of this Act in order to allow the School District sufficient time to permanently relocate Tweedy Elementary School.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1500

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1987, a hazardous waste site was discovered adjacent to Tweedy Elementary School in South Gate, CA. Hazardous materials were migrating onto the school property and students had to be evacuated. Temporary school facilities were set up on a 3-acre portion of the 97-acre South Gate Park. The parkland is subject to section 6(f)(3) of the Land and Water Conservation Fund Act, which provides in part that "No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses." The National Park Service in 1988, in light of the extraordinary circumstances involving the health and safety of children, granted approval for a 3-year nonconforming use of the 3-acre South Gate Park property.

The site adjacent to Tweedy Elementary School has been designated a Superfund site. The school can no longer be used and a new site for a new school is being found. Funding and building the new school will take several years, and concern was expressed by the Department of Interior about its authority and ability to continue to approve the use of the parcel in such a manner.

Representative MARTINEZ, in cooperation with the Department of the Interior, drafted legislation which was introduced on May 28, and approved with an amendment by the House Interior Committee on July 8. The legislation authorizes a temporary, 8-year, nonconforming use of the parkland, which would give the Los Angeles School District adequate time to build a new school.

The bill is supported by the Los Angeles School District, and the Department of the Interior. I am not aware of any opposition and urge the bill's immediate adoption.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5291.

The gentleman from Minnesota has laid it out properly.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is unfortunate that we have to pass legislation in an area such as this. I do not think the land-water conservation fund provisions would be greatly bent if the Secretary of the Interior had, in fact, extended for several years the opportunity to complete the construction of the new facility or school and the use of this land for a short period of time for temporary buildings to house the opportunity for kids to get an education.

But, nevertheless, they were, I guess, prepared to, in fact, fine and/or cite the State of California for violation of the land use agreement under the land-water conservation fund. Ironically, 50 percent of the dollars in that fund are paid for by the State of California.

I would just hope that the Secretary of the Interior would maintain this vigilant view with regard to all of his responsibilities. But, nevertheless, here we are acting today on hopefully what will remain noncontroversial.

But I question really whether the Secretary did not have the authority to act in that matter.

Mr. MARTINEZ. Mr. Speaker, H.R. 5291 provides for temporary use of certain lands in

the city of South Gate, CA for elementary school purposes. It provides the flexibility necessary to meet the needs of elementary school students while protecting recreational resources. This legislation was drafted in close cooperation with, and is supported by the National Park Service and the Department of the Interior. It was passed with strong bipartisan support by the Committee on the Interior on July 8, 1992.

There is clear and urgent need for this legislation. In 1983 the city of South Gate, a low-income community in metropolitan Los Angeles, received two land and water conservation fund subgrants from the California Department of Parks to install a sprinkler system in the city park. As a result of these subgrants, which totaled slightly over $300,000, the entire city park is covered by the Land and Water Conservation Fund Act's protections against conversion of the land to nonrecreational uses.

In April 1986 toxic materials were found at the nearby Tweedy Elementary School. The industrial site which is located next to the school site was subsequently declared a Superfund site in February 1992.

To protect the health of these elementary schoolchildren, the school was moved to temporary facilities in the city park. Utilizing an abandoned archery range and a portion of the parking lot, the school facilities occupied approximately 3 acres of the 97-acre South Gate City Park. This has not significantly affected recreational use of the park.

In view of the serious public health issues involved, the National Park Service approved a temporary conversion of this portion of the park for temporary school use. There were no alternative sites readily available. The city of South Gate is relatively small and is heavily developed for industrial and residential use. Relocating the roughly 650 students of Tweedy Elementary School to other local schools was not a viable option: The area schools were already operating at approximately 50 percent above normal capacity on a year-round basis. Busing the students considerable distances would put these young students—mostly minority students from low income families—at greater risk of failure.

Good faith efforts have been made to permanently relocate the school and there has been substantial progress toward relocation. Tweedy Elementary School is part of the Los Angeles Unified School District. The district has spent approximately $1 million to identify an alternative site and to complete the necessary environmental impact reviews and to meet other requirements. In May 1991 the Los Angeles Unified School District Board of Education approved the construction of a new school. That same month the city of South Gate applied to the California State Allocation Board for funds to purchase the site for a new school to replace Tweedy School. Since the California State Allocation Board had exhausted its currently available resources, funds have not yet been allocated to purchase the site. On June 2, 1992, California voters approved the issue of bonds for school construction. Those funds are expected to become available for procurement of a new site for the school. Under State law, support for actual school construction cannot be sought until a site is obtained.

Requests for an extension of the temporary use of the park have been denied. The Department of the Interior has indicated that it does not have authority under current statute and regulations. In March 1992 the National Park Service denied a request from the city of South Gate for an extension. The Department has indicated that the school must be removed from the park by June 30, 1993, or that the city convert and replace the acreage by that date.

The deadlines are simply unrealistic in view of the school funding realities in California. Due to a serious and sustained economic downturn, California cut education funding by 12 percent in inflation adjusted dollars during the past 3 years—despite the rapid growth of the number of students in California schools.

Last year, Los Angeles Unified School District alone was forced to slash $275 million from its educational budget during the 1991–92 school year, and then in January 1992, it found that an additional $150 million has to be cut to meet additional shortfalls in funding. The current budgetary crisis in California threatens to force yet more cuts in a system that already has some of the highest student-teacher ratios in the Nation and that is eliminating nurses, librarians, counselors, and other vital services. In some cases these cuts have already left local classrooms short of textbooks and other basic instructional materials.

Protecting and enhancing our Nation's recreational and wilderness resources must remain one of our Nation's highest priorities. That is not the issue here. The school district and the city of South Gate have clearly demonstrated their intention to restore this entire city park to recreational use as soon as feasible without putting an unfair burden on these young children.

I urge that my colleagues join me in supporting this legislation which provides the flexibility needed to help these disadvantaged children while funding is obtained to build a new school at a safe site. I yield back the remainder of my time.

Mr. VENTO. Mr. Speaker, that being said, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5291, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BOUNDARY MODIFICATIONS: NEW RIVER GORGE NATIONAL RIVER, GAULEY RIVER NATIONAL RECREATION AREA, AND BLUESTONE NATIONAL SCENIC RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4382) to modify the boundaries of the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River in West Virginia, as amended.

The Clerk read as follows:

H.R. 4382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY MODIFICATIONS.

(a) NEW RIVER GORGE NATIONAL RIVER.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1992".

(b) GAULEY RIVER NATIONAL RECREATION AREA.—Section 201(b) of West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1992".

(c) BLUESTONE NATIONAL SCENIC RIVER.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987"; and inserting "BLUE–80,003, and dated January 1992".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4382, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4382, a bill introduced by my colleague and friend on the Interior Committee, Congressman NICK JOE RAHALL, makes various changes to the boundaries of New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River—three National Park System units in West Virginia. All the lands proposed for addition by the legislation will enhance resources already protected by these parks, including peregrine falcon sites and a Civil War battlefield. They will provide better visitor access to key sites and incorporate uneconomic remnants created by previous National Park Service acquisitions. The 7,000-acre ward property identified in the bill is proposed as a donation.

In hearings before the Subcommittee on National Parks and Public Lands on H.R. 4382, testimony was presented about this area's resources and the need to protect them. This bill also encourages increased cooperation with the State of West Virginia in providing public interpretation and coordinating walking trails between the National

Park Service and the State of West Virginia. H.R. 4382 is supported by the State of West Virginia.

The Committee on Interior and Insular Affairs amended H.R. 4382 with a very minor technical amendment which simply provided a section reference to previous legislation. Otherwise, the bill is unchanged from its introduction. Mr. Speaker, I endorse H.R. 4382 and support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 4382, a bill to expand the New River Gorge National Recreation Area by over 12,000 acres. I find that this measure represents just one more example of an unnecessary and unjustified park boundary expansion bill. While I do not advocate an absolute prohibition on all park expansion proposals, at a time when we cannot afford to adequately operate those parks we have, or have any hope of acquiring in the foreseeable future all the lands we have already authorized for inclusion in park areas, we must carefully scrutinize every expansion bill which is brought before this body.

This measure includes three types of lands: State park lands, uneconomic remnants of previously acquired lands outside the current NPS boundary, and private lands outside the boundary. The reason for including State park lands within the overall Federal boundary is supposedly to improve cooperation between the Federal and State governments. However, I'm aware of no barriers to the State and Federal Governments signing an agreement tomorrow to cooperate in the management of adjoining lands. The NPS also has adequate authority to deal with the uneconomic remnant situation through exchange, minor boundary adjustment or disposal. As for the over 8,000 acres of private lands, they are not known to contain any resources integral to the existing park and are not threatened by any development.

One aspect of the boundary expansion proposal of great concern to me is that use of the area by the recently reintroduced, endangered peregrine falcon is presented as a justification for park expansion. There has been a lot of discussion about reintroduction of the wolf into Yellowstone National Park, and I could envision a similar proposal for future expansion of that park based on this model.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman from Minnesota [Mr. OBERSTAR] has been advocating the exportation of some of the timber wolves from northern Minnesota. The gentleman still is not interested in them, in having any immigrants from northern Minnesota, is that correct, in the body of timber wolves?

Mr. THOMAS of Wyoming. I thank the gentleman for his suggestion, but I have some other suggestions as to what you might do with your wolves.

The New River Gorge, established only 15 years ago, has already been expanded twice. Yet, over 50 percent of the lands within the current park boundary remain unacquired. While the Congressional Budget Office estimates that this proposal may cost as little as $2 million, that is based on an unproven assumption that 99 percent of the private land will be donated.

I cannot support another unjustified park expansion bill which will place additional private property owners at the end of the multibillion dollar NPS land acquisition backlog list, absent some compelling justification. Therefore, I join with the administration in opposing this bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to my friend and colleague, and a great Congressman, the gentleman from West Virginia [Mr. RAHALL], the principal sponsor of this measure and one who has worked long and hard to establish these three units of the National Park System in his service in Congress, and who now knows, of course, that these are really minor modifications.

□ 1510

Mr. RAHALL. Mr. Speaker, I commend the gentleman from Minnesota and thank him for his leadership in allowing us to bring this bill to the floor today. The gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on the Interior and Insular Affairs has been very patients and diligent in his work, and we in West Virginia owe him a great round of applause and thanks for not only visiting our State and seeing these very valuable lands, but allowing West Virginiant to come to Washington and express their opinion on a number of issues.

Mr. Speaker. As the distinguished gentleman from Minnesota has noted, H.R. 4382 would make minor boundary revisions to three units of the National Park Systems in southern West Virginia.

The bulk of the proposed boundary revisions contained in the bill pertain to the New River Gorge National River. Often referred to as the grand canyon of the East, the New River is famous for its whitewater rapids, smallmouth bass fishing, and abandoned coal towns.

This is, however, still very much a developing park unit.

In 1978, we carved out this national river designation along a 55-mile segment of what was primarily privately owned gorge land. Today, 62 percent of the land in the park unit are in Federal ownership and were all, I might add, acquired on a willing seller, willing buyer basis.

The majority of the parcels proposed for inclusion in the New River by this bill are remnants of tracts that already partially lie within the park unit. Most of these tracts have either been acquired, or are pending acquisition. I would further note that to my knowledge the owners of these tracts are agreeable to the boundary modifications.

The pending legislation also would make boundary adjustment to both the Gauley National Recreation Area and the Bluestone National Scenic River, both of which were established in 1988, to include adjacent State lands in order to complement the management of these two park units.

The State of West Virginia has no objection to this proposal. In this regard, I would reiterate what I said during the committee's deliberations of this bill.

When we drew the map for the Bluestone NSR we used a topographic map, as is normal, and simply took in up to the cliff line. We paid no attention to where the Pipestem State Park boundary was.

As such, today, part of the State park is within the scenic river and other portions lie outside of it. The same applies to Carnifex State Park and the Gauley NRA.

What this bill would do makes common sense. It simply would modify the boundary to follow the boundary of Pipestem State Park.

According to the Park Service, this would complement management of the national park units. There has been, and is, no attempt by the State to foist these State park lands on the Park Service.

I commend this legislation to the House.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Speaker, the gentleman spoke about a minor area. Is there not a 12,000-acre addition envisioned here?

Mr. RAHALL. Mr. Speaker, there is park land that is involved here to the magnitude the gentleman mentioned, but we are not seeking acquisitions of the State park.

Mr. THOMAS of Wyoming. There is no additional land to be acquired, then, under this bill?

Mr. RAHALL. The private lands are pending acquisition.

Mr. THOMAS of Wyoming. What would the cost of those be, does the gentleman know?

Mr. VENTO. Mr. Speaker, will the gentleman yield to me?

Mr. RAHALL. I yield to the gentleman from Minnesota.

Mr. VENTO. I think, Mr. Speaker, this is a case where we have uneconomic remnants, in fact where they have not been surveyed and the landowners are simply selling the land based on these current surveyed amounts, so that there is no access to some of these sites. In other words—they are uneconomic and it is impossible—the cost is probably more to try to subdivide and sell these than these pieces would be worth. Since they are adjacent to the park, they eventually are in the process either under contract or will become part ownership of the park. They are not in the park because the boundary obviously has to be modified to accommodate.

I think one could look at them and could argue from the standpoint of whether or not it is reasonable to include them because they have some administrative problems, but that has not been the tack obviously used.

Mr. THOMAS of Wyoming. It is my understanding, Mr. Speaker, that the uneconomic remedies represent about 800 acres. The State park represents 3,400 acres and private land represents about 8,000 acres.

Mr. VENTO. Mr. Speaker, if the gentleman will yield further, I do not know the amount of the gentleman's numbers, but there is a 7,000-acre donation. The donation of the Ward property that is anticipated to be donated, and that is what is anticipated, that is our intent. That is our understanding.

We do not have an ironclad guarantee, but that is anticipated, and the gentleman's observation is appropriate.

I would just direct the attention of the gentleman, we have made an effort in the report language based on the concerns raised by Congressman HEFLEY concerning the State park lands, that there is no intention, it is not the intent obviously in including these to actually purchase these. In fact, these are important park units to the State of West Virginia. They have no intention of donating them. They are flagship units. They are some of their most outstanding units, and that is simply what we expect.

I would be happy to go through this landowner by landowner, but I think the answer is going to come back pretty much on the basis that I have offered to the bill as an explanation at this point.

I would be happy to respond to further questions.

Mr. RAHALL. Mr. Speaker, in response to the question about costs, the CBO estimates that the Federal Government would spend $1.5 million to $2 million to implement this bill, but again I stress the private lands, as the gentleman from Minnesota has adequately stated, are in the process of negotiation now. They have either already been acquired or are in the process of being acquired through current appropriations. So what we are talking about here is just these minor modifications.

I might add also to the gentleman from Wyoming that the Pipestem State Park that we are adding here to this boundary modification is already the second largest revenue generated in the State park system in the State of West Virginia; so certainly the State of West Virginia has no desire to foist this State park on to the Federal bureaucracy or into the Federal system; so it is not the desire of the State of West Virginia to unload these State parks onto the National Park Service.

Mr. THOMAS of Wyoming. One final question, Mr. Speaker, if the gentleman knows.

There have been several changes in acquisitions and extensions in the last several years. Does this conclude the fund or will we have more changes in this?

Mr. RAHALL. Mr. Speaker, it is our anticipation this pretty much concludes it, yes.

Mr. THOMAS of Wyoming. There is nothing left in West Virginia—I am just kidding.

All right, I thank the gentleman very much.

Mr. VENTO. Mr. Speaker, I think the point here to be made is that while this extends the boundaries, these extensions are logical and basically at no extra cost to the National Park Service, because they are uneconomic remnants and indeed while there are costs involved in purchasing all of these units because we were forced to buy them on the basis of the survey and the actual landownership patterns in the area, other than the fact that we expect, of course, the substantial donation of land that expands the Park. So I think that is what is important. These were not given to us, but the fact is now that we are purchasing them to fulfill the mandate, now that the Park Service is purchasing it to fulfill the mandate of the various laws that were involved in these three units of the park system, it really makes common sense to in fact keep on and hold these lands that are adjacent. Of course, this would conclude it. There is no additional land that is being suggested to be purchased in this bill.

So Mr. Speaker, I would hope Members would go along with this. I think it is a very reasonable proposal.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4382, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITION TO HARRY S. TRUMAN NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3898) to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri as amended.

The Clerk read as follows:

H.R. 3898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY ACQUISITION.

The first section of the Act entitled "An Act to establish the Harry S. Truman National Historic site in the State of Missouri, and for other purposes", approved May 23, 1983 (97 Stat. 193), is amended by adding at the end the following:

"(c) The Secretary is further authorized to acquire from Jackson County, Missouri, by donation, the real property commonly referred to as the Truman Farm Home located in Grandview, Jackson County, Missouri, together with associated lands and related structures, comprising approximately 5.2 acres.

"(d) The Secretary is authorized and directed to provide appropriate political subdivisions of the State of Missouri with technical and planning assistance for the development and implementation of plans, programs, regulations, or other means for minimizing the adverse effects on the Truman Farm Home of the development and use of adjacent lands.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3898, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3898 is legislation introduced by Representative ALAN WHEAT to authorize the Secretary of the Interior to acquire by donation the Truman Farm National Historic Landmark located in Grandview, MO, and add this property to the existing Harry S. Truman National Historic Site. Similar legislation has been introduced in the Senate by Senators BOND and DANFORTH.

Harry Truman, the 33d President of the United States, lived and worked on the Truman farm from 1906 until 1917. During these 11 years he did everything that was required for farm life including plowing, sowing, baling hay, repairing equipment, and building fences and a barn. He kept the books for the farm and experimented with relatively new practices such as crop rotation and soil conservation. Truman was the sole manager of the farm for 3 years after his father died in 1914, and he visited the farm frequently throughout the rest of his life.

The property was listed on the National Register of Historic Places in 1978. The farm was purchased by Jackson County in 1980 and was restored by a local foundation in 1984. The property was designated a National Historical Landmark in 1985, and the National Park Service conducted a study of alternatives on the site in 1990.

The Subcommittee on National Parks and Public Lands received testimony from several prominent historians including the Chief Historian of the National Park Service about the high degree of national significance of the Truman farm home property and the importance of the farm to the development of Truman's values of family and community and to shaping his views on agriculture. Testimony was also provided about the low cost of this proposal which calls for donation of the property by Jackson County and the use of existing National Park Service management resources at the Truman home in nearby Independence.

The Interior Committee adopted an amendment which authorizes the Secretary of the Interior to provide technical assistance to local governments for planning to encourage compatible development outside the Truman farm boundaries. The city of Grandview is receptive to working with the National Park Service to preserve the rural atmosphere of the undeveloped properties surrounding the farm home.

Mr. Speaker, H.R. 3898, as amended, is a very low-cost measure which would preserve a very significant site in the life of one of our greatest Presidents. Its addition to the existing Truman Historic Site would complement the properties already managed by the National Park Service and it would provide an excellent opportunity to interpret Truman's farm years which were so important in shaping the future President's life and values. I urge Members to support this measure.

□ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 3898, a bill to expand the Harry S. Truman National Historic Site by authorizing a Federal takeover of the Truman Farm Home. As the administration testified before the Parks Subcommittee in presenting their opposition to this measure, this site fails to pass the first test which all properties must pass in order to be eligible for inclusion in the National Park System, and that is the integrity of the site itself.

When the Park Service studied the site, they found that the 5.2-acre remnant of the former 600-acre Truman Farm did not pass muster because the former farm had been almost entirely engulfed by urban development. During our hearing, we did receive testimony from several historians that the Truman Farm, which former President Truman ran from 1906 to 1917, was important in shaping his understanding of rural life and political skills. I don't disagree with that, but the question we must answer with this measure is whether it is essential for the Federal Government to take over this compromised site in order to interpret the life of this President to the public. Will this site add in any significant way to the story presented to the public at the existing Truman National Historic Site, located just 15 miles away?

To answer that question, I'd like to quote from a National Park Service internal memorandum signed by the Associate Director of Cultural Resources:

> There are other reasons this property is not as suitable for Federal administration as the home in Independence, which was his home from 1919 until his death in 1972. They go beyond the mere strength and length of his associations with Independence, and the fact that Mr. Truman's neighborhood in Independence is also largely intact.
>
> Notably, the Truman farm home is no longer in a farming area; indeed, Truman himself sold the farm for development and it is now a suburban area. Thus, it is impossible to interpret his farm life there in a meaningful way. Additionally, unlike the home in Independence, which was donated to the Government fully intact and completely furnished with Truman belongings, the farm home lacks much curatorial potential.
>
> The primary motivation behind this bill, we suspect, is to free Jackson County from the financial burden of maintaining the property as a public park. We do not believe the Service should accede, for we suspect it will strengthen the pressure for additional Presidential sites of the second rank, as we must suggest this one is; we cannot advocate that the National Park System include all such properties, when other subjects cry out for representation in a system already top-heavy with Presidential sites, as opposed to those representing other great individuals and other aspects of the Nation's history.

The best thing that proponents can say about this measure is that it won't cost much, only about $0.5 million up front and $350,000 annually for eternity. That is a shallow argument, when you consider that the county paid nothing for this property, which they are now so anxious for the Federal Government to take over. In fact, Federal funds were originally used to acquire a 50-percent interest in the property and the balance was donated by the Truman family. These Federal funds were part of a cost-sharing program between the Federal Government and Jackson County, where the Federal Government would provide some up-front money for the site and the county would operate and manage it. Last year, Jackson County allocated just $2,000 of their $5 million park and recreation budget to this site.

I cannot disagree with the priorities of the county and why they have decided not to fund this project, I know there are many projects at all levels of government where we have good intentions to carry them out, but lack the funds. However, if this is not even a priority at the county level, I cannot agree that it should be a priority for the Federal Government and therefore I oppose this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. WHEAT], who has been a tireless advocate for the Truman site in Independence and for this very important measure before us today.

Mr. WHEAT. I thank the chairman, the gentleman from Minnesota [Mr. VENTO] for yielding to me.

Mr. Speaker, I rise in support of H.R. 3898, legislation I have introduced to allow the National Park Service to acquire and operate Harry Truman's farm home in Grandview, MO. As Chairman VENTO has described, this bill would allow the National Park Service to acquire the 5.2-acre farm home in Grandview by donation from Jackson County, MO and to operate the site as part of the existing Truman Historic Site 15 minutes away in Independence, MO.

The addition of the Truman farm home will greatly enhance our National Park System by allowing the Park Service to teach the public about a key period in the life of a great national leader. Federal management of this site has been postponed for too long. This bill has broad bipartisan support and has been introduced in the other body by Senators DANFORTH and BOND. According to the Congressional Budget Office, this proposal would not affect direct spending or receipts and would thus not involve any pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. I urge Congress to act today to take long overdue action to authorize the Park Service to take over this important site and preserve it for posterity.

I am proud to represent a region of the country that calls Harry Truman its favorite son. Harry Truman is widely considered by Presidential scholars and citizens alike to be one of our Nation's greatest leaders. Truman is remembered for the Fair Deal—equality

and justice for the average Joe. Historians believe that it was during Harry Truman's life as a working man, especially the 11 years of his early adult life that he spent on this family farm, that he developed the common sense, integrity, and compassion for which he is so famous.

Numerous historians and Truman scholars, including historians from the Park Service, have affirmed the significance of his time on this farm in the development of President Truman's singular character. Harry Truman lived on the original 600-acre farm from 1906 until 1917 when he left Missouri to serve in the First World War. Extensive historical documentation of Truman's day-to-day life on the farm, and reminiscences about his time there, are available through the nearly 1,200 letters that he wrote to his future wife, Bess Wallace, during this period.

The farm and the house, built in 1894, belonged to the Truman's maternal grandparents, Solomon and Harriet Young. When a flood destroyed the rented farm of Truman's father, John Anderson Truman, Harry and his brother, Vivian, quit their banking jobs in Kansas City in order to help their father run their grandparent's farm. From age 22 to age 33, Harry made his living planting, plowing, and generally managing the family farm. The habits of rising early and working hard never left the future President. Truman himself remarked in later years that "I spent the best 10 years of my life on a 600-acre farm south of Kansas City."

Truman never returned to live on the farm but did continue to visit the farm and take an interest in its operations. The family gradually sold off parts of the land due to financial distress.

After the farm fell into disrepair, in 1967 the community began to express its concerns about saving the Truman farm. In 1978 the National Park Service added the farm to the National Register of Historic Places. In 1985, the Park Service designated the farm as a National Historic Landmark. With Federal, State, and local help, volunteers formed the Truman Farm Home Foundation and The Friends of the Truman Farm Home. Together with Jackson County these groups worked to raise funds to purchase, restore and operate the farm home, which was opened for visitors in 1984.

Encroaching commercial development, lack of adequate resources and the need for professional management all combine to make passage of this legislation even more urgent for the future of this important historic site. After 8 years of hard work and struggle, the county and the volunteers are faced with a crisis. Lack of funds to complete a first-rate restoration have resulted in the farm being open to the public only a few days a week in the summer, staffed entirely by a corps of dedicated volunteers.

In 1989, at the behest of Congress, the National Park Service conducted a study of the site and possible management alternatives. The Park Service identified the option embodied in H.R. 3898—a takeover of the farm by the Park Service through donation by Jackson County—as one feasible solution to the management dilemma. Since the study, Jackson County has offered to donate the property to the National Park Service, believing strongly that Federal management of the site would be beneficial, in fact vital, to preserving the farm home for the public.

In Independence and surrounding areas, much of the history of Truman's life is visible. The addition of the Truman farm to the National Historic Site would provide a unique opportunity for the presentation in one region of the entire fabric of a Presidential life story. The farm in Grandview depicts Truman's roots as a common, working man. In Independence, Truman's courthouse office preserves the memory of his early political career. The Truman home, also known as the summer White House, is where he lived before he was elected Vice President and where he returned after his decision not to run for a third term of office. Finally, the Presidential library commemorates and preserves the documents of Truman's Presidency. Preservation of the farm home is necessary to the completion of this comprehensive biography of our 33d President.

Numerous possibilities exist for enhancing the interpretation of Truman's life story with the addition of the farm home to the current National Historic Site. To allow this landmark of Truman's life to deteriorate without proper maintenance, marketing, and interpretation would be to rob thousands of visitors of the opportunity to learn of a truly unique aspect of a President's early development. Further, this landmark represents a theme in American history which should not be ignored—the rich history of our country is built upon the agriculture that was the mainstay of our early economy.

Among other things, Harry S. Truman will most likely be remembered as the last American President to have worked as a farmer. Throughout his Presidency, Truman never lost empathy for the working man. This empathy was ingrained during Truman's own life as a working farmer. Acquiring the farm home would allow for the development and exploration of a complimentary and vital historical theme in the President's life—an important era that is simply indispensable to fully appreciating and understanding a truly great man.

I would like to take the time to specifically address some of the concerns that have been expressed by others in response to this proposal.

Recently, the National Park Service has questioned the historical value of the property. However, I would like to point out that the Park Service, in 1978, itself selected the Truman farm home to be a site listed in the National Register of Historic Places. Stringent criterion regarding the historical integrity of the resource must be met in order to receive this designation. Later, in 1985, the Park Service awarded the farm an even more prestigious designation by selecting it to be a National Historic Landmark. Now, the Park Service says that the Federal Government should not take over the site because it does not have enough historical integrity. Clearly, this new assertion flatly contradicts the Park Service's own findings that the farm home is indeed historically significant.

Further, no historian has disputed the historical value of this site or this period of Truman's life. Even the Chief Historian for the National Park Service emphasized the importance of this period to the development of this future President while testifying at the hearing on this bill. Given the Park Service's two previous designations, I can only assume that the administration's objections to this legislation stem primarily from a broad policy of opposition to most recent additions to our current park system.

Opponents of this legislation like to point out that Truman himself sold much of the farm land for development. They neglect to mention, however, the Truman family was forced to sell much of the land in order to settle the mortgage on the farm. In fact, because of the financial troubles that plagued Truman throughout his life, he lived most of the time in a house owned by his mother-in-law. The current historic site in Independence represents the Wallace family house. The farm home had always belonged to the Truman family.

It is true in this time of strained budgets and shrinking funds for State and local governments, Jackson County has been unable to provide the necessary funds to maintain this site at the level it deserves. However, the historical value of the site mandates that it be placed under the auspices of the National Park Service. No amount of funding support at the local level can make up for the historical, management, and interpretative resources that the National Park Service can and must bring to this nationally significant site.

In a time of Federal budgetary constraints, it is important that any added responsibility for the Park Service be carefully scrutinized, to ensure that it represents the best allocation of severely limited resources. The broad base of support for this legislation by historians, preservationists and by the public, the fact that this property was integral in the life of an American President, and the opportunity afforded to explain and interpret the

compelling life history that took place at this site have coalesced into the broad bipartisan support for this legislation. I urge my colleagues to support H.R. 3898 to preserve Truman's legacy for future generations.

Mr. Speaker, I yield to my cosponsor, the gentleman from Missouri [Mr. EMERSON], who has been so very helpful throughout this entire process both in the writing and supporting of this legislation.

Mr. EMERSON. Mr. Speaker, this measure before the House is an important one for many, many respects.

The gentleman from Wyoming [Mr. THOMAS] referred to a memo, an internal memo sent within the Department of the Interior criticizing this acquisition.

I do not know who it is in the Department of the Interior who sits down and writes memos, one to the other; but I will tell you historians think this was a very important piece of real estate in the life and development of Harry Truman.

We are going, tomorrow, to hear a lecture by historian David McCullough, who has written a new biography, a very, very wonderful biography of President Truman. One would only need to read the chapters relating to the formative years of President Truman to understand the significance of this farm to his life and development.

As a native Missourian, I can conjure up a lot of memories from my own childhood relating to life in rural America that perhaps today others do not share. But I think it is very significant that there are only 5 acres left. I think we should preserve this entity. It is close to the other Truman landmarks in the Jackson County region. I think it fits in very comfortably and very well.

The point has been made that there are not funds to pursue an authorization at this point. I think it is important that we authorize it and that, as funds become available, they be appropriately allocated. But it is important that we authorize this measure now. This is a very significant property associated with the life of President Truman, and it is a national treasure, it truly is.

I think as evidence of that it should be noted that both of Missouri's Senators have sponsored the legislation in the Senate. The gentleman from Kansas City, the gentleman from Missouri [Mr. WHEAT], is a principal cosponsor in the House, joined by Congressmen SKELTON, COLEMAN, and myself. It is a very bipartisan measure that is before us. I would urge all Members to support it and commend my colleague from Kansas City [Mr. WHEAT] for his leadership in bringing this about and thank him again for yielding.

Mr. WHEAT. I would like to thank my friend and colleague, the gentleman from Missouri [Mr. EMERSON], for his strong support throughout this process. Obviously, this bill would not even be coming to the floor if he had not worked so ardently on it.

As he noted, this bill does enjoy broad bipartisan support. It has been introduced in the other body by both of Missouri's Senators. It has received support from historians, preservationists, from the general public. The fact that this property was an integral part in the life of an American President, and the opportunity afforded to explain and interpret the compelling life history that took place at this site have coalesced into the broad bipartisan support.

Mr. Speaker, I urge more Members to support H.R. 3898 to preserve Truman's legacy for future generations.

Mr. THOMAS of Wyoming. I yield myself such time as I may consume.

Mr. Speaker, one final observation: I certainly understand the interest that my colleagues have. I am a little concerned. Is it not Jackson County that has it now? It is owned by that county. It was purchased half with Federal money, to begin with, from the land and water conservation fund. It seems to me a $2,000 expenditure last year out of their $5 million budget was not exactly an overwhelming vote of interest on the part of local folks.

□ 1530

Mr. Speaker, I have no further requests for time.

Mr. VENTO. Mr. Speaker, I would just point out that the County of Jackson is not asking us to purchase the Harry S. Truman farm home. They are giving it back to us, and only 50 percent of the dollars of the land water conservation fund can be utilized to purchase that, besides which they have completely restored the house in a historically and in an appropriate manner consistent with the historic standards of the National Park Service. That is why it is on the register and, I believe, a landmark.

Furthermore, while there was some dissent within the Department of the Interior about the surrounding lands, nobody has attacked the house as being anything but accurate with regard to historic fabric. In fact, the chief historian of the National Park Service, Ed Barrs, testified at the hearing to the historic integrity and significance of this house with the life and formative years of President Harry S. Truman.

Furthermore, the community of Grandville—which surrounds this area—has and will receive some technical assistance from the Park Service to make a commitment to, in fact, develop the area around there in an appropriate manner so it be consistent with the designation that we are making.

I think Harry Truman, maybe his only problem is that he did not have income after he retired, and he had to sell off some of this property, and, Mr. Speaker, I do not think it is an altogether bad quality that he sustained himself in that way rather than some of the other creative methods that I have seen by former Presidents in terms of maintaining themselves.

So, Mr. Speaker, I would ask my colleagues to support this measure. It is a reasonable measure, and it will greatly enhance the Harry S. Truman Historic National Park Site in Independence, and I think there is great interest in it.

Mr. VENTO. Mr. Speaker, I yield back the balance of our time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3898, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BODIE PROTECTION ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4370) to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4370

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 "Bodie Protection Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghosttown character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghosttown character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 4(a).

(2) The term "mining" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 4. APPLICABILITY AND MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICATION.—Subject to valid existing rights, after the date of enactment of this Act Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal for mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Manegment and the National Park Service. As soon as practicable after the date of enactment of this Act, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in the subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this Act. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this Act.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before March 8, 1992; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 5. MINERAL ACTIVITIES.

(a) IN GENERAL.—Mineral exploration, mining, benefication, and processing activities on unpatented mining claims within the Bodie Bowl be subject to such regulations prescribed by the Secretary, in consultation with the Governor of the State of California, as the Secretary deems necessary to ensure that such mineral activities are conducted—

(1) in accordance with the rules and regulations promulgated under Public Law 94-429 (16 U.S.C. 1901 et seq.) as they relate to plan of operations, reclamation requirements, and bonding; and

(2) in a manner that does not cause any adverse effect on the historic, cultural, recreational and natural resource values of the Bodie Bowl area.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (a).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate the regulations referred to in this section within 90 days after the date of enactment of this Act. For the purposes of this Act, the Bureau of Land Management shall promulgate and administer the rules and regulations referred to in section 5(a).

SEC. 6. STUDY.

Beginning as soon as possible after the date of enactment of this Act, the Secretary of the Interior, through the Director of the National Park Service, shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the pending legislation is to provide for the protection of a unique and nationally significant historic resource, known as Bodie, in the State of California.

Currently, Bodie is listed as a national historic landmark and is designated as a State historic park.

The significance of Bodie is that it is one of the West's oldest mining towns. At Bodie, visitors can see first hand how people lived in the mining camps that cropped up throughout California in the aftermath of the discovery of gold by John Marshall at Sutters Mill on the American River in 1848; a discovery that gave rise to the world famous California Gold Rush.

Today, at Bodie, such structures as a miner's union hall, a Methodist church,

a general store, and many other historic buildings dating back to the 1800's stand in a state of arrested decay.

While Bodie stands as testament to the mining days of old—and despite its status as a national landmark and State park—the area is in jeopardy from the threat of modern-day mining activities.

In order to extract and process the gold and silver believed to be surrounding Bodie, large-scale mining techniques, such as strip mining, heap-leach piles, cyanide spraying, and waste ponds, most likely would be required.

Moreover, it happens that the company which is engaged in mineral activities in the area has a very poor environmental track record. This very same company is currently in the process of closing down a mine in Summitville, CO, where local rivers and reservoirs were contaminated by cyanide-laced water that seeped from a waste pond. The cost of the Summitville mine cleanup is estimated at $10 million.

Obviously, residents in the Bodie area fear this situation could be repeated.

H.R. 4370, the Bodie Protection Act of 1992, would provide some additional protections to Bodie in order to preserve its historic and visual integrity.

Under the bill, approximately 6,000 acres of BLM land surrounding the Bodie Park would no longer be open to location under the mining law of 1872, subject to leasing under the mineral leasing laws or available for disposal under the Mineral Materials Act.

The legislation would also prohibit the issuance of patents unless the right to a patent had vested as of March 8, 1992, the date of introduction of the measure.

However, the bill fully protects any valid existing rights in the withdrawn land. In other words, mineral activities could proceed on any valid mining claims that were in existence in the Bodie Bowl area prior to the bill's enactment date.

While mineral activities could proceed on valid mining claims, it is also necessary, and in the national interest, to ensure that they be undertaken in a way that does not adversely effect the historic resources at Bodie.

For this reason, the bill would require mining operations to comply with what we view as being reasonable regulations aimed at minimizing any potential adverse effects on Bodie. This is, after all, a State park and a national historic landmark.

Finally, under this measure, the National Park Service would conduct a study on other actions that may be taken to provide for the protection of Bodie and report its findings to the Congress.

Mr. Speaker, I want to commend the gentleman from California [Mr. LEHMAN] for introducing this measure and for all of his hard work on its behalf.

That concludes my explanation of the pending matter. I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition of H.R. 4370, the Bodie Protection Act. The bill would very likely effect a taking of the private property interests associated with unpatented mining claims in the Bodie Bowl of Mono County, CA. Despite the protestations of the majority to the contrary, there is indeed good reason to believe that imposition of Mining-in-the-Parks Act regulations upon the operator of these claims will make them uneconomic to develop further.

Mr. Speaker, we need only review the history of National Park Service implementation of this very misnamed law to understand that mining is essentially regulated out of existence under the act. I find little comfort in the provision of H.R. 4370 that makes the Bureau of Land Management the administrator of these regulations within the Bodie Bowl. Groups opposed to mining will likely protest every decision of the BLM on plans of operations that they believe could harm the ghost town. This would bring about a not-so-slow strangulation of any effort to mine the 1.25 million ounces of gold and 14 million ounces of silver identified in the claimed area west of Bodie.

Mr. Speaker, I see no inconsistency in allowing modern-day development of the mineral resource adjacent to the State historic park as protected under the terms the BLM has proposed in the pending Bishop resource management plan and as further protected by compliance with the California Surface Mining and Reclaimation Act [SMARA]. This view is supported by the Mono County Board of Supervisors who clearly have the insight into the best interests of their constituents.

Furthermore, because of redistricting the sponsor of H.R. 4370 will not represent the affected area in the 103d Congress. The Member of Congress who, God willing, will represent Mono County opposes this heavy handed approach to saving Bodie Ghost Town.

Last, Mr. Speaker, H.R. 4370 continues the majority's insistence that in order to patent one's mining claim that all the required technical steps in the patenting process had to have been met already—in this case 5 days after the bill was introduced by Mr. LEHMAN of California. This is blatantly confiscatory of private rights. Yes, Congress may change the rules with respect to receiving title to mining claims, but to do so in any manner other than prospectively is to invite serious inverse condemnation argument.

The mining interests in the Bodie Bowl have spent many millions of dollars in exploration of their claims and should not be foreclosed from the opportunity to develop a mine if it can be done within the confines of existing law. If it can't and we still want to bar mining, then let's stop the charade and buy them out. For these reasons the administration and I oppose enactment of H.R. 4370.

Mr. Speaker, I yield back the balance of my time.

□ 1540

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would conclude by saying that this legislation is supported by the California State Park and Recreation Commission, hundreds of citizens in the area, the National Trust for Historic Preservation, and numerous local and national environmental groups.

They, as does the Interior Committee, realize that without H.R. 4370, Bodie may become a distant memory.

I would also note that in 1990, the California State Legislature passed a resolution urging Congress to take the type of action that is embodied in this bill.

I urge my colleagues to support this bill.

Mr. LEHMAN of California. Mr. Speaker, today I rise in support of a piece of legislation which will protect the integrity of a very important landmark in the State of California and my congressional district: The Bodie State Historic Park and its surrounding lands.

Bodie, a former gold mine district and preserved authentic ghost town, was designated a national historical landmark in 1961 and a California State historic park in 1962. It is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey. The National Park Service listed Bodie as a priority 1 endangered national historic landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historical Landmarks," and recommended protection of the Bodie area.

The legislation that we will vote on today was developed and introduced at the recommendation of a resolution passed by the California State Legislature on September 4, 1990. It will attempt to preserve the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie by withdrawing the public lands around the historic park from further mineral entry or patent.

Bodie was settled around 1859, when William Bodey discovered gold at Bodie Bluff. Seeking their fortune, many followed him to Bodie and established a mining town which in the form of the ghost town as it stands today, gives an outlook to the history of old time mining towns and offers reminders of the vibrant characters who made it unique.

The town of Bodie rose to prominence with the decline of mining along the western slope of the Sierra Nevada. Prospectors crossing the eastern slope in 1859 to "see the elephant"—that is, to search for gold—discovered what was to be the Comstock Lode at Virginia

City, and started a wild rush to the surrounding high desert country.

By 1879 Bodie boasted a population of about 10,000 and was second to none for wickedness, badmen, and the "the worst climate out of doors." Killings occurred with monotonous regularity, sometimes becoming almost daily events. Robberies, stage holdups, and street fights provided variety, and the town's 65 saloons offered many opportunities for relaxation after hard days of work in the mines. One little girl, whose family was taking her to the remote and infamous town, wrote in her diary; "Goodbye God, I'm going to Bodie." The phrase came to be known throughout the West.

Only about 5 percent of the buildings Bodie contained during its 1880 heyday still remain. Today, it stands just as time, fire, and the elements have left it—a genuine California gold mining ghost town in a state of arrested decay which courts over 200,000 visitors per year. It is my hope that this legislation will continue to promote, protect, and preserve the integrity of this area and its rich history for generations to come.

I urge my colleagues to support H.R. 4370.

Mr. MILLER of California. Mr. Speaker, H.R. 4370, the Bodie Protection Act merits our support.

Congressman RICHARD LEHMAN and I introduced the Bodie Protection Act, in response to legislation adopted by the California State Legislature in September 1990. The State-passed resolution asked the Congress to withdraw the Federal lands adjacent to the Bodie State Historic Park from the mineral leasing laws, in order to protect Bodie's natural, historic, and aesthetic values.

Located at an elevation of 8,400 feet, Bodie State Park represents the best preserved western ghost town. Many of the buildings along with the furniture, books, and other belongings left by miners from the 19th century remain at the park today. More than 200,000 visitors come to see the ghost town at Bodie each year.

Yet, ironically Bodie is threatened by mining, the activity that made Bodie famous. Galactic Resources, a Canadian company, began exploration activities in 1988 in an area outside and east of the Bodie State Historic Park. In response to the renewed mining interest at Bodie, the Interior Department designated Bodie a priority 1 national historic landmark. According to the Interior Department's 1991 report, "mining would alter and irreparably harm the integrity of the Bodie district."

Under H.R. 4370, valid existing rights are protected. However, new mining claims are prohibited within the Bodie bowl in order to protect the ghost town's natural and historic resources.

Major environmental and historic preservation organizations including the Wilderness Society, Natural Resources Defense Council, and the National Trust for Historic Preservation support H.R. 4370. In addition, the Los Angeles Times, Sacramento Bee, and Sacramento Union have editorialized in support of protecting Bodie. There also is significant support in the local community near Bodie.

The Bodie legislation is very similar to H.R. 2790, the Cave Creek Protection Act which withdrew certain lands in the Coronado National Forest from the mineral leasing laws to protect natural resource values. The House unanimously approved the Cave Creek legislation last year.

I appreciate Congressman LEHMAN's concern for Bodie, and also commend Subcommittee Chairman NICK RAHALL for his efforts in moving H.R. 4370.

I encourage my colleagues to support the Bodie Protection Act.

Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4370, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STOCK RAISING HOMESTEAD ACT AMENDMENTS OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 450) to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes, as amended.

The Clerk read as follows:

H.R. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINING CLAIMS ON STOCK RAISING HOMESTEAD ACT LANDS.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT.—Section 9 of the Act of December 29, 1916, entitled "An act to provide for stock-raising homesteads, and for other purposes (43 U.S.C. 299) is amended by adding the following at the end thereof:

"(b) EXPLORATION; LOCATION OF MINING CLAIMS; NOTICES.—

"(1) IN GENERAL.—(A) Notwithstanding subsection (a) and any other provision of law to the contrary, after the effective date of this subsection no person other than the surface owner may enter lands subject to this Act to explore for, or to locate, a mining claim on such lands without—

"(i) filing a notice of intention to locate a mining claim pursuant to paragraph (2); and

"(ii) providing notice to the surface owner pursuant to paragraph (3).

"(B) Any person who has complied with the requirements referred to in subparagraph (A) may, during the authorized exploration period, in order to locate a mining claim, enter lands subject to this Act to undertake mineral activities related to exploration that cause no more than a negligible disturbance of surface resources and do not involve the use of mechanized equipment, explosives, the construction of roads, drill pads, or the use or toxic or hazardous materials.

"(C) The authorized exploration period referred to in subparagraph (B) shall begin 30 days after notice is provided under paragraph (3) with respect to lands subject to such notice and shall end with the expiration of the 60-day period referred to in paragraph (2)(A) or any extension provided under paragraph (2)(B).

"(2) NOTICE OF INTENTION TO LOCATE A MINING CLAIM.—Any person seeking to locate a mining claim on lands subject to this Act in order to engage in the mineral activities relating to exploration referred to under paragraph (1)(B) may file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on his land status records. Whenever any person has filed a notice under this subparagraph with respect to any lands, during the 60-day period following the date of such filing, no other person (including the surface owner) may—

"(A) file such a notice with respect to any portions of such lands;

"(B) explore for minerals or locate a mining claim on any portion of such lands; or

"(C) acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1977 (43 U.S.C. 1719).

"(3) NOTICE TO SURFACE OWNER.—Any person who has filed a notice of intention to locate a mining claim under paragraph (2) for any lands subject to this Act shall provide written notice of such filing by registered or certified mail with return receipt to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). Possession of the return receipt signed by the surface owner shall be necessary prior to entering such lands. The notice shall be provided at least 30 days before entering such lands and shall contain each of the following:

"(A) A brief description of the proposed mineral activities.

"(B) A map and legal description of the lands to be subject to mineral exploration.

"(C) The name, address and phone number of the person managing such activities.

"(D) A statement of the dates on which such activities will take place.

"(4) ACREAGE LIMITATIONS.—The total acreage covered at any time by notices of intention to locate a mining claim under paragraph (2) filed by any person and by affiliates of such person may not exceed 6,400 acres of lands subject to this Act in any one State and 160 acres or one-tenth of any contiguous parcel of land, whichever is greater (except that in no instance shall the total acreage exceed 640 acres), for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

"(c) CONSENT.—Notwithstanding subsection (a) and any other provision of law, after the effective date of this subsection no person may engage in the conduct of mineral activities (other than those relating to exploration referred to in subsection (b)(1)B)) on a mining claim located on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under subsection (d).

"(d) AUTHORIZED MINERAL ACTIVITIES.—The Secretary may authorize a person to conduct mineral activities (other than those relating to exploration referred to in subsection (b)(1)(B)) on lands subject to this Act without the consent of the surface owner thereof

if such person complies with the requirements of subsections (e) and (f).

"(e) BOND.—(1) Before the Secretary may authorize any person to conduct mineral activities the Secretary shall require such person to post a bond or other financial guarantee in an amount to insure the completion of reclamation satisfying the requirements of this subsection and subsection (h). The bond or other financial guarantee shall be held for the duration of the mineral activities and for an additional period to cover the responsibility of the person conducting such mineral activities for revegetation under subsection (h)(6). Such bond or other financial guarantee shall also insure—

"(A) payment to the surface owner, after the completion of such mineral activities and reclamation, compensation for any permanent damages to crops and tangible improvements of the surface owner that resulted from mineral activities; and

"(B) payment to the surface owner of compensation for any permanent loss of income of the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the commencement of mineral activities.

"(2) In determining the bond amount to cover permanent loss of income under paragraph (1)(B), the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land.

"(f) PLAN OF OPERATIONS.—(1) Before the Secretary may authorize any person to conduct mineral activities on lands subject this Act, the Secretary shall require such person to submit a plan of operations. The Secretary shall require that mineral activities and reclamation under such plan be conducted in such a way so as to minimize adverse impacts to the environment. A plan under this subsection shall also include procedures for—

"(A) the minimization of damages to crops and tangible improvements of the surface owner;

"(B) the minimization of disruption to grazing or other uses of the land by the surface owner; and

"(C) payment of a fee equivalent to the loss of income to the ranch operation as established pursuant to subsection (g).

"(2) The Secretary shall provide a copy of the proposed plan of operations to the surface owner at least 60 days prior to the date the Secretary makes a determination as to whether such plan complies with the requirements of this subsection. During such 60-day period the surface owner may submit comments and recommend modifications to the proposed plan of operations to the Secretary.

"(3) The Secretary may approve, require modifications to, or deny a proposed plan of operations. To approve a plan of operations, the Secretary shall make each of the following determinations:

"(A) The proposed plan of operations is complete and accurate.

"(B) The person submitting the proposed plan of operations has demonstrated that reclamation as required under subsection (h) can be accomplished under the plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

"(C) The person submitting the proposed plan of operations has demonstrated that all other applicable Federal and State requirements have been met.

"(4) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsections (e) and (g).

"(g) FEE.—The fee referred to in subsection (f)(2) shall be—

"(1) paid to the surface owner by the person submitting the plan of operations;

"(2) paid in advance of any mineral activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities; and

"(3) established by the Secretary taking into account the acreage involved and the degree of potential disruption to existing surface uses (including the loss of income to the surface owner and such surface owner's operations due to the loss or impairment of existing surface uses for the duration of the mineral activities).

"(h) RECLAMATION.—Except as provided under paragraphs (5) and (7), lands affected by mineral activities under a plan of operations approved pursuant to subsection (f)(3) shall be reclaimed to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance. Except as provided under paragraphs (5) and (7), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography. Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. For the purposes of such reclamation, the Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following; except that any such standard may be modified only with the consent of the surface owner as part of an approved plan of operations:

"(1) TOPSOIL.—(A) Topsoil removed from lands affected by mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a useable condition for sustaining vegetation when restored during reclamation.

"(B) In the event the topsoil from lands affected by mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands affected by the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in a like manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

"(2) STABILIZATION.—All surface areas affected by mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

"(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area affected by mineral activities including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of this subsection, and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

"(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems in the area subject to mineral activities and adjacent areas.

"(B) Mineral activities shall, to the extent possible, prevent the generation of acid or toxic drainage during the mineral activities and reclamation; and the operator shall prevent the contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

"(C) Mineral activities shall be conducted to prevent, to the extent possible, disruption to streamflow, or runoff outside the area covered by the plan of operations, and in no event shall be in excess of requirements set by applicable State or Federal law.

"(D) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition; except that where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

"(5) PIT BACKFILLING/GRADING VARIANCE.—(A) The requirement to backfill, grade and contour land to its natural topography shall not apply with respect to an open mine pit if the Secretary finds that such open. pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or ground water pollution.

"(B) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

"(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area affected by mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area affected by mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

"(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

"(7) EXCESS SPOIL AND WASTE.—(A) Excess spoil material and excess waste material shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

"(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

"(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, wildlife and the environment.

"(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during the mineral activity shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the post-mining uses or for environmental monitoring.

"(i) STATE LAW.—(1) Nothing in this Act shall be construed as affecting any reclamation, bonding, inspection, enforcement, air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act to the extent that such law or regulation is not inconsistent with this title.

"(2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by mineral activities.

"(j) INSPECTIONS.—(1) The Secretary shall make such inspections of mineral activities under a plan of operations approved under subsection (f) so as to ensure compliance with the terms and conditions of such plan. The Secretary shall establish a frequency of inspections for mineral activities conducted under such an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter.

"(2) Any surface owner of land subject to this Act has reason to believe that they are or may be adversely affected by mineral activities due to any violation of the terms and conditions of a plan of operations approved under subsection (f), such surface owner may request an inspection. The Secretary shall determine within 10 days of the receipt of the request whether the request states a reason to believe that a violation exists, except in the event the surface owners alleges and provides reason to believe that an imminent danger, as provided in subsection (k)(2), exists the 10 day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the surface owner and such surface owner shall be allowed to accompany the inspector on the inspection.

"(k) ENFORCEMENT.—(1) If the Secretary or the authorized representative of the Secretary determines, on the basis of an inspection that the operator is in violation of the terms and conditions of a plan of operations approved under subsection (f), the Secretary or his authorized representative shall issue a notice of violation to the operator describing the violation and the corrective measures to be taken. The Secretary or his authorized representative shall provide such operator with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or his authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

"(2) If the Secretary or his authorized representative determines, on the basis of an inspection, that any condition or practice exists with respect to mineral activities conducted on lands subject to this Act, or that an operator is in violation of the surface management requirements established pursuant to this section, and such condition, practice or violation is causing, or can reasonably be expected to cause—

"(A) an imminent danger to the health or safety of the surface owner of land subject to this Act, or

"(B) significant, imminent environmental harm to land, air or water resources,

the Secretary or his authorized representative shall immediately order a cessation of such mineral activities or the portion thereof causing such condition, practice or violation.

"(3)(A) A cessation order by the Secretary or his authorized representative pursuant to paragraph (1) or (2) shall remain in effect until the Secretary or his authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or his authorized representative. In any such order, the Secretary or his authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to insure that the abatement obligations are met.

"(B) Any notice or order issued pursuant to paragraph (1) or (2) may be modified, vacated or terminated by the Secretary or his authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record.

"(4) If, after 30 days of the date of the order referred to in paragraph (3)(A), the required abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

"(5) In the event an operator conducting mineral activities under a plan of operations approved under subsection (f) is unable to abate a violation or defaults on the terms of the plan of operation the Secretary may cause forfeiture of the bond or other financial guarantee for the plan of operations to the extent necessary to ensure abatement and reclamation.

"(l) COMPLIANCE.—The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator: (A) violates, fails or refuses to comply with any order issued by the Secretary under subsection (k); or (B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (j). Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for administrative review of such order, unless the district court granting such relief sets it aside or modifies it.

"(m) PENALTIES.—(1) Any operator who fails to comply with the terms and conditions of a plan of operations approved under subsection (f) shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing.

"(2) An operator who fails to correct a violation for which a cessation order has been issued under subsection (k) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

"(n) DAMAGES FOR FAILURE TO COMPLY.—(1) Whenever the surface owner of any land subject to this Act has suffered any permanent damages to crops or tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner, the surface owner may bring an action in the appropriate United States district court for treble damages, and the court may award such damages if such damages or loss results—

"(A) from any mineral activity undertaken without the consent of the surface owner under subsection (c) or an authorization by the Secretary under subsection (d); or

"(B) from the failure of a person conducting mineral activities on lands subject to this Act approved under subsection (f) to abate a violation under subsection (k).

"(2) The surface owner of any land subject to this Act may also bring an action in the appropriate United States district court for treble damages against any person undertaking any mineral activities on lands subject to this Act in violation of any requirement of subsection (b).

"(3) Treble damages awarded by the court under this subsection shall be reduced by the amount of any compensation which the surface owner has received (or is eligible to receive) pursuant to the bond or financial guarantee required under subsection (e).

"(o) PAYMENT OF DAMAGES.—The surface owner of any land subject to this Act may petition the Secretary for payment of all or any portion of a bond or other financial guarantee required under subsection (e) as compensation for any permanent damages to crops and tangible improvements of the surface owner, or any permanent or temporary loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner. Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure the required reclamation.

"(p) BOND RELEASE.—The Secretary shall release the bond or other financial guarantee required under subsection (e) upon the successful completion of all requirements pursuant to a plan of operations approved under subsection (f).

"(q) CONVEYANCE TO SURFACE OWNER.—(1) The Secretary may convey interests owned by the United States (including mineral interests) in lands subject to this Act to the surface owner pursuant to the provisions of section 209 of the Federal Land Policy and Management Act of 1976 without regard to the requirements contained in such provisions that findings be made under subsection (b) of such section.

"(2) The Secretary shall take such actions as may be necessary to simplify the procedures which must be complied with by surface owners of lands subject to this Act who

apply to the Secretary to obtain title to interests in such lands owned by the United States.

"(3) Notwithstanding any other provision of law, the Secretary may not convey mineral interests in lands subject to this Act to any person other than the surface owner of such lands without obtaining the consent of such surface owner.

"(r) DEFINITIONS.—For the purposes of subsections (b) through (q)—

"(1) The term 'mineral activities' means any activity for, related to or incidental to mineral exploration, mining, and beneficiation activities for any locatable mineral on a mining claim. When used with respect to this term—

"(A) The term 'exploration' means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

"(B) The term 'mining' means the processes employed for the extraction of a locatable mineral from the earth; and

"(C) The term 'beneficiation' means the crushing and grinding of locatable mineral ore and such processes are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

"(2) The term 'mining claim' means a claim located under the general mining laws of the United States (which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162) subject to the terms and conditions of subsections (b) through (q) of this section.

"(s) MINERALS COVERED.—Subsections (b) through (q) of this section apply only to minerals not subject to disposition under—

"(1) the Mineral Leasing Act (30 U.S.C. 181 and following);

"(2) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following); or

"(3) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).".

(b) FEES.—The Secretary may establish such user fees as may be necessary to reimburse the United States for expenses incurred in administering this section.

(c) TECHNICAL CONFORMING AMENDMENT.—Section 9 of the Act of December 29, 1916, entitled "An Act to provide for stock-raising homesteads, and for other purposes" (43 U.S.C. 299) is amended by inserting "(a) GENERAL PROVISIONS.—" before the words "That all entries made".

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment.

(e) REGULATIONS.—The Secretary of the Interior shall issue final regulations to implement the amendments made by this Act not later than the effective date of this Act. Failure to promulgate these regulations by reason of any appeal or judicial review shall not delay the effective date as specified in paragraph (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Stock Raising Homestead Act of 1916 was one of the last western settlement initiatives through which individuals could gain title from the Federal Government to the surface of public lands in the West.

The pending measure, H.R. 450, seeks to address a longstanding dispute which not only predates the enactment of this act, but a controversy that this 76-year-old law originally sought to resolve.

This is the conflict that arises when those interested in the raising of livestock, and those engaged in the occupation of mineral exploration and development, seek to gain the use of the same parcel of land.

Throughout the Western States there are approximately 70 million acres of land on which title to the surface is held by private individuals as a result of the Stock Raising Homestead Act.

However, the mineral estate to these lands was not made part of the title. It continues to be owned by the United States and is subject to the various mining laws.

Today, the increased interest in gold exploration and development in States like California and Nevada has aggravated the inherent conflicts of this type of split estate land ownership.

In effect, enactment of this measure could avert a modern day range war between the cowboys and the miners, especially as gold fever continues to sweep through the Western States.

H.R. 450 seeks to strike a balance between the rights of the surface owner, and those interested in the underlying locatable minerals, by providing a procedure for gaining access to, and undertaking mining activities on, Stock Raising Homestead Act lands that takes into account the interest of the private surface owner.

This would be accomplished by requiring that miners give notice to the surface owner before entering the land for mineral exploration activities and the location of mining claims.

After this point, if the claim holder wants to then mine the claim, the preferable course would be that it be done with the consent of the surface owner.

However, in the event consent is not forthcoming, this legislation would require that the claim holder have a plan of operation approved by the Secretary of the Interior, fully reclaim damaged areas, and provide compensation to the surface owner for any loss of income or damage that results.

In this regard, I would note that this bill is supported by the National Cattlemen's Association. I include their letter of support for the RECORD.

NATIONAL CATTLEMEN'S ASSOCIATION,
Washington, DC, June 10, 1992.

Hon. NICK JOE RAHALL,
Chairman, Subcommittee on Mining and Natural Resources, House Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR CHAIRMAN RAHALL: The National Cattlemen's Association supports your substitute amendment to H.R. 450 offered on behalf of Congressman Richard Lehman. We believe this amendment provides important protection for the surface owner's land use and land value. Yet it also allows continued exploration and mining of the subsurface.

Four basic provisions in the bill establish a sound process for balancing the property rights of the surface owner with the prospecting and mining interests of the subsurface owner or leasee. Prospectors must give notice before entering a surface owner's operation, they must have a plan of operation approved by the Secretary of the Department of the Interior, they must fully reclaim damaged areas, and they must compensate for the loss of surface use and the disruption of the surface operation.

We appreciate your and Representative Lehman's commitment to enacting law necessary to protect the livelihoods of many landowners in a split estate situation.

Sincerely,

JIMME L. WILSON,
President.

Mr. Speaker, that concludes my explanation of the pending matter.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 450 as amended by the Committee on Interior and Insular Affairs. I am saddened to report that once again, the Interior Committee subverted the legislative process and marked up a bill upon which not one person testified, nor was any administration comment sought. This blatant disregard for the views of our affected constituents is becoming routine. Let me explain.

Mr. Speaker, H.R. 450 began life as the same bill which passed this body by voice vote in the 101st Congress. The Mining Subcommittee held a field hearing in Fresno, CA, in July 1989, to take testimony from Stock Raising Homestead Act surface owners and the Bureau of Land Management. H.R. 737, as amended, was a compromise that all parties could support. At issue then, as now, was the relative rights of the surface owner and the holder of the rights to the mineral estate, which is reserved to the United States in Stock Raising Homestead Act deeds.

It has been the policy of the Federal Government since 1916 that the so-called hardrock minerals beneath such lands are available for disposition under the Mining Law, except as modified by the 1916 act. In other words, prospectors and miners can locate mining claims on these lands, and may operate on such mining claims upon receiving permission from the surface owner and providing compensation for damages to the surface estate.

However, under current law, if a surface owner refuses such permission to renter the lands, the miner has the option of proffering a bond to the BLM for the estimated damages to the surface estate and operating without the surface owner's consent. This step is necessary if the mineral estate reserved to the United States is to be ac-

cessible, but few legitimate mining interests will ever choose to exercise it because an harmonious relationship with the landowner is always better.

Mr. Speaker, the bill we passed last Congress tightened up some requirements on miners for advance notice and reclamation but it did not make the reserved mineral estate off limits. The substitute to H.R. 450 adopted in the Interior Committee would do so. Again, let me emphasize to my colleagues, neither the Mining Subcommittee, nor the full Interior Committee, held a hearing on this substitute. It was brought to a markup in subcommittee 1 week after its release to the Members—1 week. The only views solicited by the majority were those of the California Cattleman's Association. They persuaded the national association to support the substitute as well, despite the group's earlier support of the Bingaman-Wallop bill in the Senate, S. 1187.

The substitute goes far beyond the original bill which had broad support, including that of the administration. The substitute would unduly restrict the right and ability to prospect for minerals that are strategic and critical to our Nation's needs. How would it do this? By imposing standards that ignore regional differences in soils, climate and vegetation in dictating the manner in which mining and reclamation must occur before a plan of operations would be approved by the Bureau of Land Management. This is contrary to the conclusions reached by the Committee on Surface Mining and Reclamation [COSMAR] of the National Academy of Sciences in the 1979 report to Congress, "Surface Mining of Non-Coal Minerals." This panel was convened under a mandate in the Surface Mining Control and Reclamation Act of 1977 [SMCRA] to assess whether or not the national standards dictated for coal mining and reclamation should be applied to hardrock mining. COSMAR concluded national standards were unworkable and I know of no study since which concludes otherwise.

Mr. Speaker, further it seems to me that this is one that really deals with the question of preemption, State preemption, which means a great deal to me. I think it is very important in our system. Also State rights. It has something to do with private rights in the private decision to do something with the surface which is owned by private individuals, not by the Federal Government. It also has to do with overregulation, and God knows we have plenty of that.

One of the problems in this place is that in the cookie cutter one fits all propositions, designed to fit in Maryland, Wyoming, West Virginia, and it does not work.

Mr. Speaker, H.R. 450 would bar mineral activities where rigid environmental standards could not be met, even if the surface owner agreed otherwise. In other words, the Bureau of Land Management would now be in the business of dictating how a private landowner may or may not be impacted by a mining proposal. Furthermore, decisions concerning water quantity that heretofore have been the sole domain of the States in the arid Western States now would be a decision for the Federal Government's authorized officer. My friends, this is dangerous precedent. But, since we had no hearing on the substitute there was no one to sound the alarm.

In summary, Mr. Speaker, H.R. 450, as adopted by the Interior Committee, ignores proper procedures and is substantively flawed as well. The administration and I urge my colleagues to vote "no."

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would conclude by saying that those of us from the Appalachian Region of this country certainly have had some experience with the conflicts that can arise between surface owners and those who hold the rights to the coal.

Under what are known as broad form deeds entered into during the late 1800's and early part of this century, at one time the owner of the coal could strip the land at will, without the surface owner's consent.

This situation has been remedied over the years by the courts. Today, the coal owner can no longer strip mine without the consent of the surface owner.

In a similar fashion, with respect to federally owned coal underlying privately held land in the Western States, the Congress in the Surface Mining Control and Reclamation Act of 1977 required the consent of the surface owner before this coal could be leased.

I would note that this action, as with the pending measure, was taken primarily to protect farming and ranching operations.

Finally, I would say that the Subcommittee on Mining and Natural Resources conducted a hearing in Fresno, CA, on the predecessor bill to H.R. 450. The House subsequently approved the bill during September 1989, but no action was taken by the other body.

Mr. Speaker, I daresay that if we had another hearing today on the pending matter, that we would have perhaps myself and the gentleman from California to once again be the only ones to show up, and I think it worthy to save the taxpayers' money and the trouble of going through this exercise, by rather relying upon the transcript of previous hearings on this legislation.

This year, however, I believe we will be in a better position to resolve this matter and I would thank the bill sponsor, the gentleman from California, [Mr. LEHMAN], for his tenacious efforts in this matter.

Mr. LEHMAN of California. Mr. Speaker, today I rise in support of H.R. 450, the Homestead Stockraising Act. This legislation addresses an ongoing problem that exists in the West with regard to lands with a split estate. That is, lands where title of the surface is held by a private land owner and the title of the mineral interest is held by the United States.

This bill which is supported by the National Cattlemen's Association and the California Cattlemen's Association, and many others, strikes a balance between the rights of private surface owners and those with interest in gaining access to the lands for mining.

The bill provides for four basic provisions to establish a sound process. First, prospectors must give a 30-day notice to surface owners, second, prospectors must have a plan of operation approved by the Secretary of the Interior, third, prospectors must fully reclaim damaged areas, and fourth, prospectors must compensate for the loss of surface use and the disruption of the surface operation.

I have worked very closely with cattlemen who have been affected by this type of situation in order to craft a piece of legislation which they feel adequately meets their concerns.

I urge immediate passage of this bill.

□ 1550

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 450, as amended.

The question was taken.

Mr. THOMAS of Wyoming. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SETTLEMENT IMPLEMENTING BETWEEN THE PUEBLO DE COCHITI AND U.S. ARMY CORPS OF ENGINEERS

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4437) to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202.

The Clerk read as follows:

H.R. 4437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORIZATION.

The Secretary of the Interior and the Secretary of the Army are authorized and directed to implement the settlement agreement negotiated under the authority of Public Law 100-202 by the Pueblo de Cochiti of New Mexico, a federally recognized Indian Tribe, and the United States Army Corps of Engineers, as set forth in the report of the

Corps of Engineers entitled "Report on Investigations, Wet Field Solution", dated July 24, 1990, addressing seepage problems at the Cochiti Dam on tribal lands.

SEC. 2. DUTIES OF THE SECRETARY OF THE INTERIOR.

In accordance with the settlement agreement and pursuant to the trust relationship between the United States Government and the Pueblo de Cochiti of New Mexico, upon completion of construction of the drainage system, the Secretary of the Interior, acting through the Bureau of Indian Affairs, shall be responsible for its maintenance, repair, and replacement, as provided in the settlement agreement.

SEC. 3. DUTIES OF THE SECRETARY OF THE ARMY.

In accordance with the settlement agreement, the Secretary of the Army is authorized and directed to construct the underground drainage system necessry to correct the high ground water problem at the Pueblo de Cochiti and to carry out all other provisions of the settlement agreement, except those specifically assigned to the Secretary of the Interior under the provisions of this Act.

SEC. 4. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act, and the settlement agreement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4437 is sponsored by Congressman RICHARDSON. The bill authorizes the Secretary of the Interior and the Secretary of the Army to implement the settlement agreement between the Pueblo de Cochiti and the U.S. Army Corps of Engineers to address the seepage problems at the Cochiti Dam. The settlement agreement provides for the construction of an underground drainage system, the restoration of the agricultural lands, the establishment of a fund for the operation and maintenance of the system, and for damages to the Pueblo.

Construction of Cochiti Dam has brought great hardship to the Pueblo. It has resulted in the loss of tribal lands, the destruction of important cultural and religious sites, and the flooding of tribal agricultural lands. This legislation resolves this longstanding dispute and compensates the Pueblo for their losses.

This bill enjoys the support of the Pueblo, the Department of Justice, and the Army Corps of Engineers. This measure has bipartisan support and I urge my colleagues to support it.

Mr. Speaker, I would like to include in the RECORD at this time, a letter from the chairman of the Committee on Interior and Insular Affairs, Robert A. Roe, regarding the agreement between our two committees concerning the consideration of this bill.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, July 24, 1992.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, DC.

Dear Mr. CHAIRMAN: I am writing with regard to your letter requesting our agreement to the consideration of H.R. 4437, a bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers, under suspension of July 27th. As you note, this legislation was jointly referred to our two committees.

Our Committee has reviewed this legislation and in recognition of the need for expeditious Floor action on the bill, I have no objection to its consideration under suspension of July 27th. This decision should, however, in no context be construed as a waiver of our Committee's jurisdiction over the subject matter of H.R. 4437, or of our inclusion in any conference thereon. I am pleased to be of assistance in this matter.

Warmest personal regards.

Sincerely,

ROBERT A. ROE,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4437, A bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo deCochiti and the Army Corps of Engineers. The gentleman from West Virginia has adequately explained the bill's provisions, so I will keep my comments very brief.

The pueblo has long suffered from the construction of the Cochiti Dam in 1978. The dam and resulting reservoir occupy more than 10,000 acres of the pueblo's ancestral lands. Moreover, water seeping under the dam has flooded much of the pueblo's agricultural acreage, rendering it useless. This bill brings to a successful close the lengthy settlement process between the pueblo and the Army Corps of Engineers, and will enable the pueblo to return the affected land to beneficial use.

The administration fully supports this legislation, and I urge my colleagues to do the same.

Mr. RICHARDSON. Mr. Speaker, today the House will consider under suspension of the rules an historic bill that is critical to the Pueblo deCochiti Indian tribe in my district in New Mexico. I want to thank my colleague, Chairman MILLER of the Committee on Interior, for his interest and support in bringing this legislation to the floor.

For years, the Pueblo deCochiti has suffered from the adverse effects of a sever seepage problem at the federally constructed Cochiti Dam on the pueblo's lands. Today, the House will consider H.R. 4437, legislation I introduced to resolve this longstanding problem. H.R. 4437 authorizes the Secretary of the Interior and the Secretary of the Army to meet the terms of a settlement agreement negotiated by the Pueblo deCochiti and the Army Corps of Engineers.

The cultural life of the people of the Pueblo deCochiti is deeply rooted in agricultural and religious uses of pueblo lands. For hundreds of years the Cochitis have cultivated traditional crops such as maize, beans, and squash. In addition, the Cochiti people often preform sacred ceremonies and worship at religious sites on pueblo lands. This heritage has been severely compromised by the excessive ground water flow under Cochiti Dam.

Cochiti Dam, which was built in 1970, began to exhibit signs of extensive seepage from under the dam which elevated the water table and literally turned the Pueblo deCochiti fields into ponds and marshlands. Small scale drainage measures were undertaken by the Army Corps of Engineers to mitigate the damage caused by the seepage, to no avail.

In 1985, the Pueblo deCochiti filed suit against the Corps of Engineers to recover damages for the destruction of the agricultural lands and to force the corps to develop a solution to the seepage problem. The suit is still pending.

In 1988, Congress passed legislation which provided a means for the pueblo and the Corps of Engineers to resolve the issue outside of court. Under Public Law 100–202, the Army Corps of Engineers and the Pueblo deCochiti were directed to formulate a structural solution to the problem, and funding was provided for design and engineering. The legislation further provided that both parties would negotiate, and, if appropriate, submit to Congress a settlement that is acceptable to both parties.

I am pleased that the Pueblo deCochiti and the Army Corps of Engineers have reached a settlement agreement. The agreement includes provisions for the construction of a suitable underground drainage system to restore the traditional agricultural lands, compensation for past damages to the pueblo, and an operating fund for the drainage system.

Mr. Speaker, passage of H.R. 4437 will help the Pueblo deCochiti to restore the integrity of its land and return to its traditional and religious land use practices. I urge my colleagues to support this critical measure.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4437.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ZUNI RIVER WATERSHED ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4026) to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4026

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 "Zuni River Watershed Act of 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) private landowners;

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices;

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni River Tribe;

(iv) the Ramah Band of the Navajo Tribe of Indians;

(v) the Navajo Nation;

(vi) the State of New Mexico;

(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(viii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the tasks.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4026 is sponsored by Representative RICHARDSON of New Mexico. The Zuni Watershed Act will help the Zuni Pueblo, Ramah Navajo Tribe, and the Navajo Nation to plan to restore severely damaged trust lands in the Zuni River watershed. This legislation will institute a comprehensive and effective plan for the proper management of the watershed, based on a cooperative collaboration of the Zuni Ramah, and Navajo Tribes, the State of New Mexico, private landholders and Federal agencies. H.R. 4026 is critical for the restoration and protection of important natural and cultural resources in the watershed.

This legislation is necessary for the implementation of the Zuni Conservation Act which passed in the last Congress. The act which passed in the last Congress was to protect the lands on the Zuni Reservation. This bill is to plan to protect the part of the Zuni watershed upstream from the reservation.

The bill has the support of the administration and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully support enactment of H.R. 4026, the Zuni River Watershed Act. I will only add to the statements of the gentleman from West Virginia by noting that the bill is endorsed by both the Bureau of Indian Affairs and the administration.

Mr. RICHARDSON. Mr. Speaker, extensive runoff of water from the Zuni River in New Mexico continues to erode the tribal lands of the Zuni Pueblo Indians, the Ramah Navajo Tribe, and the Navajo Nation. Severe damage to trust lands in this area have occurred for decades, destroying natural resources and significant archeological sites.

Today, the House will consider H.R. 4026, legislation I introduced that will institute an effective plan for the proper management of the Zuni watershed. The plan is based on a cooperative collaboration of the Zuni Tribe, the Ramah Band of the Navajo Tribe, the Navajo Nation, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs, private landholders, and other residents living within the Zuni watershed.

The plan takes a comprehensive approach to rehabilitating and managing the watershed and is comprised of several components, including a study of the portion of the Zuni River which is upstream from the Zuni Indian Reservation; recommendations for watershed protection and rehabilitation on both public and private lands; management guidelines for maintaining and improving the natural and cultural resource base on public and private lands; a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Tribe; and proposals for voluntary cooperative programs to implement and administer the plan.

This legislation also requires that the Secretaries of Agriculture and Interior and the tribes submit a report on the study and plan to Congress within 4 years after enactment.

Mr. Speaker, passage of H.R. 4026 is a critical step toward the restoration of the Zuni River watershed—a step that will help all residents living in the watershed. I urge my colleagues to join me in support.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4026, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INDIAN TRIBAL JUSTICE ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4004) to assist in the development of tribal judicial systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4004

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 "Indian Tribal Justice Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and independence of Indian tribes;

(3) Indian tribes possess the inherent authority to establish, empower, control, and supervise tribal justice systems;

(4) tribal justice systems are essential to self-government and integral to the fulfillment of the Federal Government's policy of self-determination;

(5) tribal justice systems are inadequately funded and the lack of adequate funding impairs their ability to administer justice effectively;

(6) each Indian tribe is free to establish its own institutions and form of government; and

(7) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which administers justice, which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support of the Bureau of Indian Affairs established under section 101.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "tribal justice system" means the entire justice system of an Indian tribe, including but not limited to traditional methods and forums for dispute resolution, lower courts, appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record, and the employees thereof.

TITLE I—TRIBAL JUSTICE SUPPORT

SEC. 101. OFFICE OF TRIBAL JUSTICE SUPPORT.

(a) ESTABLISHMENT.—There is hereby established within the Bureau, the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of the date of the enactment of this Act are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) FUNCTIONS.—In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Develop and conduct programs of continuing education and training for personnel of tribal justice systems.

(2) Provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal justice systems.

(3) Provide technical assistance and training to Indian tribes, tribal organizations, and inter-tribal consortia upon request.

(4) Study and conduct research concerning the operation of tribal justice systems.

(5) Promote cooperation and coordination between tribal justice systems, the Federal judiciary, and State judiciary systems.

(6) Oversee the continuing operations of the Courts of Indian Offenses.

(d) NO IMPOSITION OF STANDARDS.—Nothing in this section shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) ASSISTANCE TO TRIBES.—(1) The Office shall provide training and technical assistance to any Indian tribe upon request. Technical assistance and training which may be provided by the Office shall include, but is not limited to, assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes and tribal organizations.

(f) INFORMATION CLEARINGHOUSE ON TRIBAL JUSTICE SYSTEMS.—The Office shall establish an information clearinghouse (which shall include an electronic data base) on tribal justice systems, including, but not limited to, information on tribal judicial personnel, funding, model tribal codes, tribal justice activities, and tribal judicial decisions.

SEC. 102. SURVEY OF TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Office shall conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding needed to provide for expeditious and effective administration of justice. The Office shall annually update the information and findings contained in the survey required under this section.

(b) LOCAL CONDITIONS.—In the course of any annual survey, the Office shall document local conditions on each reservation, including but not limited to—

(1) the reservation size and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case loads;

(4) the facilities and program resources available;

(5) funding levels and personnel staffing requirements for the tribal justice system;

(6) the experience and qualifications of judicial personnel of the tribal justice system; and

(7) the training and technical assistance needs of the tribal justice system.

(c) CONSULTATION WITH INDIAN TRIBES.—The Office shall actively consult with Indian tribes in the development of the survey of conditions of tribal justice systems. Indian tribes shall have the opportunity to review and make recommendations regarding the findings of the survey prior to final publication of the survey. After Indian tribes have reviewed and commented on the results of the survey, the Office shall report its findings to the Secretary, the Select Committee on Indian Affairs of the Senate, and the Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—The Secretary is authorized (to the extent provided in advance in appropriation Acts) to enter into contracts, grants, or agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the development, enhancement, and continuing operation of tribal justice systems on Indian reservations.

(b) PURPOSES FOR WHICH FINANCIAL ASSISTANCE MAY BE USED.—Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) planning for the development, enhancement, and operation of tribal justice systems;

(2) the employment of judicial personnel;

(3) training programs and continuing education for tribal judicial personnel;

(4) the acquisition, development, and maintenance of a law library or computer assisted legal research capacities;

(5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of a records management system;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) multidisciplinary investigations of child abuse; and

(E) tribal traditional justice systems or traditional methods of dispute resolution.

(c) FORMULA.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulations, a formula which establishes base support funding for tribal justice systems. In the development of regulations for base support funding for tribal justice systems, the Secretary shall consult with and receive the recommendations of Indian tribes.

(2) The Secretary shall develop appropriate case load standards and staffing requirements for tribal justice systems that take into account unique reservation conditions. In the development of these standards, the Secretary shall work cooperatively with Indian tribes and shall refer to comparable relevant standards developed by the Judicial Conference of the United States, the Administrative Office of United States Courts, the National Center for State Courts, and the American Bar Association.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the case load standards and staffing requirements developed under this paragraph;

(B) the reservation size and population to be served;

(C) the volume and complexity of the case loads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing the formula for base support funding for tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) OFFICE.—There are authorized to be appropriated to carry out the provisions of sections 101 and 102 of this Act $7,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

(b) BASE SUPPORT FUNDING.—There are authorized to be appropriated to carry out the provisions of section 103 of this Act $50,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

TITLE II—JUSTICE GRANT PROGRAM

SEC. 201. JUSTICE GRANT PROGRAM.

Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make grants to Indian tribes and Indian organizations for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to administer justice on Indian reservations.

"(2) The purposes for which funds provided under paragraph (1) may be used include, but are not limited to—

"(A) the enhancement of tribal justice systems through the advancement of tribal self-determination;

"(B) the training and education of tribal judges, court administrators, court clerks, probation officers, officers of the court, and other employees of tribal courts;

"(C) the development and revision of tribal codes, rules of procedure, and other judicial standards;

"(D) the development and implementation of traditional justice systems and forms of dispute resolution;

"(E) the development of programs to assist tribal victims of crime or victims assistance programs;

"(F) the development of new and innovative diversion programs for tribal offenders;

"(G) the development of tribal court reporting systems and publication of tribal court decisions; and

"(H) the establishment of innovative local and national programs for the advancement of tribal justice systems.

"(3) Notwithstanding the second sentence of subsection (b), the 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) required to be contributed by a grant recipient may be made in cash or through the provision of property or services, fairly evaluated, from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes and Indian organizations to the Secretary in such form as the Secretary shall prescribe.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803(e), and 803A"; and

(2) by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, for the purpose of carrying out the provisions of section 803(e).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4004 is the Indian Tribal Justice Act of 1992. The bill establishes an Office of Tribal Justice Support within the Bureau of Indian Affairs to provide funds for the development and continuing operation of tribal justice systems. In addition, the Office will provide training and technical assistance to tribes and function as an information clearinghouse. The bill also provides for grants to tribal organizations through the Administration for Native Americans. Under these ANA grants, tribes can enhance their justice systems and get supplemental assistance to improve the quality of justice. The committee took a great deal of testimony on the concept of Indian tribes forming their own judicial conference similar to those in States and the Federal Government. It is the committee's position that if tribes choose to form such a conference, this ANA funding will allow them the flexibility to do so. That way, the conference will emanate from the inherent sovereignty of tribes as opposed to a congressional delegation of this authority.

The committee supports the inherent right of tribes to maintain their own unique forms of justice systems. It is the committee's position that these tribal systems of justice should be al-

lowed to flourish, but at the same time the civil rights of Indian people need to be protected. The Indian Civil Rights Act passed in 1968. It guarantees similar rights to Indian people as are guaranteed under the Bill of Rights. Since then, tribal courts have been forced to modernize at a rapid pace. After 5 years of hearings, the U.S. Civil Rights Commission concluded last year that the tribal courts had problems, but these problems all stemmed from a lack of funding. The Commission also recommended that tribal courts retain their independence from the Federal courts and be allowed to grow with additional funding. The bill will accomplish those objectives.

This measure has bipartisan support and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4004, the Indian Tribal Justice Act, as amended by the committee. The gentleman from West Virginia has adequately explained the bill's provisions, so I will simply address some of the important policy considerations underlying the substitute.

It is clear that there is a real need for the increase in both the financial and technical support afforded to Indian tribal justice systems by the substitute. Most tribal justice systems are woefully underfunded and, as a result, understaffed. Consequently, their ability to serve adequately the needs of the tribes and to uphold justice is undermined. Caseloads increase, backlogs develop, and enforcement of tribal laws and regulations lags.

As an example, the 1991 Report of the U.S. Commission on Civil Rights noted that inadequate funding seriously compromises the tribes' ability to comply with the Indian Civil Rights Act—the law guaranteeing to Indian residents of the reservations the same vital rights guaranteed to us by the Constitution. The substitute increases both funding and support for tribal justice systems to alleviate these problems.

The substitute also seeks to address the concerns raised by many tribes that a federally created tribal judicial conference, as envisioned in the bill as introduced, could intrude upon tribal sovereignty by imposing non-Indian concepts of justice on the tribes. The authority of each tribal court comes directly from the inherent sovereign power of each individual Indian tribe. While tribal justice systems are essential to the proper execution and enforcement of tribal laws, each tribe must determine for itself the structure and authority of its system. In eliminating a federally created tribal judicial conference and its attendant offices, the substitute avoids possible encoachment on the tribes' rights. Instead, the tribes are free, if they wish, to form their own conference or similar entity.

In addition, the substitute is more sensitive to those tribes with traditional, non-Anglo-American justice systems. Many tribes—such as the Pueblos of New Mexico and the Navajo—have justice systems based on traditional formats of dispute resolution. The language of the substitute reflects the committee's desire that these historic forms retain equal footing with the newer, nontraditional systems.

Finally, I note that the objectives of H.R. 4004 enjoy the support of the Department of the Interior.

For these reasons, I urge my colleagues to support passage of H.R. 4004 as amended by the committee.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4004, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALASKA LAND STATUS TECHNICAL CORRECTIONS ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3157) to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3157

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 "Alaska Land Status Technical Corrections Act of 1992".

SEC. 2. FORT DAVIS NATIVE ALLOTMENT.

Section 905(a)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by inserting "or within Fort Davis (except as provided in subparagraph (B))" after "Naval Petroleum Reserve No. 4)"; and

(3) by adding at the end the following new subparagraph:

"(B) The land referred to in subparagraph (A) with respect to Fort Davis—

"(i) shall be restricted to—

"(I) the allotment applications named in the decision published at 96 IBLA 42 (1987) and to the acreage involved in those applications; or

"(II) the heirs of an applicant who made an application described in subclause (I); and

"(ii) shall be subject to valid existing rights and an easement for the Iditarod National Historic Trail established by section 5(a)(7) of the National Trails System Act (16 U.S.C. 1244(a)(7)), but pending final determination of the trail's location, the easement shall be located on an interim basis by the Secretary, in consultation with the Iditarod Historic Trail Advisory Council.".

SEC. 3. NATIVE ALLOTMENT RELOCATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of the date of enactment of this subsection, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

"(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

"(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

"(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

"(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

"(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

"(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled 'An Act to provide for the admission of the State of Alaska into the Union', approved July 7, 1958 (commonly referred to as the 'Alaska Statehood Act'), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.".

SEC. 4. GIFT OF STOCK TO SIBLINGS.

Section 7(h)(1)(C)(iii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended by striking "or nephew" and inserting "nephew, or (if the holder has reached the age of majority as de-

fined by the laws of the State of Alaska) brother or sister".

SEC. 5. SHAREHOLDER HOMESITE.

Section 21(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(j)) is amended—

(1) by striking "prior to December 18, 1991,"; and

(2) by striking "*Provided*, That" and inserting "*Provided*, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 37: *Provided further*, That".

SEC. 6. CHUGACH NATIONAL FOREST BOUNDARY CHANGE.

(a) BOUNDARY ADJUSTMENT.—The boundary of the Chugach National Forest, Alaska, is modified to include the approximately 9,300 acres as generally depicted on the map entitled "Official Map, Boundary Modification, Chugach National Forest" and dated September 1988. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) ADMINISTRATION.—Subject to valid existing rights, all Federal lands brought within the boundary of the Chugach National Forest by subsection (a) are added to and shall be administered as part of the Chugach National Forest.

(c) TERMS AND CONDITIONS.—(1) Nothing in this Act shall be construed to affect the validity of, or the terms and conditions of, any right-of-way, easement, lease, license, or permit on lands transferred by this section that is in existence on the date of enactment of this Act.

(2) Notwithstanding any other provision of law, the Secretary of the Interior shall delegate, as necessary, to the Secretary of Agriculture the authority to renew or reissue the authorizations described in paragraph (1). The change of administrative jurisdiction over these lands resulting from subsection (a) shall not constitute a ground for the denial of renewal or reissuance of the authorizations described in paragraph (1).

(d) LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Chugach National Forest, as modified by this section, shall be treated as if it were the boundary of the Chugach National Forest as of January 1, 1965.

SEC. 7. RABBIT CREEK LIONS CLUB.

(a) CONVEYANCE.—Pursuant to the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.) (commonly referred to as the "Recreation and Public Purposes Act"), and other laws of the United States, the Secretary of the Interior shall, upon payment to the Secretary of an amount equal to the fair market value of the lot, convey lot 253, Township 12 North, Range 3 West, Seward Meridian, Alaska, containing .93 acres, to the Rabbit Creek Lions Club. The conveyance shall—

(1) preserve valid existing rights-of-way and easements; and

(2) reserve all minerals to the United States.

(b) APPRAISAL.—The appraisal to determine the fair market value of the lot shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and shall not include any improvements currently on the lot.

SEC. 8. ISSUANCE OF NEW STOCK.

Section 7(g)(1)(B)(i)(I) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B)(i)(I)) is amended by adding at the end the following: "and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,".

SEC. 9. UNIVERSITY OF ALASKA.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey to the University of Alaska, by quitclaim deed and without consideration, all the right, title, and interest of the United States in and to—

(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres, including improvements on the lands, located at Palmer and Matanuska, Alaska; and

(2) the lands of the University of Alaska Fur Farm Experiment Station, consisting of approximately 37 acres, including improvements on the lands, located at Petersburg, Alaska, subject to the terms of—

(A) the lease between the Forest Service and the University of Alaska dated March 29, 1978; and

(B) the agreement between the parties listed in subparagraph (A) dated March 2, 1983.

SEC. 10. MINORITY BUSINESS.

Section 29(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)) is amended by inserting "and economically disadvantaged" after "minority" each place it appears in paragraphs (1) and (2).

SEC. 11. SHAREHOLDER HIRE.

Section 29(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(g)) is amended—

(1) by striking "defined in" and inserting "of entities excluded from the definition of 'employer' by"; and

(2) by striking "section 701(b)" and inserting "section 701(b)(1)".

SEC. 12. ALASKA NATIVE ALLOTMENTS.

Section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) is amended by adding at the end the following new subsection:

"(f)(1)(A) Notwithstanding paragraphs (1) and (6) of subsection (a), and subject to subparagraph (B), each Alaska Native allotment application made pursuant to the Act entitled 'An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska', approved May 17, 1906 (34 Stat. 197), that—

"(i) was pending before the Department of the Interior on or before December 18, 1971; and

"(ii) describes lands within the National Petroleum Reserve-Alaska that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation,

is reinstated only for the purpose of this section, subject to this section.

"(B) The reinstatement under subparagraph (A) shall be carried out regardless of whether the application was—

"(i) relinquished by the applicant; or

"(ii) denied by the Department of the Interior, if the denial was based solely on the grounds that land within the National Petroleum Reserve-Alaska was unavailable.

"(2)(A) To the extent that the application describes lands (or any interest in the lands) that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation, the Secretary is authorized to accept from the Village Corporation or Regional Corporation the reconveyance or relinquishment of the lands (or any interest in the lands).

"(B)(i) To the extent that the application describes lands (or any interest in the lands) that a Village Corporation is not willing to reconvey or relinquish pursuant to subparagraph (A), the applicant may relinquish any claim to any portion of the lands (or any interest in the lands) or may, with the consent of the affected Village Corporation, amend the application to exclude the lands and include in lieu thereof a description of lands selected by, interim conveyed to, or patented to the Village Corporation of an acreage that is not to exceed the amount of land relinquished.

"(ii) The Secretary is authorized to accept the reconveyance or relinquishment of the lands (or any interest in the lands) described in the amended application from the Village Corporation or Regional Corporation in lieu of the lands (or any interest in the lands) described in the initial application.

"(C) If a Village Corporation or Regional Corporation reconveys lands (or any interest in the lands) to the United States under subparagraph (A) or (B), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation or Regional Corporation.

"(D) The authority of the Secretary to accept the reconveyance or relinquishment of lands (or any interest in the lands) under this paragraph shall terminate on the date that is 6 years after the date of enactment of this subsection.

"(3)(A) Subject to any valid existing rights, to the extent that the application describes lands that are authorized to be reconveyed or relinquished to the United States under paragraph (2), the Village Corporation shall file with the Secretary, not later than 3 years after the date of enactment of this subsection, the name of the applicant and the land description of each allotment proposed to be reconveyed or relinquished.

"(B) Upon receipt of the land description, the Secretary shall immediately notify the State of Alaska and all interested parties of the land description proposed to be reconveyed or relinquished, and any such party shall have 60 days following notification in which to file with the Department of the Interior a protest as provided in subsection (a)(5).

"(C) The Secretary shall then either—

"(i) if no protest is filed, approve the application; or

"(ii) if a protest is filed, adjudicate the legal sufficiency of any protest timely filed; and—

"(I) if the protest is legally insufficient, approve the application; or

"(II) if the protest is valid, issue a decision that closes the application and that is final for the Department.

"(D) The Secretary shall, with respect to each allotment approved pursuant to this subsection—

"(i) survey the allotment; and

"(ii) following reconveyance or relinquishment, issue a Native allotment certificate to the applicant or heirs of the applicant.

"(4)(A) To the extent a Village Corporation or a Regional Corporation reconveys lands (or any interest in the lands) to the United States pursuant to paragraph (2) and the conveyance results in a reduction in the acreage charged against the entitlement of the Village Corporation or Regional Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Village Corporation or Regional Corporation shall be entitled to make selections in lieu of the reconveyed lands (or any interest in the lands).

"(B)(i) The quantity of acreage of the surface estate reconveyed pursuant to paragraph (2) shall be added to the quantity of

acreage of underselection, if any, for the Village Corporation. The Secretary shall provide for the selection of lands for replacement in accordance with the procedures for withdrawals and selections under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)).

"(ii)(I) A Village Corporation described in clause (i) shall be entitled to select lands for replacement from the lands that have been withdrawn for selection by the Village Corporation pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)).

"(II) In any case in which the lands described in subclause (I) are no longer in Federal ownership and the Village Corporation is entitled to make a selection pursuant to this subparagraph, the Secretary shall withdraw, and the Village Corporation shall select, Federal lands that are compact and contiguous with lands previously conveyed to the Village Corporation.

"(C) Lands (or any interests in the lands) in the replacement of lands (or interests in the lands) reconveyed by the Regional Corporation to the United States under this subsection shall be selected by the Regional Corporation from lands that are—

"(i) compact and contiguous with other lands previously conveyed to the Regional Corporation within the National Petroleum Reserve-Alaska; and

"(ii) beneath the surface estate of lands selected and conveyed to a Village Corporation.

"(D) The Secretary shall convey the lands selected pursuant to this paragraph in accordance with this subsection.

"(5)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (3) shall be subject to any existing easement or other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

"(B) Each conveyance by the Secretary to any applicant or to the heirs of the applicant under this subsection shall reserve to the United States—

"(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the conveyed lands, and the right of the United States, or a lessee or assignee of the United States, to enter on lands conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

"(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

"(C)(i) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in a reconveyance to the United States, the Secretary shall reserve from the reconveyance to the applicant or to the heirs of the applicant for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

"(ii) With respect to a reconveyance of lands (or any interest in the lands) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled—

"(I) to a reduction of the acreage charged against the entitlement under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

"(II) to select mineral interests to replace the acreage.

"(6) The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this subsection.".

SEC. 13. POINT HOPE TOWNSITE.

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

(1) The term "Act" means the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(2) The terms "Native" and "descendant of a Native" have the meanings provided the terms in subsections (b) and (r), respectively, of section 3 of the Act (43 U.S.C. 1602).

(3) The term "North Slope Borough surveys" means those lands within sections 11 and 14 of Township 34 North, Range 35 West, Kateel River Meridian, Alaska, that have been surveyed by the North Slope Borough, Alaska, in surveys identified as—

(A) "North Slope Borough Survey Plat of New Point Hope," dated December 1975, covering 137.49 acres;

(B) "Addition Number One" to the survey described in subparagraph (A), dated April 1978, covering 12.50 acres;

(C) "Addition Number Two" to the survey described in subparagraph (A), dated September 1980, covering 12.50 acres; and

(D) "Addition Number 3" to the survey described in subparagraph (A), dated March 1983, covering 30.374 acres.

(4) The term "Regional Corporation" means Arctic Slope Regional Corporation, the Native Regional Corporation established pursuant to section 7(d) of the Act (43 U.S.C. 1606(d)) by the Native residents of the North Slope of Alaska.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Village Corporation" means Tigara Corporation, the Native Village Corporation established pursuant to section 8(a) of the Act (43 U.S.C. 1607(a)) by the Native residents of the Village of Point Hope, Alaska.

(b) RECONVEYANCE.—(1) Subject to paragraph (2), the Secretary is authorized to accept reconveyance from the Village Corporation and the Regional Corporation of interests in specific, individual lots identified in the North Slope Borough surveys in any case in which the land (or any interest in the land) of the lots had been previously interim conveyed or patented to the Village Corporation and the Regional Corporation.

(2)(A) In making any reconveyance to the United States pursuant to paragraph (1), the Village Corporation shall—

(i) designate the individual to receive title to the specific lot; and

(ii) certify to the Secretary that the individual is a resident of Point Hope and an Alaska Native or descendant of a Native.

(B) Each reconveyance to the United States under this section shall be completed not later than 5 years after the date of enactment of this section.

(c) ISSUANCE OF DEEDS.—(1)(A) Subject to paragraphs (2) and (3), upon receipt of the reconveyance, identification, and certification described in subsection (b), the Secretary shall transfer each lot to the individual identified by the Village Corporation, by issuing—

(i) a restricted deed pursuant to subparagraph (B); or

(ii) an unrestricted deed pursuant to subparagraph (C).

(B) A restricted deed may be issued under this paragraph subject to the following conditions:

(i) The deed shall provide that the title conveyed is inalienable (except upon approval of the Secretary).

(ii) After the issuance of the restricted deed, the lot shall not be subject to taxation, to levy and sale in satisfaction of debts, contracts, or liabilities of the patentee, or to any claims of adverse occupancy or law of prescription.

(iii) The approval by the Secretary of the sale by an individual of a lot deeded under this section shall vest in the purchaser a complete and unrestricted title beginning on the date of approval, except that if the purchaser is an Alaska Native or a descendent of a Native, the purchaser shall receive a deed subject to the same restrictions as applied to the initial grantee.

(C)(i) Upon a finding by the Secretary that the individual identified by the Village Corporation is competent to manage the property and has petitioned the Secretary for an unrestricted deed, the Secretary shall issue the unrestricted deed in accordance with clauses (ii) and (iii).

(ii) Except as provided in clause (iii), if the Secretary issues an unrestricted deed, all restrictions as to sale, encumbrance, or taxation of the land subject to the deed shall be removed.

(iii) Except with respect to any obligation owed to the United States, the land subject to the deed shall not be liable to the satisfaction of any debt as a result of a contract in effect prior to issuance of the deed.

(2) Any interest in any lot conveyed by the Secretary pursuant to this subsection shall be subject to all valid existing rights.

(3) The aggregate amount of acreage of all lots conveyed under this subsection shall not exceed 195 acres.

(d) ALLOTMENTS.—(1)(A) If any lot identified pursuant to this section in the North Slope Borough surveys encompasses land (or any interest in the land) that—

(i) is the subject of a valid Alaska Native allotment application made pursuant to the Act entitled "An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska", approved May 17, 1906 (34 Stat. 197); and

(ii) includes land that has been interim conveyed or patented to the Village Corporation and the Regional Corporation,

the applicant for the allotment may, with the consent of the Village Corporation, submit an amended application that describes land that had been interim conveyed or patented to the Village Corporation and Regional Corporation (in lieu of the land described in the initial application) in an acreage that is equal to the acreage of the land described in the initial application.

(B) The Secretary shall accept the reconveyance of the land (or any interest in the land) described in subparagraph (A) from the Village Corporation or the Regional Corporation, in lieu of the land (or any interest in the land) described in the original application.

(2)(A) To the extent the Secretary accepts a reconveyance of land (or any interest in the land) pursuant to paragraph (1), the Secretary shall approve the amended application for the land reconveyed, and adjudicate the remainder of the allotment application. The approval of an amended application under this paragraph shall be a final and conclusive determination of the validity of the allotment.

(B) The Secretary shall—

(i) survey each allotment approved pursuant to this paragraph; and

(ii) issue a Native allotment certificate to the applicant or to the heirs of the applicant.

(3)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (2)(B) shall be subject to any existing easements or any other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

(B) Each conveyance by the Secretary to any applicant, or to the heirs of the applicant under this subsection shall reserve to the United States—

(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the land, and the right of the United States, or a lessee or assignee of the United States, to enter upon land conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

(C) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in any conveyance to the United States, the reconveyance by the Secretary to the applicant or to the heirs of the applicant shall reserve from the conveyance for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

(4) With respect to any reconveyance of land (or any interest in the land) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled either—

(A) to a reduction of the acreage charged against the entitlement under the Act; or

(B) to select mineral interests to replace the acreage.

(e) REDUCTION IN CHARGED ACREAGE.—(1) Except as provided in subsection (d)(4), if the Village Corporation and the Regional Corporation reconvey land (or any interest in the land) to the United States under the authority of subsection (b) or (d)(1), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation and the Regional Corporation pursuant to the Act.

(2)(A) To the extent that the reconveyance to the United States of land, or interests in land, by the Village Corporation and the Regional Corporation under this section results in a reduction in the acreage charged against the entitlement of the Village Corporation and Regional Corporation under paragraph (1), the Village Corporation shall be entitled to make selections in lieu of the reconveyed land (or any interest in the land).

(B) The amount of any acreage reconveyed by the Village Corporation under this section shall be added to the amount of other acreage computed as underselection, if any, for the Village Corporation.

(C) The Secretary shall withdraw and the Village Corporation shall select replacement acreage under this paragraph pursuant to the authority in section 22(j)(2) of the Act (43 U.S.C. 1621(j)(2)).

(D) Except as provided in subsection (d)(4), in any case in which a Village Corporation receives an interim conveyance or patent to the surface estate selected pursuant to section 12(a) of the Act (43 U.S.C. 1611(a)), the Regional Corporation shall receive an interim conveyance or patent to the subsurface estate.

(f) CONGRESSIONAL INTENT.—Nothing in this section shall be construed as satisfying, relieving, or otherwise affecting the requirements of section 14(c) of the Act (43 U.S.C. 1613(c)).

(g) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this section.

SEC. 14. LAPSED MINING CLAIMS.

Section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2)(A)(i) Subject to valid existing rights, an unpatented mining claim or location, or portion thereof, under the general mining laws that is situated outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and within the exterior boundaries of lands validly selected by a Village or Regional Corporation pursuant to section 12 or section 14(h) and that lapses, is abandoned, relinquished, or terminated, declared null and void, or otherwise expires, after August 31, 1971, because of failure to comply with requirements of the general mining laws (including the mining laws of the State of Alaska), is deemed to be null and void for the purposes of this paragraph. The Secretary shall promptly determine the validity of such claims or locations within conservation system units.

"(ii) Subject to valid existing rights and to subparagraph (B), the lands outside a conservation system unit included in a mining claim or location described in clause (i) shall—

"(I) be considered part of the lands selected pursuant to sections 12 and 14(h) by the Village or Regional Corporation described in clause (i); and

"(II) be eligible for conveyance pursuant to this Act unless specifically identified and excluded from an initial selection application.

"(iii) Subject to valid existing rights and to subparagraph (B), any portion outside a conservation system unit of a mining claim or location described in clause (i) that is situated within the exterior boundaries of lands conveyed prior to the date of enactment of this paragraph from selections under section 12 or section 14(h) shall be conveyed pursuant to this Act.

"(B) No lands shall be conveyed pursuant to this subsection if the conveyance would result in the receipt of title to lands in excess of an acreage entitlement under this Act.".

SEC. 15. HAIDA CORPORATION ACCOUNT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is amended—

(1) in section 2(a)—

(A) in paragraph (9)—

(i) by striking "as of January 1, 1995"; and

(ii) by striking "on January 1, 1995"; and

(B) by adding at the end the following new paragraph:

"(13) The term 'agency' includes—

"(A) any instrumentality of the United States;

"(B) any element of an agency; and

"(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code."; and

(2) by adding at the end the following new section:

"SEC. 13. HAIDA CORPORATION ACCOUNT.

"(a) DEFINITION.—As used in this section, the term 'property' has the same meaning as is provided the term in section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611 note), as amended.

"(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Haida Corporation Account.

"(2) Beginning on October 1, 1996, the balance of the account shall—

"(A) be available to the Haida Corporation for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

"(B) remain available until expended.

"(3)(A) The Haida Corporation may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale. Notwithstanding any other provision of law, the Haida Corporation may assign without restriction any or all of the accounts upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

"(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

"(i) receive deposits;

"(ii) make deposits into escrow when an escrow is required for the sale of any property; and

"(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

"(c) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

"(A) the average value per acre of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the number of acres of selection rights that the Haida Corporation possesses as of October 1, 1996.

"(2) The average value per acre of the lands referred to in paragraph (1) shall be determined by dividing—

"(A) the fair market value of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the quantity of acres of the lands referred to in subparagraph (A).

"(3) The fair market value of the surface estate of lands shall be determined as of March 1, 1993, pursuant to subsection (d).

"(d) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of Agriculture shall commence an appraisal of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3). In conducting the appraisal, the Secretary shall include, among other uses of the lands, the value of the timber on the land (on a conversion return basis applicable for southeast Alaska within region 10 of the National Forest System) utilizing the markets then available to the Haida Corporation. The appraisal shall be based on the Uniform Appraisal Standards for Federal Land Acquisitions.

"(B) The Haida Corporation shall have the opportunity to present evidence of value to the Secretary of Agriculture. The Secretary shall provide the Haida Corporation with a preliminary draft of the appraisal. The Haida Corporation shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary shall give consideration to the comments and evidence of value submitted by the Haida Corporation under this subparagraph.

"(2) The Secretary of Agriculture shall complete the valuation of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3) not later than January 1, 1996. On completion of the valuation, the Secretary of Agriculture shall submit the valuation to the Secretary of the Interior for certification. The Secretary of the Interior shall forward a certified copy of the valuation to the Haida Corporation.

"(3) If the Haida Corporation disputes the final valuation, the Secretary of Agriculture and the Haida Corporation may mutually agree to employ a process of bargaining or some other process of dispute resolution to determine the value of the lands in question.

"(4) The Secretary of Agriculture and the Haida Corporation may mutually agree to suspend or modify any of the deadlines under this subsection.

"(e) ELECTION.—(1) Not later than 120 days after receipt of a certified copy of the final valuation from the Secretary of the Interior pursuant to subsection (d)(2), the Haida Corporation shall make an irrevocable election between the remaining selection rights of the Haida Corporation under section 10 and the account described in subsection (b), and shall notify the Secretary of the Interior of the election.

"(2) If the Haida Corporation—

"(A) elects to utilize the remaining selection rights described in paragraph (1); or

"(B) fails to notify the Secretary of the Interior of any such election in a timely manner,

the account described in subsection (b) shall not be established, the Haida Corporation shall permanently waive any right to the establishment of the account, and the selection rights of the Haida Corporation under section 10 shall remain unimpaired.

"(3) If the Haida Corporation elects to utilize the account described in subsection (b), the Haida Corporation shall waive any selection rights under section 10 as of the date the Haida Corporation notifies the Secretary of the Interior of the election.

"(f) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

"(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

"(B) Amounts in an account created for the benefit of a specific Alaska native corporation may not be used to satisfy the property purchase obligations of any other Alaska native corporation.".

SEC. 16. LOCAL HIRE.

Section 1308(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487) is amended—

(1) by striking "a conservation system unit" and inserting in lieu thereof "public lands"; and

(2) by striking "such unit" each place it occurs and inserting in lieu thereof "public lands".

SEC. 17. SEALASKA CORPORATION AGREEMENT.

(a) IN GENERAL.—(1) Subject to paragraph (2), the November 26, 1991, agreement entered into between the Sealaska Corporation and the Forest Service of the Department of Agriculture, entitled "Sealaska Corporation/United States Forest Service Split Estate Land Exchange Agreement", is hereby ratified as a matter of Federal law.

(2) The agreement described in paragraph (1) may be modified or amended, without further action by Congress, upon—

(A) the written agreement of all parties to the agreement described in paragraph (1); and

(B) notification in writing to the appropriate committees of Congress.

Any such modification may not take effect until 60 days after such notification.

(b) CONDITIONS.—Any conveyance of subsurface acreage to Sealaska Corporation pursuant to this section shall—

(1) be deemed a conveyance of land pursuant to section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613);

(2) extinguish the entitlements of Sealaska Corporation under the Haida Land Exchange Act of 1986 (16 U.S.C. 3195 note);

(3) be subject to valid existing rights; and

(4) be in partial fulfillment of the entitlement of the Sealaska Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 18. HAIDA SUBSURFACE EXCHANGE AMENDMENT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is amended by adding at the end the following new section:

"SEC. 14. OFFER.

"(a)(1) For and in consideration of the relinquishment and conveyance to the United States of all Haida Corporation's right, title, and interest in Lots 2, 3, 4, 5, and 6 of section 18, T. 77S. R. 84 E., C.R.M., and, in addition, all Haida Corporation's right, title, and interest in a road easement to be specified by the Secretary 100 feet in total width across Lot 1 of section 18, T. 77S. R. 84 E., C.R.M., from section 7 of T. 77 S. R. 84 E. C.R.M. to the cooperative information and education branch site, there are hereby offered to Haida Corporation the following lands and interests in lands: All right, title, and interest in the subsurface estate of the Haida Traditional Use Sites.

"(2) Any conveyance of the offered lands and interests described in paragraph (1) shall be subject to valid existing rights, and shall except and reserve to the United States the perpetual easements identified in paragraph 18 of the agreement executed September 8, 1988, entitled 'Agreement between United States of America and Haida Corporation Regarding Implementation of the Haida Traditional Use Sites Exchange Pursuant to §3(a) the Haida Land Exchange Act of 1986, Pub. L. No. 99-664'. Without limitation to any other rights reserved under the terms of said easements, any such conveyance shall also except and reserve the rock, sand, and gravel occurring within said easement boundaries.

"(b) Haida Corporation shall have 90 days from the date of enactment of this section within which to accept the offer provided in this section by providing to the Secretary a properly executed and certified corporate resolution binding upon the corporation with respect to the relinquishment and conveyance of all the corporation's right, title, and interest in the lands specified in subsection (a).

"(c) This section shall be ineffective, and no conveyances shall be made under this section, if the Secretary of Agriculture, on or before the date 60 days after the date of enactment of this section, determines implementation of this section would result in receipt by the United States of lands less in value than the value of the lands offered for conveyance to the Haida Corporation.".

SEC. 19. AHTNA GROUP SETTLEMENT.

(a) WITHDRAWAL OPPORTUNITY.—As an offer of settlement, within one year after enactment of this section, any or all of the Ahtna Group Corporations of Lower Tonsina, Twin Lakes, Little Lake Louise, Slana, and Nebesna may withdraw by resolution transmitted to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") a pending application for group eligibility under section 14 of the Alaska Native Claim Settlement Act (43 U.S.C. 1613) (as amended and supplemented). Such resolution shall preclude the corporation concerned from any administrative or judicial review of its entitlement to land and money under such Act, and such withdrawal of application shall be construed as a dismissal with prejudice of such corporation's action before the United States District Court for Alaska, Civ. No. A86-035 and shall be binding upon the corporation and its members.

(b) OFFER.—In addition to those rights granted in section 1 of Public Law 94-204, for each Ahtna Group Corporation specified in subsection (a) which adopts a timely resolution to withdraw its section 14 application or group eligibility, there shall be a period of 180 days following transmittal of such resolution to the Secretary, during which each member of such Ahtna Group Corporation shall have the right to file with the Secretary an application for conveyance of up to 160 acres of land from the United States to such individual member as if it were an application for a primary place of residence under section 14(h)(5) of the Alaska Native Claim Settlement Act (43 U.S.C. 1613(h)(5)), regulations for such application, and subject to the following provisions:

(1) the availability of land subject to selection by the applicant shall be determined as of the date of the individual application: *Provided, however* That if the application is for lands selected by Ahtna Regional Corporation or the State of Alaska after the date of selection by the Group Corporation, then the subsequent selections shall not attach to the lands selected by the Group Corporation until after the deadline for filing an application for primary place of residence: and *Provided further*, That if the lands relinquished by the Group Corporation or the Ahtna Regional Corporation lie within the boundaries of a conservation system unit, as defined in the Alaska National Interest Land Conservation Act, and such selections are relinquished in order to permit the filing of an application for primary place of residence, the withdrawal of the conservation system unit shall not prevent the filing, adjudication, and conveyance of those lands subject to the application for primary place of residence: and *Provided further*, That any acreage granted to an applicant for primary place of residence shall be charged to the share of the Ahtna Regional Corporation under 45 CFR 2653;

(2) the eligibility of the applicant shall be determined as if the application is an application for a primary place of residence filed with the Secretary of the Interior on or before December 18, 1973; and

(3) any State selection filed after the date on which the relevant Ahtna Group Corporation filed its application for section 14 eligibility shall not attach to lands segregated for the benefit of such Ahtna Group Corporations until the applications of individual Ahtna Group members herein authorized have been identified, adjudicated, and conveyed.

(c) EXPEDITING.—In order to secure the rapid and certain resolution of Native lands claims, the United States shall endeavor to reach a final decision regarding each Ahtna Group member's application for primary place of residence within one year of its filing and shall otherwise complete the redetermination process for each Ahtna Group member as required by Public Law 94-204, as amended, provided that revenues distributed or subject to distribution under section 7(i) of the Alaska Native Claim Settlement Act (43 U.S.C. 1606(i)), shall not be retroactively affected by any change in enrollment occasioned by said redetermination.

SEC. 20. GOLD CREEK SUSITNA ASSOCIATION, INCORPORATED ACCOUNT.

(a) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code.

(2) The term "conservation system unit" has the same meaning as in the Alaska National Interest Lands Conservation Act.

(3) The term "Gold Creek" means the Gold Creek Susitna Association, Incorporated, an Alaska Native Group corporation, organized pursuant to section 1613(h) of the Settlement Act.

(4) The term "property" has the same meaning given such term by section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611), as amended.

(5) The term "Region" means Cook Inlet Region Incorporated, an Alaska Native Regional Corporation which is the appropriate Regional Corporation for Gold Creek under section 1613(h) of the Settlement Act.

(6) The term "Settlement Act" means the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).

(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Gold Creek account.

(2) Beginning on October 1, 1996, the balance of the account shall—

(A) be available to the Gold Creek for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

(B) remain available until expended.

(3)(A) The Gold Creek may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale.

(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

(i) receive deposits;

(ii) make deposits into escrow when an escrow is required for the sale of any property; and

(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

(c) LAND EXCHANGE.—No later than one year after the date of enactment of this section, the Secretary of the Interior shall enter into negotiations to attempt to conclude, under the authority of section 22(f) of the Settlement Act, a land exchange to acquire surface estate in lands not within any conservation system unit from the State of Alaska to enable Gold Creek to select public lands at Gold Creek, Alaska, as identified by Gold Creek but in no case to exceed 480 acres.

(d) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

(A) the average value per acre by

(B) the 3,520 acre Gold Creek entitlement.

(2) If a conveyance is made to Gold Creek pursuant to subsection (c), paragraph (1), the account shall be reduced by the amount of the actual acres conveyed by the average value per acre. In order to make such adjustment, the conveyance must be made by the Secretary of the Interior by October 1, 1996.

(3) The average value per acre of the lands referred to in paragraphs (1) and (2) of this subsection shall be determined by dividing—

(A) the fair market value as found by the Secretary of the Interior in subsection (e), paragraph (1) by

(B) the 3,520 acre Gold Creek entitlement.

(4) The fair market value of the surface estate of lands shall be determined as of the date of enactment of this section pursuant to subsection (e).

(e) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of the Interior shall find the amount to be credited to the Gold Creek account by appraising the 3,520 acre Gold Creek entitlement by only considering parcels 320 acres or less in size, the access to which is secure and the subsurface to which is in separate ownership, which lie within 50 miles of Gold Creek and which have been sold since January 1, 1989, and by taking into consideration other land ownership conditions under the Settlement Act.

(B) Gold Creek shall have the opportunity to present evidence of value to the Secretary of the Interior. The Secretary of the Interior shall provide Gold Creek with a preliminary draft of the appraisal. Gold Creek shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary of the Interior shall give consideration to the comments and evidence of value submitted by Gold Creek under this subparagraph.

(2) The Secretary of the Interior shall complete the valuation not later than 9 months after the passage of this Act. The Secretary of the Interior shall forward a certified copy of the valuation to Gold Creek.

(3) Gold Creek shall have the right to appeal the certified valuation by the Secretary of the Interior so long as any such appeal is filed no later than 60 days after the date of such finding to the Office of Hearings and Appeals. In the event Gold Creek files such a timely appeal, the Gold Creek account shall be immediately established for the amount set by the Secretary subject to subsequent upward adjustment pursuant to the outcome of the appeal process. If Gold Creek is not satisfied with the decision of the Office of Hearings and Appeals, it may appeal that decision within one year to the United States District Court.

(4) The Secretary of the Interior and Gold Creek may mutually agree to suspend or modify any of the deadlines under this subsection.

(f) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, Gold Creek may assign without restriction any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior. Notwithstanding the provisions of subsection (g)(1)(B) of this section, in the event such assignment is to the Region on notice from Gold Creek to the Secretary of the Treasury and the Secretary of the Interior, the amount of such assignment shall be added to or made a part of the Region's Property Account in the Treasury established pursuant to section 12(b) of Public Law 94-204 as amended, and may be used in the same manner as that account.

(2) Upon certification by the Secretary of the Interior of the value of the account, or following the completion of Gold Creek's appeal of valuation pursuant to subsection (e), paragraph (3), Gold Creek shall be deemed to have accepted the terms of this section in lieu of any other land entitlement it would have received pursuant to the Settlement Act and such acceptance shall satisfy any and all claims Gold Creek had against the United States on the date of this enactment.

(3) Any land Gold Creek shall receive from the United States pursuant to subsection (c), paragraph (1) shall be deemed to have been conveyed pursuant to the Settlement Act.

(g) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska Native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska Native corporation may not be used to satisfy the property purchase obligations of any other Alaska Native corporation.

SEC. 21. IGIUGIG AIRPORT.

The Administrator of the Federal Aviation Administration shall execute such instruments as may be necessary to release the condition on lands conveyed pursuant to Quitclaim Deed dated November 1, 1961, recorded on January 2, 1962, in the Iliamna Recording District, Book 1, Pages 54 through 60, that such lands revert to the United States in the event that such lands are not developed, or cease to be used, for airport purposes: *Provided*, That the State of Alaska shall first notify the Administrator what

lands are sought to be diverted from airport use and the Administrator shall then determine which lands may be diverted without adversely affecting the safety, efficiency, or utility of the airport, and shall confine the release of the reverter authorized by this section to those lands that may be so diverted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

□ 1600

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3157, the bill now under consideration.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a distinct privilege for me to stand here today in solidarity with the gentleman from Alaska [Mr. YOUNG], my dear friend, the sponsor of this bill.

Mr. Speaker, H.R. 3157 was carefully developed over the course of many months in close cooperation with the Alaska Native community, the State of Alaska, the administration, and other parties in Alaska.

In this regard, the committee has made a special effort to avoid environmental conflicts or other controversies.

By way of explanation, H.R. 3157 contains 20 provisions to resolve issues that have arisen in the implementation of the 1971 Alaska Native Claims Settlement Act and the 1980 Alaska National Interest Lands Conservation Act.

While the legislation makes primarily minor or technical changes to existing statutes, its provisions are significant for the affected individuals and entities, especially Alaska Natives.

When Congress passed the Claims Act in 1971, it took a unique approach to the settlement of aboriginal land claims of American Indians. The act established over 200 native-owned corporations to manage the land resources and money provided in that historic settlement.

It also restricted the sale of stock in the native corporations for 20 years, a date which Congress has extended to July 16, 1993.

Today, in this legislation, we renew our commitment to making the Claims Act work for the benefit of all Alaska Natives.

In this regard, I would compliment the gentleman from Alaska, the ranking Republican member of the Interior Committee, for introducing this legislation; which is cosponsored by Committee chairman GEORGE MILLER.

Mr. Speaker, that concludes my explanation of the pending matter. I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3157, the Alaska Land Status Technical Corrections Act of 1992. This bill is the result of a 3½-year effort of the State of Alaska, the Alaska Federation of Natives, the administration. Chairman MILLER, and the staff from both the majority and minority of the Interior Committee.

I want to especially thank the State of Alaska, the Alaska Federation of Natives, the Departments of Agriculture and Interior, Mr. MILLER and committee staff for their efforts to bring forth a noncontroversial Alaska lands technical corrections bill.

H.R. 3157 makes a number of technical changes to the Alaska Native Claims Settlement Act of 1971 [ANCSA] and the Alaska National Interests Land Conservation Act [ANILCA]. The bill also makes a number of substantive additions which address issues not anticipated at the time of passage of the acts.

Alaska is a young State, and many laws have been passed since statehood. This requires occasional changes to make the laws fit together, and react to changing situations.

This bill would make it possible for 18 Native allotment applicants at Fort Davis, AK to obtain their land under the Allotment Act. Under the 1906 statute, Natives who could prove family use of public land that was vacant, unappropriated and unreserved could apply for an allotment of up to 160 acres. Fort Davis, near Nome, was returned to the Interior Department in 1921 but the land designation was never changed to public land use from military. Unfortunately, BLM did not discover this until it was too late for these 18 applicants to apply for land elsewhere. This provision would approve the 18 allotment applicants at Fort Davis, AK.

Another provision would allow an adult shareholder to transfer settlement common stock to their brothers and sisters. The 1991 amendments provided for transfer of stock to a child, grandchild, great-grandchild, niece, or nephew. This provision takes it a bit further with the option of redistributing stock to brothers and sisters within the same family.

Section 5 of this bill would amend ANCSA to extend the deadline for the establishment of a shareholder homesite program by an Alaska Native corporation from 1991 until such time that shareholders vote to sell their stock on the open market. The shareholder homesite program allows corporations to transfer up to 1.5 acres to each shareholder for single family residency. Due to delays in receiving selected lands, some corporations have not had time to properly develop and implement a homesite program for their shareholders.

Another provision in this bill would provide an option for a native corporation to issue settlement common stock to descendants of Natives—lineal or adoptee—born after December 18, 1971. ANCSA originally provided that only those Natives who were living on December 18, 1971, were eligible to become shareholders in Alaska Native Corporations. "Native" was defined as those people with a minimum of one-fourth degree of Alaska Indian, Eskimo, or Aleut blood. This provision would allow a corporation, at their option, to issue common settlement stock to descendants of their original shareholders regardless of the degree of blood quantum.

Section 16 of H.R. 3157 amends section 1308(a) of ANILCA (Public Law 96-487) to expand the local hire program that was established for conservation system units in Alaska. The original program gave Federal agencies the opportunity to hire local residents who live near a conservation system unit and who have special knowledge or expertise concerning the natural or cultural resources of the unit. The expanded program will allow Federal agencies to hire individuals with special knowledge of specific public lands in Alaska. This section is specifically intended to encourage the hiring of Alaskans.

Mr. Speaker, this bill is purely a noncontroversial technical bill which addresses some of the unresolved land issues which have arisen since the passage of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act. Chairman MILLER of the Interior Committee and I introduced this bill in July 1991, the Interior Committee held a hearing on October 24, 1991, and the committee held a markup of the bill on July 8, 1992. This bill is noncontroversial and I urge that this body vote for passage of H.R. 3157. I thank the gentleman for the time to clarify some of the major provisions of this bill, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 3157, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS SPONSOR OF H.R. 5405

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that my name be removed as a sponsor of H.R. 5405.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology:

To the Congress of the United States:

In accordance with 42 U.S.C. 1863(j)(1), I transmit herewith the annual report of the National Science Foundation for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *July 27, 1992.*

THE POLITICIZATION OF SCIENCE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, the front-page article in the New York Times today unfortunately says what so many of us feared, and that is the continual politicization of science in this country.

I have never seen us politicize science before, and I think it will harm this country greatly, because we will see much more research move offshore. Today's front-page article got memos from internal documents in the National Institutes of Health, and those memos point out that what the administration said about fetal-tissue banks being adequate was wrong. They will not be adequate if the administration plans to do them and, therefore, people with Alzheimer's and Parkinson's diseases are not going to see those kinds of research projects done in this country because of that kind of restriction. I find that very tragic.

Tomorrow the House is going to be looking at another area where science has been politicized, and that is the denial of allowing RU-486 into this country for research in the areas of such important things as brain tumors, breast cancer, and so forth. I find this shocking.

We first saw politicization of the courts. We now see it of science, and I think that we will pay very heavily if we do not get this turned around.

Mr. Speaker, I am including at this point in the RECORD the article from the New York Times of today as follows:

FETAL-TISSUE BANK NOT VIABLE OPTION, AGENCY MEMO SAYS CALCULATIONS ARE SKEWED—HEALTH OFFICIALS SAY SUPPLY OF FETAL TISSUE IS NOT ENOUGH FOR PROGRAM TO SUCCEED

(By Philip J. Hilts)

WASHINGTON, July 25—In May, when the Bush Administration announced a plan to collect fetal tissue for medical research into Alzheimer's and Parkinson's diseases and other ailments, officials stated that they could supply all that would be needed without using tissue from induced abortions.

But newly obtained memorandums from officials at the National Institutes of Health show that the Administration greatly exaggerated the amount of fetal tissue that its storage bank could obtain from miscarriages and from ectopic pregnancies, in which the fertilized egg develops outside the uterus.

Since 1988 the Administrations of Ronald Reagan and President Bush have barred Federal financing of research using fetal tissue, on the ground that it could potentially encourage abortions.

ROUNDED TO UPPER LIMIT

When the tissue-bank plan was put forth in May, in the heat of a political battle over abortion issues, Dr. James O. Mason, head of the Public Health Service, said that a storage bank could initially collect usable tissue from 1,500 fetuses a year and that eventually the figure would rise to 2,000.

A spokeswoman for the Department of Health and Human Services said this week that medical experts remained confident that the tissue bank would fully meet researchers' needs.

But a top N.I.H. official who spoke on condition of anonymity said that the estimates of how much tissue could be collected had been misrepresented by senior H.H.S. officials.

"The numbers we used were rounded upward, and upper-limit estimates were always used because we were under a great deal of pressure to use the absolute outer-limits numbers," he said. "What we came up with—1,500 or 2,000 fetuses could be harvested—is literally the absolute maximum if you capture every single specimen throughout the entire country in every circumstance with a SWAT team of highly trained professionals in every bedroom and every hospital in the United States.

FLAWS ARE SEEN IN FETAL-TISSUE PLAN

"No one but the ardent pro-lifers believes those numbers," he said.

But the Administration is going ahead with plans to set up fetal tissue banks at six hospitals. "We really intend to make a good-faith effort to determine if such a bank is at all feasible," the N.I.H. official said. "We can gain a lot of knowledge in the process, and if it actually succeeds somehow, so much the better."

Experiments over the last decade indicate that transplanting of fetal organs or cells could help patients with intractable diseases like Parkinson's or Alzheimer's. Transplant recipients can tolerate fetal cells better than adult cells, and preliminary research found that cells from healthy fetuses, usually 7 to 16 weeks, can take over the functions of diseased cells.

When Congress voted earlier this year to lift the ban, President Bush vetoed the measure. The Administration's plan was offered as a way of meeting the needs of medical researchers without compromising the President's long-standing opposition to abortion and abortion rights. Critics derided it as a maneuver to find votes to uphold the veto. Last month, the House fell 14 votes short of the two-thirds majority required to override.

The President's Democratic challenger, Gov. Bill Clinton of Arkansas, has said he favors lifting the ban.

OFFICIALS' PRIVATE MISGIVINGS

The question in the fierce debate on Capitol Hill became this: How much usable uncontaminated fetal tissue could be harvested if dedicated tissue banks were set up by the Government?

Administration officials said there would eventually be tissue from 2,000 fetuses available for transplant each year, more than enough to meet the need. But privately, N.I.H. officials expressed misgiving about the estimates at the time.

In a memorandum written in March, Dr. Jay Moskowitz, the associate director for science policy and legislation of the N.I.H., told higher officials of the Department of Health and Human Services: "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality because they a) may represent inherently abnormal tissue b) have been subject to diminished blood supply c) exist in a poor in-vivo environment d) may have been retained in the body for five to eight weeks prior to expulsion. The state of disintegration of these tissues is another factor affecting viability."

Dr. Moskowitz added: "In the future, ectopic pregnancies as a potential source of fetal tissue will be further diminished because invasive surgical treatments are being replaced by pharmacological approaches."

HUGE SHORTAGES PREDICTED

Data from the medical centers, the memo continued, indicated that the amount of tissue from spontaneous abortions, or miscarriages, "would not be sufficient."

DOUBTS GROW THAT CRITICAL TESTS CAN BE CARRIED OUT WITH BUSH'S PLAN.

"Obtaining an adequate supply of tissue from ectopic pregnancies, as previously indicated, is more problematic," the memorandum states.

Taking into account the doubts expressed by N.I.H. officials, the staff of the House Subcommittee on Human Resources and Intergovernmental Relations estimated the number of fetuses that could be collected at 24 for the entire nation in a year. A separate estimate of about 1.4 fetuses per hospital per year, or about 8 if the bank starts at the six hospitals, was made by the head of a fetal transplant group at Yale University, Dr. D. Eugene Redmond, who has spoken against the ban.

These numbers are far short of what might be necessary, Dr. Redmond said. He estimates that if the ban is lifted, at least a half a dozen scientific teams will want to carry out 20 fetal tissue transplants each in the first year and more as research progresses. Because of the varying quality of the tissue, each transplant can require dozens of fetal samples, he said. Even samples from 2,000 fetuses a year would not meet the need.

In fact, 2,000 samples could be obtained through a tissue bank only if these assumptions prove accurate:

Every hospital in the United States will participate, with each creating four teams of surgeons and specialists to collect the material on an emergency basis around the clock,

365 days a year, according to N.I.H. memos and interviews with agency officials.

All women admitted to the hospital for a miscarriage will actually have them in the hospital. In fact, many abort at home and go to the hospital afterward for treatment of bleeding and infection, memos from Dr. Moskowitz say.

Fifty-five percent of the fetuses will be free of infection. But because miscarriages and ectopic pregnancies are unexpected emergencies, it is unlikely that that many will be uninfected, Dr. Moskowitz's memos say. Other estimates say 60 to 75 percent will be infected.

The Administration will be willing to spend hundreds of millions of dollars a year to maintain the system. The Administration estimated that it would cost $3 million in the first year and $24 million in the first five years, but this is only for feasbility studies. To make the bank work nationally, each hospital would probably have to spend $500,000 or more in salaries for the emergency collection teams alone. For the 6,600 hospitals in the United States, that cost alone would be $330 million per year, N.I.H. officials said.

All women who are asked will be willing to donate the fetal tissue. Currently, 20 percent refuse to donate tissue for transplants for privately financed research at Yale University, doctors say. In addition, the women would have to agree to be tested for hepatitis, H.I.V. and other diseases. Another 20 to 30 percent are likely to decline on those grounds, doctors say.

Even if these assumptions were correct, quality control could be assured only if the tissue bank expended as many of its fetuses in testing as it sent to researchers, N.I.H. officials said.

Researchers would have an ample supply if they were to use fetuses from induced abortions: of the 1.5 million abortions a year, roughly half would provide usable cells. Though such fetuses are being used in privately financed experiments, many scientists are unable or unwilling to proceed without Federal money.

"It is profoundly disturbing that the N.I.H. Revitalization Amendments were vetoed on the basis of smoke and mirrors masquerading as hope for victims of Parkinson's disease, Alzheimer's, juvenile diabetes and other devastating illnesses," said Representative Weiss, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, who has investigated the Administration's statements.

Alixe Glen, a spokeswoman for Health and Human Services, said "Our commitment to establish a fetal tissue bank is totally supported by medical experts who confirm that this bank would provide sufficient tissue to meet research needs."

She added that the Federal Government was exploring areas in addition to current, privately financed fetal tissue research. "We are doing a lot of other promising research in Parkinson's, Alzheimer's and diabetes, but opponents have tried to frame the debate as though, without research from induced-abortion fetuses, cures for these disease will never be realized," she said. "Not true."

"One thing lost during this debate," Ms. Glen said, "is the extension of appropriations and budget authority for N.I.H. is being held up with these political shenanigans."

Paradoxically, the Administration's tissue-bank proposal may be turned into a vehicle to overturn the fetal-tissue ban. Representative Henry A. Waxman, Democrat of California, chairman of the House Subcommittee on Health and the Environment, has introduced an amendment to the N.I.H. reauthorization bill that is expected to come up for a vote in the House by the end of August.

It would continue the ban on Federal financing of fetal-tissue research and proceed with the tissue bank, but if the bank did not produce all the tissue needed for research within one year, scientists would be permitted to use tissue from induced abortions. Scientists would be required, however, to go to the tissue bank first and to use all the tissue obtainable there before going to induced abortions.

Ms. Glen said: "Mr. Waxman is trying to circumvent our good-faith commitment to the tissue bank. His one-year deadline has absolutely no scientific basis whatsoever. This measure does not represent a compromise but an attempt to promote Federal funding for abortion research."

HUGH MERRITT RECEIVES BRONZE STAR MEDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues a very pleasant experience I had this morning. I was honored and proud to be able to award the Bronze Star Medal to Henry Hugh Merritt, Jr. for meritorious service during the period December 7, 1941 to May 6, 1942 in the Republic of the Philippines.

On December 7, 1941, Hugh Merritt was a torpedoman's mate second class on the U.S.S. *Canopus*. The *Canopus*, a submarine tender, was under the command of Comdr. E. L. Sackett and stationed in the Philippines. After the Japanese attacked Pearl Harbor, they also launched an attack against the U.S. bases in the Philippines. Soon after the Japanese attack, the *Canopus* began supporting allied troops ashore with supplies, water and other aid. The *Canopus* also re-equipped motor launches as light armored attack boats. A short time later the *Canopus* was disabled and was hidden as "a" bombed-out derelict in a cove on the tip of Bataan.

Most of the crew along with other naval personnel formed the nucleus of the 4th Battalion, 4th Marines. After formation, this "Naval battalion" went ashore to fight as infantry. They dyed their white navy uniforms with coffee grounds to make them look khaki. This "Naval battalion" joined forces with U.S. Marines, U.S. Army, and Philippine scouts under the overall command of Gen. Jonathan Wainwright. A total 2,800 Navy and 200 Marine personnel were reassigned to the Army for the defense of the Philippines.

Hugh Merritt was assigned as a squad leader and his squad fought in actions in the James Ravine and other areas. These converted infantrymen were not skilled, trained, nor equipped as a regular infantry unit, but that did not daunt their courage or their tenacity. They fought gallantly and bravely until the bitter end when Corregidor fell on May 10, 1942.

However, the ordeal was not over for these defenders of the Philippines. Hugh Merritt was imprisoned in two different POW camps in the Philippines. Later, he was sent to Japan on one of several transport ships known as Hell Ships. Upon arrival he was put to work as a laborer in the copper mines.

Of all the prisoners taken in the Pacific Theater, less than 10 percent survived the POW and/or labor camps. Hugh Merritt was a survivor due to his determination and grit. He displayed courage and devotion to duty and now 50 years later, with pride and admiration, I presented to him on behalf of his grateful Nation, the Bronze Star Medal.

BUSH ADMINISTRATION HAD ACUTE KNOWLEDGE OF IRAQ'S MILITARY INDUSTRIALIZATION PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last week I showed that this administration, President Bush's administration, deliberately and not inadvertently helped to arm Iraq by allowing United States technology to be shipped to the Iraqi military and to the Iraqi weapons factories. Throughout the course of the Bush administration, United States and foreign firms were granted export licenses to ship United States technology directly to Iraqi weapons facilities, despite ample evidence showing that these factories were producing weapons.

□ 1610

I also showed how the President misled the Congress and the public about the role United States firms played in arming Iraq.

Today I will show that the highest levels of the Bush administration, including the President himself, had specific knowledge of Iraq's military industrialization plans, and despite that knowledge, the President mandated the policy of coddling Saddam Hussein as spelled out in National Security Directive 26 (NSD-26) issued in October 1989. This policy was not changed until after the Iraqi invasion of Kuwait, by which time the Bush administration had sent Saddam Hussein billions of dollars in United States financial assistance, technology and useful military intelligence information.

I will also show how the President's policy of appeasing Saddam Hussein was at odds with those in the administration who saw Iraq as a major proliferation threat. This will help set the stage for next week's report which will discuss Iraq's clandestine technology procurement network and the Italian bank agency in Atlanta's role in funding that network.

We will bring out the very intricate system which up to now has not been elaborated upon other than through the great alarm sounded by the Commodity Credit Corporation's extension of guarantees through the letters of credit that were issued by this bank.

But it was more intricate, it was a lot more elaborate, and it was very well thought out by these overseas students or system, and its gaps, and its failures, which is the reason that I am here today and have from the beginning spoken out, that is on the vulnerability of our financial banking system to these external forces.

I would like to emphasize, however, that the administration knew about the procurement network, and I indicated some of that last week, and decided to go ahead and tolerate it.

From the beginning of the Bush administration Iraq received billions in United States financial assistance and sophisticated United States technology, what actually had started under President Reagan's first term in 1983 when the President took Iran off of the list of nations that he had listed as terrorist nations.

As is well known, the largest financial aid program for Iraq was the Commodity Credit Corporation and their export guarantee program. Between 1983 and the invasion of Kuwait in 1990, Iraq received $5 billion in CCC guarantees that allowed them to purchase United States agricultural products on credit. Over half of that program or $2.6 billion was authorized during the first 2½ years of this administration, the Bush administration.

The CCC program was the single largest chunk of financial assistance that Iraq received from what we call the West. It helped to feed the people of Iraq, and it freed up scarce resources that were first used to purchase weapons to fight the war against Iran, and later, during the Bush administration, it freed up resources, and those that were freed up were ploughed into Iraq's military industrialization program.

There have been many allegations, and there are still ongoing investigations that are attempting to determine if Iraq was diverting CCC guaranteed commodities to purchase weapons. And as I said from the beginning when I first started out on this 2 years ago exactly this month of July, there is not and never has been any attempt to verify the end use of the guarantees, that is the loan guarantees and the commodities as they were supposed to have been delivered. But there is still some investigation.

When we started ours, as it was in the beginning, has been and will continue to be, my single-minded purpose was the shoring up of the most vulnerable aspects of our national interest, and that is the banking and financial oversight or regulatory which is full of just absolute gaps, and loopholes, and we have been better analyzed by people all the way from Asia to Europe and the Middle East who have studied these vulnerabilities for years and are still making ample use.

As I have said repeatedly, my most worrisome problem is that there is no telling how many of these BNL's, how many of these BNL-like, how many of these guarantee programs are still being fed into international places that tomorrow can very well be listed as menaces or enemies, and all guaranteed by the U.S. taxpayer. This has been extremely bothersome to me, because I sat on a committee that has jurisdiction through such subcommittees as the Housing and Community Development Subcommittee, which I also happen to chair and have since 1981. And I hope my colleagues, those who were here then, and those who were not, would try to understand my travail as I have seen billions and hundreds of billions of dollars sanctioned through this committee for private gain for the bankers and the financial manipulators, both domestic as well as foreign, hoarding through greedy accumulation billions of dollars while we have to fight and fight and fight to try to get our communities, 65 percent of which now are strapped financially, taken care. It was in the name of the Subcommittee on Housing and Community Development and the full committee that I went to Rhode Island on May 25 last year, and it was a result of our action and our committee that we were able to get a feeble guarantee for that State to enable it and its government to be able to pay out the thousands of poor fellow Americans in Rhode Island who had all of their life savings, their little proceeds that had enabled some of the retirees to live from their pension funds all frozen in the Rhode Island S&L's and banks. Thank goodness, and thanks to the great efforts of Representatives, particularly JOHN REED who brought it to my attention, I responded and we went there. We got the legislation 1 month later in the June 28 Banking Act that the Committee on Banking, Finance and Urban Affairs approved.

But what about California today? The State of California is paying, to my pain, and I am a Depression era kid. I can recall when our schoolteachers, and when our public employees were being paid in script. Sometimes the bankers and the merchants would honor them at a discount. They would have to pay for that as if it were interest. Sometimes not. And I swore that if the Lord permitted me to ever be in a position where that could be avoided, I would do everything in my power to avoid it. So I cannot begin to describe the pain I felt as I looked into the eyes of those thousand or more Rhode Islanders that turned out to our hearings in Providence. I cannot begin to tell you the pain I felt, because it made me recall those haunting years of the Depression which I hoped and prayed and did everything within my power in between to try to eliminate, the horrible, real, excruciating, deathly poverty that existed, watching even relatives die slowly of tuberculosis where my city was known as the tuberculosis capital of the United States.

□ 1620

Then later even after the war, areas there that were called the death triangle because they had the greatest rate of infant diarrhea deaths of any anywhere, and, yes, we are better off and, yes, I have had great privilege serving on the local level.

I was able to work between 1950 and 1953 for the San Antonio Public Housing Authority and see in that very death triangle the elimination and the destruction of earth-floor shocks with pit privies, all within a quarter of a mile of downtown San Antonio.

I was later elected to the city council, and my greatest, greatest satisfaction was to be able to work and change the system of self-perpetuating city water board. Those things had not happened since the rotten borough of England in the 1930's, and here we had them, and I was able to lead the fight. It took 3 years. It was mean. It was tough. But we changed that system, and for families within a quarter of a mile of city hall who had to buy water in barrels at 40 cents and 50 cents a barrel with wiggle worms in them, we were able to change that in less than 1 year after that forum, the city water board, came about, so when I speak to you, my colleagues, I speak as a man privileged under our system to work on every level of legislative representation our country has to offer, the local, and 5 years in the State Senate of Texas, and now I have been privileged to have served here for 30 years and 8 months in this great and august body, and I have the same determination.

So I hope those of you who have at first ridiculed and then slowly and by the dint, force, of circumstances have admitted that I have had a cause and that I have spoken out responsibly will realize the pain I feel to even get up now and have to reveal these things where I am just as much respectful of the institution of the Presidency as anybody, and maybe even more, and it is not that I love the system less. It is that I love it more. For without it, I would not have anyplace in the world that would have been able to duplicate the very actions I am taking today. And I know it.

So I bring these factors in to give you the background of how it pains me to see these quickly enacted billions of dollars of subsidies to the richest of the rich, the strongest corporations through tax giveaway. It pains me to see the housing programs that were structured by the Congress after many years of debate and hearings and which have served our country for 40 years; they housed America between 1940 and 1980. All of a sudden in the name of economy and budget exigency, they are faced with extinction or diminution to the point of extinction while billions

and billions, much more than we have meekly offered since 1981 and 1982 and have not had, but watch these other billions just go through as fast as they could slip through a congressional process.

Do you think that makes me feel good or proud? Of course not. But it is the truth, and it is a fact of life, and when we see that a whole country has been raised to the point of war fever and a war psychosis, suddenly discovering that a man is a monster, a Hitler in the President's words, only to discover sadly that this same individual had been backed up, supported, and at the cost of taxpayers' liability, given billion of dollars.

We have to examine that, because I look around and see now where our Government has been extending similar guarantees backed by the taxpayer to other countries that just a few years ago we had them as a list of bitter enemies.

Now I say whether a nation and its people, above all, in the words written down in one of the halls here in our Congress, in our House of Representatives, when a people forget their hard beginnings, they are in for trouble, and they are in danger of losing maybe perhaps not directly forsaken, but certainly ending up in forsaking the heritage of freedom which is what is at stake today.

I will tell you why, and I am going to bring this out in separate addresses and messages to you, my colleagues, and that is that we have become accustomed and have lived in a state of emergency since 1932, the bank closing or the bank holiday edict issued by President Franklin Roosevelt.

Do my colleagues know that we are still living under emergencies? In fact, last week, last Tuesday, just before I got up to give the last special order, a message came from the President. It was lost sight of because there were three messages in a row, but the middle one said, "This will extend our state of emergency with respect to the crisis in the Persian Gulf and Iraq for another year." We ought to go into that, my friends, because we like to look down on countries that we consider lesser than us by saying, "Oh, look at the turmoil, and they have government by decree."

My colleagues, because Congresses have delegated that constitutional power and only because of that can the President issue that kind of emergency decree as we have been living under since 1942. In fact, I will go even before that and go to the National Espionage Act of 1917 most of which has never been returned to the Congress and which President Wilson asked for in time of war. And it has been a President's resorting to that one that has brought some very, very, I think, draconian actions against American individuals including some who have been charged with actual espionage under that act.

When Iraq invaded Kuwait in August 1990, it defaulted on $2 billion of the CCC credits advanced during the Bush administration. But the CCC Program was not the only financial benefit bestowed upon Iraq during the Bush administration.

As I have reported elsewhere, the Bush administration also authorized a $200 million credit program through the Export-Import Bank [Eximbank] that allowed Iraq to import various equipment and raw materials. The Eximbank Program was one of the largest of its type among the Western industrialized nations. This credit not only permitted Iraq to purchase United States equipment, it also freed up scarce resources for cash strapped Iraq, and was granted despite Iraq's shaky finances, under pressure from the highest levels of the administration.

Not to be overlooked is BNL-Atlanta's $5 billion in supposedly unauthorized loans to Iraq—well over $1 billion in commercial loans which were issued during the Bush administration. While the intelligence community has remained silent on what it knew about BNL's activities prior to the raid on BNL-Atlanta in August 1989, it is safe to assume that it would have been highly unusual for our intelligence community not to have noticed thousands of communications between Iraq's highest profile military organizations and BNL in Atlanta, GA. The same can be said of Iraq's front company in Ohio called Matrix-Churchill.

□ 1630

This is actually British-based and apparently British-controlled in London.

At a minimum, the Bush administration looked the other way and allowed BNL's and Matrix-Churchill's activities to continue. We must not forget the CIA has a history of neglecting to inform law enforcement officials about nefarious activities when those activities just happen to facilitate the administration's policy. The recent Bank of Credit and Commerce International [BCCI] and International Signal and Control [ISC] cases provide vivid examples of that phenomenon, or problem where the intelligence agency is totally controlled by the political program at that particular moment of the administration in power.

Later on I will add details to this particular phase.

During the period 1985-90, the Reagan and Bush administrations approved 771 export licenses for Iraq—as I brought out last week—239 of these approvals came from the Bush administration. Much of the equipment shipped to Iraq under these licenses ended up considerably enhancing Iraq's military capability. For example, licenses for the Iraqi Armed Forces and Iraqi weapons factories were routinely approved. As I showed last week, and provided the documentation, this was not done inadvertently; it was a written, but never publicly stated, Bush administration policy to help arm Iraq itself through the export licensing process, as we are again with other countries, as I will bring out in future special orders.

Given the administration's refusal to accept responsibility for facilitating the arming of Iraq, it is important to understand the context in which the billions in United States financial assistance and sophisticated technology flowed to Iraq. Once you understand the context of the decision to provide financial assistance and technology to Iraq, you will understand that it was United States policy to accommodate Saddam Hussein's military ambitions.

The Bush administration was acutely aware of Iraq's intentions, and knew that the financial assistance it was providing to Iraq facilitated Saddam Hussein's ambitious military industrialization effort.

GOAL OF IRAQ'S MILITARY INDUSTRIALIZATION EFFORT

To understand the Iraqi military industrialization effort, one must understand that since the 1970's the goal of Iraq was to become militarily self-sufficient.

It seems to me incredible that a Deputy Secretary of State, like Mr. Eagleburger, would come before the committee, and every one of them from the Secretary of State on down and the President act as if they did not know that ever since 1948 a state of war has existed between Iraq and Israel.

Now, Iraq, let me disabuse my colleagues of any conclusion they might have formed through our war propaganda that Saddam Hussein is looked upon especially in the Muslim-Arab world as a villain. He is a hero.

I brought out the special orders that I took when we returned after the break in August and Labor Day in September 1990, I laid out here before my colleagues, it is all in the RECORD, that Saddam Hussein had and still has the largest and most expensive news disseminating TV and radio network in all the Middle East and that particular portion of Asia.

He is a hero because he is considered the only one who stood up to what the Arabs feel has been an attempt to liquidate them.

I brought out, and it is in the RECORD, when Saddam Hussein properly was excoriated for having been charged with using poison gas against some of his own citizens at the time, the Kurds, but I pointed out that the first one to use chemical warfare, that is gas, was Winston Churchill in 1921 and 1923 against the Arabs, what he called the recalcitrant Arabs.

Who do you think they were? They were the Arabs where Iraq is today.

We must never forget also that we are talking about a country that is now

named Iraq, but which has been the fountain place or the birth place of western civilization, Mesopotamia.

When we bombed and carpetbag bombed Baghdad, we destroyed artifacts of civilization that are priceless.

Now, if we once understand this, we will then understand why Iraq stood out as the only Arab nation that did not in the opinion of these Arab minds kowtow to Israel and the Western powers.

He was also anxious to get away from relying on the Russians, or the Soviet source of aid.

So he, unlike every other Arab nation, then decided to be the leading Arab military power. That goes back to early and even before the beginning of the Iraq-Iran war.

We must also never forget that Iran is not an Arabic nation. It is non-Arabic.

We must never forget that Syria under Assad was the only Arab nation that went against Iraq in the Iraq-Iranian war, and were it not for the great divisions that have existed among these Arab peoples and we are not aware, we have a tendency to look down on peoples who are extraneous to us and our language particularly, but that is a fatal flaw in our makeup that sooner or later we are going to have to try to correct.

To understand this policy, we have to understand that the goal of the 1970's in this country that was considered the only one that was responding to what segments of the Arab world were saying were attempts of genocide, which unfortunately we have had such a thing. It is unfortunate, but it is true. It is enough.

There is an old saying in equity law that says in an act in which equity or relief is sought to correct a wrong, that action must first be rooted in a wrong. We know from reading human history that the kind of actions that seem to us to be inexplicable in the proceedings of some of these countries, we must never forget that those actions are never born except out of a rooted wrong. That has been stamped into the human makeup no matter what we are by I am sure God's breathing life into our souls and bodies and with that saving water of freedom, no matter where, every human being desires freedom, no matter how much it seems he has accepted the chains of enslavement.

To understand the Iraqi military industrialization effort, I repeat, we have to go back to the beginning of a program of self-sufficiency.

Iraq wanted to have its own military industrial base so that it did not have to depend on the Soviet Union or Western arms suppliers and others for its national security.

The Iraq-Iran war placed the better part of Iraq's military industrialization program on hold because resources were used to purchase urgently needed finished military products such as tanks, fighter jets, ammunition, artillery, and other equipment.

□ 1640

However, during that war Iraq also continued to work on its highest priority indigenous military projects, and when the war ended Saddam Hussein began a massive military industrialization effort.

Iraq had several ambitious goals as it ended its long 8-year war with Iran. First, Iraq wanted to provide for its own national security. Second, Iraq wanted to remain the Arab world's strongest military power. Third, Iraq wanted to become the Arab world's strongest industrial power.

As a matter of fact, all the Arab countries, except one, Syria, supported Iraq in its war against Iran.

As I said before, Iran is a non-Arabic nation. Now, Arabic or not, my colleagues, I ask you how could we be supplying Iraq with everything from intelligence—because we had an intelligence-gathering agreement all during that war with Iraq—supplied them with everything else, even backed up foreign countries like France to make sure they supplied military things all the way from Mirages to Exocet missiles, one of which, incidentally, was the one that killed 37 of our sailors in the Persian Gulf.

Have we forgotten that? How did they get them? That way. And we helped. Do we think that these people, which we, like the British and others, tend to look down upon as inferiors, do not know that at the same time Colonel North and the other hosts and security advisers of Mr. Reagan were over in Iran conveying TOW missiles, do you think they did not check with each other to know? How many Iraqi soldiers died as a result of the TOW missiles we gave them in the Iran-Contra deal? I am sure they know.

Do you believe the Iranians did not know that a lot of their soldiers and a lot of their people and a lot of the destruction through the bombing of Iraqi warplanes did not come from the aid we were giving them? Well, of course they did. They are not inferior people. They happen to have come from an era of long-retarded development, that is all.

We must remember that our modern engineering, and mathematics—how many buildings based on engineering formulas do you think we could build with Roman numerals? It was Arabic numbers which came to Europe through Spain, through the 800-year occupancy of southern Spain by the Moors. Modern medical science, that came through Spain. In the 16th century, Spanish ships bringing colonists, and what have you, including my ancestors on my father's side, who got to the province of what is now the state of Durango in 1560-something, were being inoculated against smallpox.

Now, maybe they did not know about the germ theory, but they knew the cause and effect. Spanish doctors, or what have you, were inoculating the Spanish occupants of these ships on their way to the New World against smallpox in the 16th century.

Where do you think they gained that lore? From the Moors, the Arabs.

So, let us remember that it is always good to remember that God is no respecter of individuals or nations.

Evidence that the Bush administration knew of Iraq's plans is widespread. One example is an Export-Import Bank country risk report dated June 1989. The Eximbank report, which was based in part on intelligence information, was presented to the Eximbank board of directors along with representatives of the State Department, CIA, and Commerce Department. This report states:

> In addition to higher oil production, the government is planning to develop new state controlled industries to supply the military, the civilian market and export markets. Iraq's ambitious plans, unlikely to be completed even within the next five-to-ten years, include oil refineries, petrochemical complexes, specialty steel and aluminum plants, vehicle assembly and various manufacturing activities. These new industries will fashion products for the new arms industries, and produce goods for sale in the domestic market and perhaps export markets.

A year later the CIA reported:

> One of Iraq's main post-war goals is the ambitious expansion of its defense industries

What could be clearer? After the cease-fire in its long war with Iran, Iraq obviously did not have any plans to demilitarize. In fact, it is apparent from reading intelligence community reports that Iraq's highest postwar priority was expanding its military industrial base. Like the Eximbank, a 1989 intelligence community report similarly states:

> A dramatic reduction in domestic military and civilian state sector claims on oil revenues and non-oil production would provide resources for an earlier end to arrears and rescheduling. However, such a massive reduction in military and civilian absorption of resources seems very unlikely * * *.

Iraq's ambitious military industrialization plan called for civilian activities to be integrated into military production and vice versa. In a public speech to the nation in 1989, Saddam Hussein urged Iraqis to:

> * * * make use of civilian industry for military purposes * * * and military industry for civilian purposes using their surplus potential.

This point is further brought home in a June 1989 intelligence report which shows that:

> The Ministry of Industry and Military Industrialization [MIMI] planned to integrate proposed specialty metals, vehicle assembly, and other manufacturing plants directly into missile, tank, and armored personnel carrier industries.

United States knowledge that Iraq gave highest priority to development of its defense industrial base is further spelled out a year later in a July 1990 report which states:

In May 1989, Hussein Kamil, the head of the Ministry of Industry and Military Industrialization (MIMI), proclaimed publicly that Iraq was implementing a defense industrial program to cover all its armed forces' needs for weapons and equipment by 1991. He stated that Iraq's industrialization program was intended to provide all of Iraq's basic industrial supplies from indigenous sources.

For Iraq the drive to develop its own weapons production capability required, to say the least, a complex and intensive undertaking. Not surprisingly, a 1990 CIA report noted that evidence indicated Iraq was devoting a considerable amount of its financial and labor resources on military industrialization.

An estimate of the magnitude of the effort is contained in a June 1989 Eximbank report which says that in 1988 Iraq devoted 42 percent of its oil revenues to military-related procurement.

FOREIGN FIRMS PLAY A BIG ROLE

Iraq had several motivations in embarking on such an ambitious military industrialization effort. First, Saddam Hussein did not want his national security beholden to foreign suppliers of military hardware. Foreign government policies change and Iraq had trouble developing secure long-term supply relationships for the supply of military hardware. The intelligence community stated in the summer of 1990:

Iraq's desire for a large arms industry has grown during the past decade. President Saddam Hussein apparently believes an expanded arms industry will enhance Iraqi prestige and help solve security problems identified during the war such as lack of reliable arms suppliers.

□ 1650

In future statements I will show how Iraq used BNL money to pay foreign firms for their critical role in his ambitious military industrialization effort. Iraq clearly could not have achieved the success it did in its military industrialization program without massive assistance from firms in Europe and the United States.

As we all know, foreign firms played a critical role in many of Iraq's most dangerous and exotic weapons programs such as the Condor II ballistic missile and Gerald Bull's "big gun" project, which I have referred to from the very beginning 2 years ago.

While the resources and coordination required to successfully carry out Iraq's military industrialization effort was monumental, many within the administration believed that Iraq would take a practical approach to setting priorities. For example, in July 1990 the intelligence community stated:

Although Iraq's stated goals almost certainly are over ambitious, we believe the regime recognizes its limitations and holds more pragmatic aspirations in private.

The goals of Iraq's military industrialization program, while ambitious, were considered substantial for several reasons. An executive branch report of July 1990 noted that:

Baghdad has significant advantages in making this grandiose, but still substantial expansion of its defense industries a realistic goal:

1. It has cheap hydrocarbons;
2. Oil income is likely to increase long-term;
3. Large Iraqi military can absorb high levels of production;
4. Iraq has the most highly educated work force in the Arab world;
5. A potential supply of customers for exported arms exists.

These factors are still valid today—not just for Iraq, but also for Iran, Saudi Arabia, and the former Soviet Union. It was Iran that we were against. Where is Iran today? Well, for the first time in just recent weeks it has gone across the sea there, into Sudan. Never before, to the great travail of Egypt, which looks upon Sudan with a lot of fear. Besides that, it has obtained nuclear assistance from one of the now independent states of the former Soviet Union. How well has all of this been reported, and where does this leave the so-called stabilization of the Middle East for which we pay treasury and blood?

Our Government knew from Saddam's own words that Iraq's military industrialization effort was designed to make it difficult to distinguish between military and civilian end uses. As a result, huge industrial complexes in Iraq, many covering thousands of acres, contained civilian as well as military components.

In addition, Iraq did not allow very many foreigners to have complete access to these complexes. United States intelligence no doubt had plenty of satellite photos of Iraqi establishments, but given strict travel restrictions in Iraq, they had limited human intelligence about exactly what was going on in various facilities.

Iraq's mixed-use complexes made it difficult for export licensing officials and those concerned about proliferation to tell exactly where United States equipment was going in Iraq, and, as I pointed out, out of the 771 licenses, only 1 was followed through to try to make sure that the end-use purposes had been served. Only 1 out of 771. That is why postinstallation checks; the Bush administration did only one, as I said; should have been a prerequisite for approving the shipment of United States dual-use technology to Iraq. Without checking on the technology after it was installed, there was almost no chance of determining if it was being used for civilian purposes as claimed by Iraq. The lack of any checks, given that the administration knew what Iraq wanted to do and how it was going to develop military facilities is inexplicable.

That problem is illustrated in a July 1990 executive branch report which states:

Iraq's military industrialization program presents a significant problem for controlling U.S. origin goods and technology and preventing its use in Iraqi military program, particularly strategic projects developing missiles and nonconventional weapons * * * dual-use equipment and technologies can be easily diverted from civilian to strategic military programs.

What could be clearer than that memorandum?

Iraq's close control of production and its mixed-use facility scheme was always a problem for policymakers. A declassified November 1989, State Department memo discussing how President Bush's mandate to increase trade with Iraq was at odds with efforts to stop Iraq's proliferation efforts put it this way:

The problem is not that we lack a policy toward Iraq; we have a policy. However the policy has proven very hard to implement when considering proposed exports of dual-use commodities to ostensibly non-nuclear end-users, particularly state enterprises.

The memo goes on to state, as I have reported before:

Complicating factors in decision making include:

1. A presumption by the Intelligence Community and others that the Iraqi government is interested in acquiring a nuclear explosives capability;
2. Evidence that Iraq is acquiring nuclear-related equipment and materials without regard for immediate need;
3. The fact that state enterprises * * * are involved in both military and civilian projects;
4. Indications of at least some use of fronts for nuclear-related procurement;
5. The difficulty in successfully demarching other suppliers not to approve exports of dual-use equipment to state enterprises and other ostensibly non-nuclear end users.

I will now provide a real world example of this dilemma using a BNL-financed glass-fiber factory that went to Iraq through Matrix-Churchill Corp.

One of the Iraqi military's highest priorities was carbon- and glass-fiber technology. Western militaries use carbon and glass fibers extensively in nuclear, missile, aerospace programs. These very lightweight fibers, when mixed with the proper ingredients, can protect metal from temperatures up to 3,000 degrees. For example, carbon and glass fibers can be used to insulate pipe in nuclear reactors. Carbon fiber technology is used to make nose cones and other temperature-resistant parts for rockets.

When properly fabricated these fibers can also be used to replace metal in many applications. For example, missile casings and many airplane fuselage parts are made with these fibers. These fibers are lighter and more heat resistant than metal. Carbon fibers can also be used to make parts for high-tem-

perature applications such as uranium-enrichment centrifuges.

Carbon- and glass-fiber technology also has many civilian uses such as making the hull of a boat, computer casings, and even golf clubs. Given Iraq's military intentions and the priority they placed on military production, a carbon- or glass-fiber plant in the hands of Iraq was known to be dangerous.

Certainly they were not forming any golf greens anywhere in that desert, but with the help of a BNL loan and Iraq's front company Matrix-Churchill the Iraqis were able to obtain from the United States a glass-fiber factory for the Nassr state enterprise for mechanical industries—which was Iraq's prime ballistic missile maker and also an integral cog in Iraq's efforts to enrich uranium through the centrifuge method.

Even though the United States had severe restrictions on sending carbon-fiber technology abroad, Iraq was able to obtain glass-fiber technology through the United States export licensing process. The glass-fiber debacle dramatically illustrates how President Bush's mandate to increase trade with Iraq was at odds with the policy of limiting proliferation. Iraq's military industrialization strategy of mixing military and civilian production with the same complexes, repeatedly caused nightmares within the export licensing process.

A summer 1990 Government report reflecting the dangers of Iraq's strategy cautioned that:

> Development of missiles and non-conventional weapons was Iraq's highest priority and the program most at odds with U.S. policy of limiting proliferation. Iraq's activities clearly presented tough problems for controlling U.S. dual-use technology that can easily be diverted from civilian programs because Iraq integrates civilian and military production facilities.

□ 1700

But instead of heeding numerous warnings about Iraq's military intentions and dubious procurement activities, the Bush administration repeatedly approved export licenses of military useful technology to Iraq. The glass-fiber factory and many other military useful technologies and equipment were shipped to Iraq in order to improve trade.

We are still doing that. We have also seen a recent helter-skelter of the falling dollar. It was almost in a free fall. The Federal Reserve had to intervene and get 17 other nations in Europe to intervene.

But what have I been saying since the middle 1970's about that? That has been lost side up. It is on record. I felt it was my responsibility. Certainly not having too much power and being looked down upon by the tremendous powerful banking lobbyists as somebody that did not have clout on the Banking Committee, my words went unheeded.

But there is where our danger is. Iraq has done and its advisers, and it is brilliant, whoever advised them, and I suspect a lot of those were non-Arab or non-Middle East, but probably European. This is why the Europeans, beginning after World War I when they were doing the same thing, today and are going the same place as after World War I, they used to say not Uncle Sam, but Uncle Sap.

That is what we continue to be. We continue to be played as Uncle Saps. It aggrieves me to see this, whether it is Middle East, Far East, Asia, or Europe, where it is still an ongoing process.

Does anybody think as our leaders have for the last decade and a half or two that we can depend on help, relief, from friendly sources? If we as an individual family suddenly decided that we are going to depend on our well-being and the supply of our essential needs from some good will neighbor down the street, how many of us would say that was very precarious? But we have been doing that on a national level. Any warnings, any voices speaking out, have been marginalized, shunted aside, including my own, in all fairness to myself.

I have had to take the brutality of dismissal and criticism, and even accusation of perhaps lack of patriotism long enough. So if this be treason, then make the most of it.

Shortly after the BNL raid in August 1989, the U.S. attorney in Atlanta began investigations of several BNL-financed projects, because they got tipped off that something was wrong, even though everybody else that had anything to do with it knew it. So they decided that some rogue element officials in this Italian bank branch in Rome did not know anything about $5 billion-plus of extension of credit through this little branch, or agency as they call it, in Atlanta?

Well now, come on. Anybody that believes that believes in the tooth fairy still.

A Federal Reserve memo indicated what the assistant U.S. attorney [AUSA] thought of the project. The September 22, 1989, Federal Reserve memo of a conversation with the Atlanta U.S. attorney states:

> McKenzie said that everything being written about the missile sales is true. Matrix-Churchill made missile casings.

A Federal Reserve memo dated September 28, 1989, indicates that the DOD had real concerns:

> The Department of Defense is investigating allegations that BNL's funding was used at least in part to finance arms shipments to Iraq in violation of U.S. law. The Atlanta U.S. attorney Gail McKenzie has indicated orally that she believes that BNL-Atlanta made loans to Matrix-Churchill * * * to finance the purchase by Iraq of missile casings * * *.

My gosh, the Atlanta assistant attorney general left and went to work for Matrix-Churchill, and then comes back to the Justice Department and the Atlanta Office of the Federal Attorney.

Two months later, on November 24, 1989, Matrix-Churchill Corp., Iraq's front company in Cleveland, OH, applied for an export license to ship equipment for the glass-fiber factory to Iraq. The Matrix-Churchill export application states:

> Equipment to be used to control a glass-fiber production line with a capacity of 15 tons a day.

The end user listed in the Matrix-Churchill was the technical corporation for special projects, referred to as TECO or Techcorp. The Bush administration had information on TECO going as far back as far as the middle 1980's. For example, a September 1989 Government report says that TECO was involved in high priority military projects that included chemical weapons, antimissile programs, long-range missiles, and nuclear weapons.

A later document showed that TECO served as a focal point for defense related industrial construction and civil engineering and commercial contacts between Iraq establishments and foreign suppliers.

Thus, before the November 1989 date of the application for a license to ship the glass-fiber technology to Iraq, the Bush administration had clear information showing that Matrix-Churchill was part of Iraq's secret military technology procurement network, and that the network's goal was to procure technology for high-priority missile and nuclear weapons projects in Iraq.

They also had information showing that the end user of the technology was an integral part of Iraq's procurement network and that TECO was responsible for Iraq's highest priority clandestine missile and nuclear programs.

Meanwhile, on February 12, 1990, a secret State Department cable was sent to the U.S. Embassies of our closest allies in Europe and Asia. The State Department instructed the Embassies to warn host governments about Iraq's plans to procure nuclear and missile technology, especially carbon- and glass-fiber technology. Can we imagine that?

The cable, subtitled, "Possible Iraqi Missile and Nuclear-related Procurement" reported that the NASSR State Enterprize for Mechanical Industries had been seeking a glass fiber production plant and that NASSR had procured commodities for Saddam Hussein's nuclear and missile programs in the past.

Here is the State Department warning these vacant embassies, "Look out, this is what they are trying to do," and yet we are supplying them with the fiberglass factory.

As I revealed last week, as far back as 1988 the administration had abundant information showing that NASSR was the heart of Iraq's ballistic missile

programs and also a critically important player in the nuclear weapons program. A Commerce Department memo related to an export license application for NASSR dated August 1988 sheds light on how far back our Government knew of NASSR's activities. The memo states of NASSR:

The equipment will be used by the NASSR State Establishment for Mechanical Industries. After several reviews DOD recommended a denial because DOD alleges that we are dealing with a "bad" end-user. The ultimate consignee is a subordinate to the Military Industry Commission and located in a military facility.

An intelligence report on NASSR in May 1990 showed that:

In the case of the missile program—the NASSR State Establishments for Mechanical Industries [NASSR] was instrumental to Iraq's missile development effort.

Amazingly, despite all this and in complete contradiction to the State Department's February warning, on May 30, 1990, the U.S. Commerce Department informed Matrix-Churchill that it did not even need a license to ship the equipment and the glass fiber technology to Iraq. Commerce told Matrix that the technology was G–DEST—in other words all Matrix-Churchill had to do was to have Techcorp verify in writing that is would not divert the technology to a third country. It is unbelievable.

Several weeks ago the committee interviewed a Matrix-Churchill employee assigned to the fiberglass project.

Let me pause at this point to give credit to one of the most indefatigable and brilliant professional staffers we have on the committee, Mr. Dennis Kane, and his able assistant, Debra Carr, under the leadership of our staff director, Mr. Kelsay Meek. I just cannot begin to describe to my colleagues what it has taken to get thousands of these documents. Some of them do not seem to make sense, they have numbers or codes, and they match them.

Mr. Kane and his helpers have worked all through the night and weekends. They have gone down even as tired as they are to Cleveland and talked to the Matrix-Churchill employees.

□ 1710

The moral of this zany, but dangerous story is this. When it came to Iraq, the general policy of thwarting proliferation was at odds with the President's policy of increasing trade with Iraq as spelled out in NSD 26. The Iraq policy permitted Iraq to obtain sophisticated United States military useful technology despite abundant evidence of Iraq's intentions and military programs and even despite our Government trying to stop these purchases elsewhere.

CONCLUSION

There is no way the administration can say that it did not know of Iraq's intentions. There is no way the administration can claim that it was not aware that it was helping to arm Iraq. The intelligence information and reports on Iraq's military industrialization program that I have discussed today and last week were widely disseminated within the administration.

Individuals at the White House, State Department, DOD, Export-Import Bank and the Commerce Department received all this information and much more throughout the entire Bush administration. In fact, the President himself received a good dose of this information in a national intelligence review which was sent to him in November 1989.

Last Friday the Los Angeles Times printed an article which stated:

Administration officials maintain that any military assistance to Iraq was an inadvertent consequence of the attempt to moderate Iraqi actions. They said that they were unaware of the extent of (Iraq's) network in this country and that top officials were distracted by other foreign policy concerns.

This claim is patently false. The fact is that the Bush administration had excruciating detail on Iraq's military industrialization plans and intentions and that Iraq gave highest priority to expanding its indigenous weapons manufacturing capability.

It was in this context that President Bush issued NSD–26 even though he had evidence of Iraq's intentions and dubious practices showed growing danger. The Bush administration did nothing to significantly alter its strategy toward Iraq.

It was a written policy of the Bush administration to help arm Iraq. The Bush administration sent United States technology to the Iraqi military and to many Iraqi weapons factories, despite overwhelming evidence showing that Iraq intended to use the technology in its clandestine nuclear, chemical, biological, weapons and long-range missile programs.

And yet, in 1991 President Bush stated flat out that not one United States firm supplied Saddam Hussein with equipment that enhanced Iraq's military capability. Last week and this week I have shown that the Bush administration actively participated in enhancing Iraq's military capability by watching and even encouraging the flow of billions in United States financial assistance and technology to Iraq.

Any claim that the United States may have inadvertently helped to arm Iraq is a smokescreen to obscure the massive blunder that occurred during the coddling of Saddam Hussein. There is more to say about this.

Mr. Speaker, I include for the RECORD documents to which I referred.

FEBRUARY 1990.

From: Secstate Washdc

To: Amembassy Bern priority, Amembassy Bonn priority, Amembassy Madrid priority, Amembassy Paris priority, Amembassy The Hague priority, Amembassy Tokyo priority, Info Amembassy London, Amembassy Ottawa, Amembassy Rome.

Secret State 046278

E.O. 12356: Decl: Dadr.

Tags: PARM, KNNP, MNUC, PREL. IZ.

Subject: Possible Iraqi missile and nuclear-related procurement.

Refs: (A) 89 State 292127; (B) 89 State 292006.

1. Secret—Entire text.

2. Action addressees will recall reftels which describe

(Secret)

(Secret)

USG concerns about the nuclear programs of Iran and Iraq and steps they have taken to reinvigorate those programs. Reftels urged host governments not to provide either Iran or Iraq with commodities or training which could lead to the production of fissile materials directly usable for nuclear explosives. i.e., plutonium or highly enriched uranium. In particular, reftels cautioned against the export of so-called "dual-use" items to the nuclear programs of Iran or Iraq which could be important in a nuclear weapon program.

3. In an ongoing effort to impede further development of the nuclear programs of Iran and Iraq, department would like to bring to the attention of host governments efforts by Iraq to acquire carbon fiber—and glass fiber-related technology—dual-use technologies which could have both missile and uranium enrichment centrifuge applications. (Begin FYI: Department is currently considering additional approaches which may be made to allied governments regarding other Iraqi efforts to acquire missile and CW-related technology. End FXI.) Embassy is requested to raise this issue drawing on the following talking points, as appropriate.

4. Talking points.

(A) You will recall our discussions of last fall during which we expressed concern about efforts by Iran and Iraq to reinvigorate their nuclear programs.

(B) We urge your government not to provide to Iran and Iraq equipment, materials, technology, or training which

(Secret)

(Secret)

could lead to the production of fissile material directly usable for nuclear explosives, i.e., plutonium or highly enriched uranium.

(C) We also urged suppliers to be extremely cautious about transfer of so-called dual-use items to Iran and Iraq which could be important to a nuclear weapon program.

(D) In our continuing effort to remain alert to efforts by Iran and Iraq to acquire technology which could contribute to a nuclear explosives program, the USG wished to bring to your attention efforts by Iraqi entities to acquire dual-use technologies which could have both missile and uranium enrichment applications.

(E) The USG has learned that Iraqi entities have been seeking carbon fiber production technology. A carbon fiber precursor known as polyacrylonitrile, and equipment for producing carbon fiber fabrics and components.

(F) The USG has also learned that Iraq's Nasser State Enterprise has been seeking a glass fiber production plant. Nasser has procured commodities on behalf of Iraq's nuclear and missile programs in the past.

(G) Certain high-precision forms of carbon fiber and glass fiber technologies have both

missile technology and uranium enrichment centrifuge applications. We believe it is possible that Iraq is trying to acquire this technology for use in one, or perhaps both, of these end-uses.

(H) We believe that the following companies possess this technology and may be approached by the Iraqis:

I. For the UK: (points are being passed to the UK Embassy in Washington)

(Secret)

(Secret)

Glass fibers: Courtalds, Ltd.

Carbon fibers: Courtalds, Ltd.

Filament winding machines: Plastrax and Courtalds, Ltd.

II. For the FRG:

Glass fibers and reinforced plastics: Lipex Anlagentechnik.

Filament winding machines: Josef Baer Maschinenfabrik, Bolenz and Schafer Maschinefabrik KG, and Maschinenbau-Gesellschaft MBH.

Other manufacturers of autoclaves which can be used for advanced fiber and reinforced plastic: F.G. Bode and Co. GMBH, and Deutsch and Neumann GMBH.

III. For France:

Filament winding machines: Berthiez, MFL and Senico.

IV. For Japan:

Carbon fibers: Sumika-Hercules Co., Ltd., a Japan-U.S. joint venture, and Toray Industries.

Filament winding machines: ASAHI.

V. For Switzerland:

Carbon fiber related technology (autoclave) manufacturers:

(Secret)

(Secret)

Nova Werke AG and Sulzer AG.

VI. For the Netherlands:

Carbon fibers: Hercules BV.

VII. For Spain:

We have not identified specific Spanish manufacturers which produce this type of technology, but we believe that such companies may be approached by Iraq.

VIII. For all:

(A) We would urge you to review cautiously license applications for the export of dual-use commodities and technology to Iraq that could be important in a nuclear weapon or missile delivery program, including carbon and glass-fiber technology and equipment.

(B) Filament winding machines and filamentary materials are covered by the so-called "second track" list, which nuclear suppliers agreed in 1984 to use best efforts to control. (This list contains items related to centrifuge enrichment and was adopted to complement the Zangger committee exercise on centrifuge enrichment which preceded it.) The list specifies "filament winding machines where the motions for positioning, wrapping and winding of fibers are coordinated and programmed in three or more axes, especially designed to fabricate composite structure or laminates from fibrous and filamentary materials" and "filamentary materials suitable for use in composite structures and having a specific modulus of greater than 12.3-times-ten-to-the-sixth-power and a specific strength greater than 0.3-times-ten-to-the-sixth-power in SI units."

(Secret)

(Secret)

(C) Filament winding machinery and filamentary materials are subject to COCOM control under IIL 1357 and IIL 1763, and are listed under category II of the equipment and technology annex of the missile technology control regime.

(D) A number of companies in the U.S. manufacture these items: the USG is exercising special caution to ensure that those companies are aware that a license is required for their export.

(E) Those companies are also being told that, given U.S. policy, licenses for the export to Iraq of these particular items would not be granted.

(F) The USG urges your government to take similar steps to ensure that Iraq is not successful in efforts to obtain these items, which could contribute to the development of Iraq's nuclear and missile programs.

End talking points. Eagleburger.

GLASS INC. INTERNATIONAL,
Covina, CA, February 22, 1990.

ROLAND DAVIS,
Matrix-Churchill Corp., 5903 Harper Road, Cleveland, OH.

DEAR ROLAND: I received your fax dated 2/22/90. I know that I promised you a fax regarding a schedule for supplying you with control drawings. I was unable to do this since our employee responsible for this activity was not able to attend work on the 21st. We now have arrived at a tentative date of March 9, 1990 for delivery of the documents under question, but I must advise you that we will not supply this data until we receive a signed copy of an Export License from the U.S. State Department authorizing the shipment of the Computer Control System software and related drawings, and or equipment.

Your office was advised in August 1989 that in our opinion an Export License was required for the Computer Control System.

Since you were unable to prepare the application for the Export License, we at our cost, prepared a draft of an Export Application and sent it to you on October 10, 1989 and revised it at your request on October 18, 1989.

Please note in the September Monthly Report Par A. and C., purchasing of the computer was delayed for two reasons, (1) Not being paid under the terms of Letter of Credit and (2) Not having received a copy of an approved Export License for the Computer, software, and related drawings. It was made very clear in each of the following Monthly Reports, October, November, December 1989 and January 1990, that the Computer Control System was not complete.

I would like to point out as I have in the past that to my knowledge it is a criminal offense to export from the United States anything related to Computers without an approved Export License. This point was discussed again with your office when we were advised by the Del Lavoro Bank that we have been investigated by the United States Government (F.B.I. and Customs), regarding exporting to Iraq. At that time I told your office that I was glad that nothing related to the Process Computer System had been supplied to Iraq.

We are doing our utmost to support MCC. Please note that if your Export Application is not approved what are we to do with all of this equipment as well as our engineering investment in the Control System.

Very truly yours,

ALBERT LEWIS.

TELEX NO.: 3-030.

DATE: MARCH 7, 1990.

To: Techcorp—Baghdad, Iraq.

Attn: Mr. Taha Salman.

Subject: Glass Fiber Project—Contract No. 3128, export license application control No. C120752.

(AA) This is to advise you that we have just been informed by the U.S. Department of Export License that our application (control code No. C120752) for the IBM personal computers (AT286) will be rejected as they are not allowed to be exported to Iraq.

(BB) From talking to the Iraqi commercial attaché at the Embassy earlier today, he informed me that there are similar cases on other projects for which the Embassy will contact the U.S. State Department to resolve. But he requested that they receive an authorization from you or the ministry to discuss our case. Therefore, you are kindly requested to Telex the Embassy immediately (with a copy to us) authorizing them to follow up on our case and to help in obtaining the export license. Please make sure that you refer to our project name, number, and the export license application No. as stated above.

Also, it will be of great help, if the commercial section of the American Embassy in Baghdad are contacted by the ministry for the same purpose. I do not see why they are objecting to export simple personal computers to Iraq, while they can be exported to most countries.

(CC) At our end, we are still in contact with the U.S. authorities, but I believe your official involvement will expedite matters considerably.

Best Regards,

A.T. QADDUMI.

MATRIX-CHURCHILL CORP.,
HARPER ROAD
Cleveland, OH, May 15, 1990.

To: Iraqi Embassy.

Atten: Yousif Abdul Rahman.

From: Mr. Roland Davis.

Subject: Export License.

Application for Export License No. C120752, Dated Nov. 17, 1989, Log No. D065531.

Presently in the hands of: Office of Export License, Mr. Dan. Hill (Since May 8, 1990) 1-202-377-4055; Last Contract was 5-14-90 @ 4:15 P.M. Said he had to talk with the Director of the Export License Office and would get back with me on Tuesday, May 15, 1990.

The Technology is that of Glass Inc. International and a letter explaining dated March 30, 1990 is attached.

Spent the better part of 2 days trying to get the status of our application for Export License application C120752. It seems that it has been rejected by:

1. Defense Dept.
2. Office of Export Enforcement.
3. Office of Technology and Policy Analysis.

It is presently in the Office of Export License who is leaning toward denial. The denial is not based on the computer, but the technology of the process, which is the process for manufacture of "E" Glass Fiber Technology.

Enclosed is the brief explanation of the technology that Glass Inc. International is providing along with Matrix-Churchill to Iraq.

We would like to bring this subject to your attention and request your assistance in this matter.

If you have any questions, please do not hesitate to call.

Regards,

ROLAND B. DAVIS.

GLASS INC. INTERNATIONAL,
Covina, CA, March 30, 1990.

MR. LOCKETT YEE,
U.S. Department of Commerce, BXA/OTPA/TTC, 41th E. Constitution Ave N.W., room 4068, Washington, DC.

DEAR MR. YEE: Enclosed find a copy of the Export License and supporting document for

a commercial glass fiber plant in Peoples Republic of China. The technology being supplied by Matrix-Churchill to Iraq is a standard commercial glass fiber used as a reinforcement for plastics and asphalt. The generic name for the fiber is E-Glass. Its chemistry is typically 54.0 percent SiO_2, 15 percent Al_2O_3, 15 percent CaO/MgO, 11 percent B_2O_3, 2.0 percent F_2, 0.9 percent Na_2O/K_2O. This glass would not be suitable for light transmission since it contains large amounts of chrome and iron. Also, the process can not produce glass of the required quality or characteristics.

The fiber is essentially a single rod of glass having the above chemistry. The diameter of the fiber is typically, 10 to 14 microns. The glass making raw materials are melted in a large furnace approximately 24 feet long and 9 feet wide. The resulting glass is drawn into fibers using platinum bushing having 400 or more holes. These fibers are married together into rovings and/or chopped into fiber length form ¼ to 1½ inches.

See the attached picture of E-Glass Fiber Furnace.[1]

The fibers used in telecommunications are generally known as optic fibers. These are made using two different glasses; a core glass and a clad glass. The core glass is normally pure Quartz (SiO_2). The cladding glass may be a zinc lanthanum borate glass (ZNO, LA, B_2O_3).

See attached picture of Optic Fiber Furnace. Also, see attached picture of E-Glass products.[1]

Sincerely,

ALBERT LEWIS.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF EXPORT ADMINISTRATION,
Washington, DC.

Export License Application, RWA Notice, Case Number: C120752.

Action Date: May 30, 1990.

The reason printed below explains why the referenced Export License Application is (r)eturned (w)ithout (a)ction. When an application has been returned without action and is being resubmitted, a new application form must be submitted. When a new form is submitted, it must reference the original application. The resubmission must be in accordance with the requirements existing at the time of the resubmission (see paragraph 372.4(G) of the Export Administration regulations).

Applicant reference number: C120752.

Applicant: M467939.

Matrix Churchill Corporation.

5903 Harper Road, Cleveland, OH 44139.

Consignee in country of ultimate designation: Techcorp, Ministry of Industry Building, Al Nidhal Street, Baghdad, Iraq. Reason: The equipment specifically identified on this application do not need a validated license and qualify for general license G-Dest.

Refer inquiries to: Exporter Assistance Staff, Office of Export Licensing, P.O. Box 273, U.S. Department of Commerce, Washington, D.C. 20044, or nearest district office (see Export Administration regulations for list of district offices).

MATRIX-CHURCHILL CORP.,
Cleveland, OH, May 30, 1990.

Mr. ALBERT LEWIS,
Glass Inc. International
Chino, California

Subject: Glass Fiber Project—Export License

This is to advise you of my phone discussions with Mr. Richard Kress of the Department of Commerce—Office of Export Licensing, with regard to the subject of our export license. Mr. Kress called me today at noon in response to our letter dated May 25, 1990, copy attached. He advised me that after review of the technical data for the computers we are intending to ship for the plant, it was established that this equipment is classified as G-Dest, and as such does not require an export license. He advised me that we could go ahead and ship. However, I requested that they advise me in writing stating the above, which he promised to do immediately.

I then asked him about the Glass Fiber Technology itself, and whether it is also clear. His reply was that the only concern was with the computer equipment, and since no export license is required, the end user does not matter anymore, and that we can ship all the equipment for the plant including the computer. I stated to him that I would not ship the computer equipment until receipt of his letter.

As soon as we receive such letter, I will send a copy for your records.

Very Truly Yours,

A.T. QADDUMI,
Project Manager.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF EXPORT ADMINISTRATION,
Washington, DC.

Mr. A.T. QADUMMI,
Matrix-Churchill Corp.
Cleveland, Ohio.

DEAR MR. QADUMMI: Pursuant to our recent telephone conversations I am informing you of the following. The Office of Technology and Policy Analysis informed me that they concur with our determination regarding the 286 computer and peripherals on export license application C120752. This equipment is decontrolled under General License G-Dest and should be classified as 6565G. The technical data for glass fiber production can be shipped under General License GTDR with a letter of assurance. The glass fiber equipment qualifies for General License G-Dest and should be classified as 6399 G. Temperature and process controllers that are serially networked to the computer should be classified as 6599G and qualifies under General License G-Dest. The following item numbers identified in the equipment list provided by the applicant cannot be classified because of lack of technical parameters: 24, 49, 78, 89, 90, 91, 92, 93, 99, 101, and 105. For these items a formal commodity classification should be obtained in order to determine whether they require a validated license. For further information please contact Lockett Yee in OTPA-TTC at 377-1662 or Dale Jensen in OTPA-CS at 377-0708. The statements made in this response are based on information from the OTPA files for the export license application referenced above.

Sincerely,

RICHARD KRESS,
Strategic Trade Specialist.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 1, 1990.

Mr. LOCKETT YEE,
U.S. Department of Commerce,
Washington, DC.

Subject: Glass Fiber Project—Application for Export License.

Reference: Our Application No. C120752—Your Control Code No. D065531.

DEAR MR. YEE: As per your request, please find another copy of our application dated November 17, 1989. Also attached is a copy of Mr. Albert Lewis's letter dated March 30, 1990, to yourself on the specification of Glass Fiber. I will call Mr. Lewis today to ask him to send you a complete copy of the document he sent to you then.

You are kindly requested to review the above documents and to advise us whether we need an export license or not for exporting the technology of Glass Fiber, and if so, to grant us the export license. If you need additional information, please don't hesitate to call us.

Your urgent attention to this matter is greatly appreciated.

Very Truly Yours,

A.T. QADDUMI.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 4, 1990

NAME: Mr. Adnan Al-Amiry.

COMPANY NAME: TDG—London.

DEAR ADNAN: Please fax the following (2) sheets to Techcorp as per our discussions earlier today. Also, if you may send it to our office in Baghdad for follow up.

Thanks,

A.T. QADDUMI

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 4, 1990.

Mr. TAHA SALMAN,
TECHCORP,
Baghdad, Iraq.

Subject: Glass Fiber Project—Export License.

After a lengthy debate with the U.S. Department of Commerce—Office of Export License, we were able to obtain their approval to export the technology for the E-Glass Continuous Fiber on the condition that we receive a "Letter of Assurance" from the Importer, Technical Corps for Special Projects, that neither the technical data nor the direct product thereof is intended to be shipped, either directly or indirectly, to some specified countries, as per the list of countries in the attached letter text.

To enable us to transfer the technology, you are kindly requested to send a "Letter of Assurance" as per the attached text.

Very Truly Yours,

A.T. QADDUMI
Project Manager.

REPUBLIC OF IRAQ,
TECHCORP.

MATRIX CHURCHILL CORP.,
Cleveland, OH.

Subject: E-Glass Continuous Fiber Plant—Export License Application No. C120752 Letter of Assurance.

GENTLEMAN: This is to assure you that neither the technical data nor the direct product thereof from the above plant is intended to be shipped, either directly or indirectly to the following countries:

(1.) Country Group Q: Romania.

(2.) Country Group S: Libya.

(3.) Country Group W: Hungary, Poland.

(4.) Country Group Y: Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Laos, Latvian, Lithuanian, Mongolian People Republic, U.S.S.R.

(5.) Country Group Z: North Korea, Vietnam, Kampuchea, Cuba.

(6.) Afghanistan.

(7.) People's Republic of China.

(8.) Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

OSAMA HUMADI,
Technical Corps for Special Projects.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legis-

[1] Photographs not reproducible in RECORD.

lative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. YOUNG of Alaska) to revise and extend his remarks and include extraneous material:)

Mr. DELAY, for 60 minutes, on July 28.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. YOUNG of Alaska) and to include extraneous matter:)

Mr. SOLOMON.

Mr. BROOMFIELD.

Mr. MARLENEE.

Mr. DOOLITTLE.

Mr. GRADISON in two instances.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. MATSUI.

Mr. RANGEL.

Mr. SOLARZ.

Mr. BILBRAY.

Mr. KENNEDY.

Mr. MATSUI in three instances.

Mr. ANTHONY.

Mr. VENTO in two instances.

Mr. KOSTMAYER.

Mr. LIPINSKI.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, accordingly (at 5 o'clock and 12 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 28, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3999. A letter from the Secretary of the Department of Education, transmitting a draft of proposed legislation to permit the Department of Education to make additional fiscal year 1992 allocations to certain counties under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and for other purposes; to the Committee on Education and Labor.

4000. A letter from the Department of State, transmitting the annual report for fiscal year's 1989 and 1990 on the Foreign Service Retirement and Disability System, pursuant to 31 U.S.C. 9503(a)(1)(8); to the Committee on Government Operations.

4001. A letter from the Secretary, Department of the Interior, transmitting notice of a proposed water reclamation project for the Fort McDowell Indian Community, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4002. A letter from the Secretary, Department of the Interior, transmitting notice of a proposed water reclamation project for the Ute Mountain Indian Tribe, CO, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4003. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4004. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4005. A communication from the President of the United States, transmitting a draft of proposed legislation to designate certain lands in the State of Wyoming as wilderness, as for other purposes; to the Committee on Interior and Insular Affairs.

4006. A letter from the Administrator of Management and Budget (Federal Procurement Policy), transmitting a draft of proposed legislation to amend the Miller Act to increase the statutory threshold; to the Committee on the Judiciary.

4007. A letter from the Administrator, General Services Administration, transmitting a copy of a building project survey, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4008. A letter from the Secretary of Labor, transmitting the annual report describing employment and training programs for veterans during program year 1989, pursuant to 38 U.S.C. 2009(b); jointly, to the Committees on Education and Labor and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 1489. A bill to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes; with an amendment (Rept. 102-247, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2407. A bill entitled the "Farm Animal and Research Facilities Protection Act of 1991"; with amendments (Rept. 102-498, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5465. A bill to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance; with an amendment (Rept. 102-723). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5466. A bill to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes; with an amendment (Rept. 102-724). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 3537. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes. (Rept. 102-725). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4026. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes (Rept. 102-726). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on House Administration. House Joint Resolution 271. Resolution authorizing the Go For Broke National Veterans Association to establish a memorial to Japanese-American veterans in the District of Columbia or its environs; with amendments (Rept. 102-727). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5643. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses (Rept. 102-728). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5646. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of not-for-profit residual market insurance companies under the alternative minimum tax and to repeal the taxable income limitation on the recognition of built-in gain of S corporations (Rept. 102-729). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5647. A bill to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1982 (Rept. 102-730). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5652. A bill to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution (Rept. 102-731). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5654. A bill to amend the Internal Revenue Code of 1986 to provide that the harbor maintenance tax shall not apply to the movement of certain cargo within contiguous United States and foreign ports, and for other purposes (Rept. 102-732). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5656. A bill to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for sea-

sonal children's camps from Social Security taxes, and for other purposes (Rept. 102–733). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5659. A bill to permit the simultaneous reduction of interest rates on certain port authority bonds (Rept. 102–734). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5674. A bill to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes (Rept. 102–735). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5675. A bill to amend the Internal Revenue Code of 1986 to permit regulations waiving yield restrictions on tax-exempt bond arbitrage if the arbitrage rebate requirements are met (Rept. 102–736). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

Mr. BROOKS: Committee on the Judiciary. H.R. 455. A bill for the relief of Melissa Johnson (Rept. 102–737). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 712. A bill for the relief of Patricia A. McNamara (Rept. 102–738). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2345. A bill for the relief of William A. Kubrick; with an amendment (Rept. 102–739). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2563. A bill for the relief of Richard W. Schaffert (Rept. 102–740). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3664. A bill for the relief of Irwin Rutman; with an amendment (Rept. 102–741). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARLENEE:

H.R. 5696. A bill to provide for the management of lands and recreational resources at Canyon Ferry Reservoir, MT, and for other purposes; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 840: Mr. HAYES of Illinois.

H.R. 2872: Mr. BROOMFIELD and Mr. SMITH of New Jersey.

H.R. 3138: Mr. SANDERS and Mr. HOYER.

H.R. 3920: Mr. DIXON.

H.R. 4178: Mr. JOHNSTON of Florida.

H.R. 4207: Mr. LEHMAN of California and Mr. WALSH.

H.R. 4304: Mr. MACHTLEY, and Mr. KILDEE.

H.R. 4311: Mrs. JOHNSON of Connecticut.

H.R. 4427: Mr. BORSKI and Mr. WYLIE.

H.R. 4530: Mrs. LOWEY of New York, Mr. INHOFE, Mr. SWETT, and Mr. JAMES.

H.R. 5424: Mr. WELDON.

H.R. 5570: Mr. DANNEMEYER, Mr. OLVER, Mr. GUARINI, Ms. HORN, Mr. JACOBS, Mr. KOLTER, Mr. BURTON of Indiana, and Mr. BEREUTER.

H.J. Res. 398: Mr. BROWDER, Mr. MCDERMOTT, Mr. WHITTEN, Mr. HERTEL, Mr. MRAZEK, Mr. OWENS of New York, Mrs. LOWEY of New York, Mr. ANDREWS of New Jersey, Mr. SCHEUER, Mr. DE LUGO, Mr. PURSELL, Mr. CAMP, Ms. KAPTUR, Mr. DARDEN, and Mr. LEVINE of California.

H.J. Res. 422: Mr. BLACKWELL, Mr. BRUCE, and Mr. CARDIN.

H.J. Res. 474: Mr. RAMSTAD, Mr. GEKAS, and Mrs. BENTLEY.

H.J. Res. 488: Mr. FOGLIETTA, Mr. SCHEUER, and Mr. ENGEL.

H. Con. Res. 180: Mr. JONTZ.

H. Con. Res. 282: Mr. MOODY and Mr. GREEN of New York.

H. Con. Res. 325: Mr. BUSTAMANTE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5405: Mr. JOHNSON of South Dakota.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5620

By Mrs. ROUKEMA:

—At the end of the bill insert the following new section:

SECTION . From funds appropriated to the Department of Transportation or made available in Public Law 102–143 or any other act the Secretary of Transportation shall, notwithstanding any other provision of this Act or any other act, make available not to exceed $500,000 for emergency corrective actions to be undertaken at Route 515, near Breakneck Road, in Vernon Township, New Jersey.

SENATE—*Monday, July 27, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

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

Let us pray:

The prayer today is the poem, "The Day's Demand," by Josiah Gilbert Holland who lived in the last century:

"God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo!
Freedom weeps, wrong rules the land,
And waiting justice sleeps."

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 1992.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

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

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the leader time of the distinguished Republican leader and myself be reserved for our use later in the day.

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, under the previous order, there is now to be a period for morning business to extend until 2 o'clock p.m. I ask that the period for morning business be stated.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, as just stated by the Chair, there will be a period for morning business, now to extend until 2 p.m., with Senators permitted to speak therein.

At 2 p.m., the Senate will begin consideration of S. 3026, the appropriations bill for the Departments of Commerce, Justice, State, and the Judiciary. It is my hope we can complete action on that appropriations bill today and that we can then proceed to consideration of other measures inasmuch as there are a large number of legislative measures on which the Senate has yet to complete action.

This will be a very busy time. I have previously stated on several occasions, and I want to repeat again, that the Senate will have sessions 5 days of the week during this legislative period with votes possible at any time, and votes will occur today, if necessary, to complete action on the Commerce, Justice, and State appropriations bill. I have asked the managers of the bill to complete action on that as soon as possible.

I thought, Mr. President, for the information of Senators, I would identify some of the many measures which are pending and which I hope we can proceed to take up and possibly complete action on as soon as possible.

The Appropriations Committee reported out three appropriations bills last week. We begin with the first of those appropriations bills today. I anticipate that the Appropriations Committee will report out several other appropriations bills during this week. Those are our highest priority as we must complete action on all of the appropriations bills, both initial passage in the House and Senate, then a conference, and then completion of the action on the conference reports, prior to the end of the fiscal year on September 30.

In addition, Mr. President, we have the energy bill, important legislation that we were unable to obtain cloture on, although 58 Senators voted in favor of taking up that bill, 33 against on last week. We will attempt again this week to obtain cloture on the motion to proceed. I hope that will not be necessary. As I understand it, negotiations among the parties are continuing in a way that suggests the possibility of a resolution which will permit us to proceed to that bill and complete action on it and send it to conference. That is a bill which passed the Senate by a vote of 94 to 4 earlier. It passed the House by a wide margin.

Among the other measures which I would like to bring up, and if possible complete action on, to the extent that time is available during this legislative period, are the Freedom of Choice Act, the Affordable Housing Act, the Equal Remedies Act, the legislation relating to most-favored-nation status for China, the Department of Defense authorization, the Water Resources Act, and the legislation that would make Social Security an independent agency. We also have the urban aid legislation which has now passed the House and which will be marked up tomorrow in the Senate Finance Committee.

In addition, Mr. President, there are five pending judicial nominations on the calendar on which I hope we can complete action during this legislative period. It is my intention that we will

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

do so during this legislative period. They are listed at page 3 of the Executive Calendar for today.

So all in all, it will be a busy period, and Senators are placed on notice with respect to the schedule for the approximately 3 weeks of this legislative period that there will be sessions 5 days a week, unless otherwise announced, with votes every day, and possible at any time during any day unless otherwise announced.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I would just underscore what the majority leader has stated. I think with reference to the energy bill, there is only one issue as this Senator understands that needs to be resolved, and I understand there are still negotiations ongoing. I think it is a very ambitious schedule that the majority leader laid out. I am not certain all that can be done between now and the time we recess for the Republican Convention in Houston, TX, but in any event we will make every effort on this side to cooperate.

I would hope that we could complete action today on the State, Commerce, Justice appropriations bill. Is there anything else planned for today when that is completed? If we finish that, would that be it?

Mr. MITCHELL. That would be it for the day, if we complete action on that bill, although I had hoped to discuss with the Republican leader and other Senators during the day today the precise schedule thereafter. I have already identified the measures which we will take up.

I believe we have available the Agriculture Department appropriations bill, and the D.C. appropriations bill. In addition, the energy bill is one which I hope we can proceed to promptly as well.

But that is a subject that I will take up in further discussions with the distinguished Republican leader.

Mr. DOLE. I think the majority leader and the committee have open some judicial nominations. There are five judicial nominations that we hope to dispose of between now and the time of the recess. I assume there is only one controversial nomination. That is the Carnes nomination. That would include that nomination.

Mr. MITCHELL. That is one of the five that are now pending.

Mr. DOLE. I thank the majority leader.

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

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

Mr. MITCHELL. Mr. President, there are two other measures which have just been brought to my attention, which I did not list because we have already passed them but which we hope we will be able to get to conference on. They are the cable television bill, and the family leave bill. I recognize there is controversy with respect to both of them. The Senate has already acted on both of them. We will undertake the process by which we can get those bills to conference.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of Senate Joint Resolution 328 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 3079 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

TRIBUTE TO SENATOR TOM HARKIN

Mr. METZENBAUM. Mr. President, I rise today to speak about one of our colleagues whose efforts are worthy of our recognition and praise today.

I am frank to say that my colleague does not know that I am going to speak about him. He did not ask me to speak about him, and I did not ask him if he wanted me to speak about him.

But I felt that the situation was such that I wanted to come over and say a few words about him.

Too often, we tend only to speak about the accomplishments of our fellow Senators when they have announced their retirement, or, frankly, when they have met with a more untimely end.

But the Senator about whom I speak is neither retiring nor in the twilight of his public service. Indeed, I expect him to be a Member of this body, or holding some high public office, for many years to come.

This Senator is not ailing, nor is he ill. As a matter of fact, he is in robust health and is a vigorous battler for the causes he cares about.

And this week, Mr. President, this Senator, TOM HARKIN, can rightly savor the victory of one of those battles.

Because of the efforts of Senator HARKIN, our Nation strides forward today on the long journey toward equal opportunity and basic civil rights for all our citizens.

This work week welcomes the implementation of the Americans With Disabilities Act, and all Americans, but especially physically challenged ones, owe TOM HARKIN a debt of gratitude.

It is my hope, Mr. President, that Senator HARKIN's role in bringing this historic legislation to the attention of the Congress, and his eventual success in making it the law of this land, will never be forgotten.

In the newspaper accounts marking the effective date for the ADA, I have seen no mention of TOM HARKIN's efforts to make this day a reality—and that is understandable. I am not faulting the press. The focus now moves from the few who worked to pass this law, and on to the millions who will benefit from its provisions.

I also noted that ABC news last Friday named Evan Kemp, EEOC Chairman, as their "Person of the Week" in connection with the ADA. It is true that Mr. Kemp was the driving force within the administration on the ADA, and he is deserving of that recognition, and I congratulate him. His efforts were of immeasurable help in passing the bill.

Mr. President, those of us who are involved in the legislative process know well that no one person carries the load alone. Colleagues, interest groups, and concerned citizens all contribute.

But every one of us knows that often one person does indeed embody the linchpin upon which success or failure hinges.

With respect to the Americans With Disabilities Act, TOM HARKIN was that man. His contribution cannot be overestimated. The bill did not have an easy road in Congress. TOM HARKIN took a massive, complicated, and con-

troversial bill, faced down a veto threat, and forged a delicate compromise that all sides can embrace and look to with pride.

Much attention was paid in the recent Presidential primary race, in which TOM HARKIN ably competed, of Senator HARKIN's fiery speeches and his record as a rough and tumble fighter for working people.

It is true that Senator HARKIN is a master motivator on the stump, and an effective advocate for working families in this country, but there is another incident that I believe tells you more about TOM HARKIN than those anecdotes.

I will always remember the emotional moment on this floor when the Americans With Disabilities Act was put to a final vote, and Senator HARKIN delivered his final remarks in sign language, in order to speak directly with hearing impaired Americans, including his own brother. He combined his speech with the signing so that they might hear the speech in their own special way.

For me, that moment speaks volumes about the quality of his character and the level of his commitment. When TOM HARKIN makes his stand and speaks his mind, it is all coming from the heart.

I salute him today for this extraordinary accomplishment, and hope that his work on behalf of the disabled will be remembered for generations to come.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. LIEBERMAN. Mr. President, it appears this morning that Iraq has been spared for the time being from renewed allied military action. Saddam Hussein has pulled back from his refusal to allow U.N. inspectors into the Agriculture Ministry, where documents relating to his development of weapons of mass destruction were believed to be held.

But, Mr. President, has Saddam really "blinked" in this showdown? Has he really "backed down"? Or has he, in fact, won this skirmish?

U.N. inspectors are going into the Ministry, but Americans who were part of that international inspection team will not be allowed into the Ministry. Why was it necessary for the United States, having risked 500,000 of our own and won the war, to grant Saddam this favor? Why do we owe him anything at all?

And is it actually likely that the inspectors who are now going into that building are going to find anything of value after enough time has passed for the Iraqis to remove any incriminating evidence that might have been in that Agriculture Ministry?

Mr. President, it is a little bit like a drug dealer stopping a police SWAT team at the door of his House and telling them that they have to go get another search warrant; that he does not like the details of the one they have. He sends them away, and a couple days later they come back and he allows them inside. But, surprise of surprises, there are no drugs there. Of course, there are no drugs there. He has had the time to remove them. And that is exactly what I fear Saddam Hussein has pulled off in Baghdad.

My own concern, Mr. President, is that our so-called victory in this latest skirmish with Saddam Hussein is a very hollow victory at that.

The administration has pointed out—rightly—that Saddam's failure to allow inspectors into the Agriculture Ministry is but one of many violations of U.N. resolutions. The fact is that many of those other violations have been occurring for a long period of time.

In March of this year, on the anniversary of the cease-fire in the gulf war, I spoke in this Chamber and listed Saddam's many violations, arguing for stronger international action then to force his compliance, and, in fact, to force an end to his reign of terror in Iraq.

Unfortunately, those actions have not been taken. And so today we face an increasingly strengthened and increasingly defiant Hussein. Does anyone doubt that we will continue to be confronted by his arrogant disregard for international law and basic human rights as long as he stays in power?

Look at the record here. He has refused to comply with that section of the cease-fire agreement that he signed that requires him to begin negotiating the Iraqi border with Kuwait. He has refused to begin negotiating on the question of returning Kuwait prisoners of war. He continues to persecute Shiites in the south and Kurds in the north of his country and he has repeatedly thwarted the humanitarian efforts of the United Nations within Iraq.

I said in March, and I repeat today, that we should give sanctions more bite by establishing U.N. inspections of traffic between Jordan and Iraq which from all the reports looks like rush hour on one of our major American highways. We should station U.N. human rights inspectors throughout Iraq, especially in Kurdish and Shiite territories. We should expand American support for Iraqi opponents of Saddam at both the official and covert levels and help any indigenous effort that exists to topple Saddam Hussein. We should give Saddam a new deadline for compliance with all U.N. resolutions. Every day that goes by is another day that he stands in violation of those resolutions. And without a deadline he has a green light to continue his international lawlessness.

We missed important opportunities to topple Saddam Hussein in those important days after the cease-fire in the gulf war. We failed to support the Kurds and the Shiites, as they heroically began to rise up against Saddam—at our urging—after Desert Storm subsided. We failed to destroy more of his Army in the immediate aftermath of the fighting. And we are living with the consequences of those failures now.

But let us learn from those failures and take steps now to force Saddam Hussein into compliance with U.N. resolutions and, hopefully, to force him out of power at the same time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRESS ON THE NORTH AMERICAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, I rise today to discuss the recent negotiations on the North American Free-Trade Agreement, otherwise known as NAFTA.

The negotiating session this weekend was originally billed as an attempt to warp up the NAFTA negotiations. It is now clear that the negotiations fell short of that goal. But statements by Bush and Salinas administration officials indicate that the NAFTA negotiations are likely to be concluded within the next several weeks.

Mr. President, I have serious qualms about the apparent rush to conclude the agreement. I have long been a supporter of free trade. I voted for passage of both the United States-Canada Free-Trade Agreement and the United States-Israel Free-Trade Agreement. I argued strenuously for passage of fast track negotiating authority for the North American Free-Trade Agreement in the spring of 1991.

I also support the concept of North American free trade area. At a time when trading blocs are springing up around the world, the United States is well advised to seek closer trade ties with its neighbors.

Bush administration officials have insisted from the beginning that the pace and timing of the NAFTA negotia-

tions should be dictated by substance. But it seems that the current rush is dictated more by American electoral politics than by the substance of the negotiations.

In many areas, the deal that is taking shape does not seem to be a good deal for the United States.

THE ENVIRONMENT

I am most concerned with issues involving the environment.

The Bush administration is—at best—recently convinced of the need to address environmental issues in the NAFTA.

In fairness to our negotiators—particularly Ambassador Hills—I must note that they have come a long way. When the congressional debate on fast track began in 1991, the Bush administration expressed concern about including any environmental issues in the NAFTA. By the time the congressional vote occurred, the administration had proposed addressing some issues in the agreement and others on a parallel track. Recently, the list of issues to be addressed in the agreement has increased.

But I am still not convinced that adequate steps are being taken to protect the environment.

In my mind, the NAFTA must meet three very important environmental objectives.

First, it must create a level environmental playing field. All parties should agree to enforce adequate environmental safeguards to ensure that the weak environmental protection is not used to attract investment or create a trade advantage.

Second, funds must be devoted by all parties to counter the environmental impacts of free trade. In particular, this will require a commitment of funds to clean up the border area.

Third, we must ensure that environmental laws and regulations are not challenged as trade barriers under the NAFTA.

Although I have not yet seen the texts negotiated over the weekend, I do not believe that any of these issues have been adequately addressed in the NAFTA. The administration seems to prefer to shuffle most of these issues off into side negotiations that yield only unenforceable agreements not directly linked to the NAFTA. This is simply unacceptable. The NAFTA must address environmental concerns directly.

WORKER ADJUSTMENT

The administration has only recently begun consultations with Congress on developing a worker adjustment program in conjunction with the NAFTA. Until the specifics of such a program are spelled out with funding commitments, it is impossible to judge the overall impact of the NAFTA on the U.S. economy.

OTHER ISSUES

I am also concerned that we are not getting the best possible trade deal in the NAFTA. In particular, I believe that we have not yet received adequate access for American forest product exports.

I am also not convinced that we have yet achieved the best possible deal for American auto workers. Mexico must agree to a quick phase out of existing barriers and provisions to ensure that Mexico does not become an export platform for Japanese autos.

CONCLUSION

There is no compelling reason to finish the NAFTA in the next few days.

This Congress will not have the opportunity to vote on the agreement this year, therefore there is no substantively valid reason to complete the negotiations this year.

If the agreement negotiated is not adequate, I will have no qualms about calling for renegotiation of the tentative next.

And if Governor Clinton is elected President—we do not know that he will be, but there is a chance he will be—I would likely advise him to renegotiate the NAFTA to ensure that concerns about the environment and worker adjustment were adequately addressed. The new Clinton administration would certainly have the opportunity to put its mark on an agreement it would be forced to defend before the Congress. It should not be locked into a politically motivated deal negotiated potentially and probably by the present administration to beat the election deadline.

I am interested in negotiating the best NAFTA possible. Under the circumstances, that just might mean stretching negotiations beyond the election.

COSPONSORSHIP OF THE ANTISTALKING STATUTE

Mr. THURMOND. Mr. President, I rise today to announce that I have joined Senator COHEN as a cosponsor of S. 2922, the Antistalking Legislation Act of 1992. This important legislation will come to the defense of millions of Americans who may be victimized by stalkers. Statistics from the National Women's Abuse Center estimate 4 million men kill, violently attack, or abuse women they live with or date. According to some studies of large metropolitan cities reported by the Seattle Times, 90 percent of all women murdered by their partners have notified police at least once and over half of these victims had called five times or more. The largely ineffective restraining orders, lack of effective laws, and increased public awareness of criminal acts by stalkers have given rise to the need for this important legislation.

The National Institute of Justice will be assigned the task of developing a model statute aimed at fighting the growing problem of stalkers. This statute will provide States with a prototype for better written antistalking laws. The model statute will assist in making State laws more enforceable and effective. States who have no established antistalking laws would benefit most from the NIJ's efforts. This bill does not require the allocation of additional funds to the National Institute for Justice. The bill does require the Attorney General to report to Congress within 1 year if there is any needed Government support. I would like to note that this bill does not federalize stalking. Rather, it recognizes that there is a problem and directs the appropriate Federal agencies to work with States in enhancing their efforts. All too often, the Congress has been too quick to federalize matters which have been traditionally left to States. This important bill recognizes that, as with other crimes, State and local officials are in the best position to fight stalking. I commend Senator COHEN for his leadership in this area and for his respect for federalism.

For these reasons, I am pleased to cosponsor this measure. I urge my colleagues to help curtail unnecessary harassment and victimization of millions of American citizens by favorably considering this bill.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

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

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

The Federal debt run up by the U.S. Congress stood at $3,988,415,449,632.90, as of the close of business on Thursday, July 23, 1992.

On a per capita basis, every man, woman, and child owes $15,527.90—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

FETAL TISSUE RESEARCH

Mr. WELLSTONE. Mr. President, I am very concerned about an article in this morning's New York Times, by Philip J. Hilts, headed "Fetal Tissue Bank Not Viable Option, Agency Memo Says." I am concerned because of the evidence this article contains that the administration is playing politics with science on the subject of fetal tissue transplants. And I am concerned be-

cause the science we are talking about here has such tremendous potential to save lives.

I have spoken on this floor before in support of lifting the ban on fetal tissue research. Both of my parents had Parkinson's disease, and that is why I have been in the middle of this debate from the very time that it came before the Labor and Human Resources Committee. To people all over our country, whether they or their families are suffering from diabetes, or Alzheimer's, or Parkinson's disease, there is a real impact when they hear about the potential of some of the work that is being done with fetal tissue to find a cure.

It is so important an issue of human life, Mr. President. There have been two panels, at least, investigating the issue, one under President Reagan, and one under President Bush. Those panels were comprised of both pro-life and pro-choice members. Those panels overwhelmingly approved fetal tissue transplant research. Both those panels were very conclusive in determining that there is a clear separation between allowing this important research to go forward, and any decision by a woman to have an abortion. They are just not the same issue at all.

But President Bush refused to let the NIH reauthorization bill, which would have lifted the ban on this research, go forward. Instead, he proposed that tissue be collected from ectopic pregnancies and miscarriages from tissue banks at six hospitals around the country, relying on estimates from the NIH itself that this proposal could generate up to 2,000 fetuses a year. Scientists had told us when we first considered the President's proposal that this was far short of what they needed, and far short of what they would have if there were access to tissue from the 1.5 million legal induced abortions performed each year.

Now we learn from the New York Times article that scientists at the NIH itself, believed and still believe, that the likely number of successes with President Bush's plan will be not 2,000, but closer to 24. Not 2,000 tissue samples, but 24.

The article goes on to document the truly far-fetched scenarios these scientists were pressured to postulate to come up with that unrealistically high number. And NIH's Associate Director for Science Policy is quoted in this morning's New York Times as having told higher officials at the Department of Health and Human Services that "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality * * *."

Mr. President, it is very sad to learn that we cannot rely on the facts this administration would present to us in Congress. The NIH is the world's preeminent medical research institution. For it to be used, or I should say misused, in such callous fashion is an insult to the many dedicated men and women who have unselfishly dedicated their lives to conducting outstanding and honorable medical research. I hope that Secretary Sullivan will look into this matter and take appropriate steps to assure the Congress that a similar situation will never recur.

Mr. President, I ask unanimous consent that the article from this morning's New York Times that I have described be included at this point in the RECORD.

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

[From the New York Times, July 27, 1992]

FETAL-TISSUE BANK NOT VIABLE OPTION, AGENCY MEMO SAYS

(By Philip J. Hilts)

WASHINGTON, July 25.—In May, when the Bush Administration announced a plan to collect fetal tissue for medical research into Alzheimer's and Parkinson's diseases and other ailments, officials stated that they could supply all that would be needed without using tissue from induced abortions.

But newly obtained memorandums from officials at the National Institutes of Health show that the Administration greatly exaggerated the amount of fetal tissue that its storage bank could obtain from miscarriages and from ectopic pregnancies, in which the fertilized egg develops outside the uterus.

Since 1988 the Administrations of Ronald Reagan and President Bush have barred Federal financing of research using fetal tissue, on the ground that it could potentially encourage abortions.

ROUNDED TO UPPER LIMIT

When the tissue-bank plan was put forth in May, in the heat of a political battle over abortion issues, Dr. James O. Mason, head of the Public Health Service, said that a storage bank could initially collect usable tissue from 1,500 fetuses a year and that eventually the figure would rise to 2,000.

A spokeswoman for the Department of Health and Human Services said this week that medical experts remained confident that the tissue bank would fully meet researchers' needs.

But a top N.I.H. official who spoke on condition of anonymity said that the estimates of how much tissue could be collected had been misrepresented by senior H.H.S. officials.

"The numbers we used were rounded upward, and upper-limit estimates were always used because we were under a great deal of pressure to use the absolute outer-limits numbers," he said. "What we came up with—1,500 or 2,000 fetuses could be harvested—is literally the absolute maximum if you capture every single specimen throughout the entire country in every circumstance with a SWAT team of highly trained professionals in every bedroom and every hospital in the United States."

"No one but the ardent pro-lifers believes those numbers," he said.

But the Administration is going ahead with plans to set up fetal tissue banks at six hospitals. "We really intend to make a good-faith effort to determine if such a bank is at all feasible," the N.I.H. official said. "We can gain a lot of knowledge in the process, and if it actually succeeds somehow, so much the better."

Experiments over the last decade indicate that transplanting of fetal organs or cells could help patients with intractable diseases like Parkinson's or Alzheimer's. Transplant recipients can tolerate fetal cells better than adult cells, and preliminary research found that cells from healthy fetuses, usually 7 to 16 weeks, can take over the functions of diseased cells.

When Congress voted earlier this year to lift the ban, President Bush vetoed the measure. The Administration's plan was offered as a way of meeting the needs of medical researchers without compromising the President's long-standing opposition to abortion and abortion rights. Critics derided it as a maneuver to find votes to uphold the veto. Last month, the House fell 14 votes short of the two-thirds majority required to override.

The President's Democratic challenger, Gov. Bill Clinton of Arkansas, has said he favors lifting the ban.

OFFICIALS' PRIVATE MISGIVINGS

The question in the fierce debate on Capitol Hill became this: How much usable, uncontaminated fetal tissue could be harvested if dedicated tissue banks were set up by the Government?

Administration officials said there would eventually be tissue from 2,000 fetuses available for transplant each year, more than enough to meet the need. But privately, N.I.H. officials expressed misgiving about the estimates at the time.

In a memorandum written in March, Dr. Jay Moskowitz, the associate director for science policy and legislation of the N.I.H., told higher officials of the Department of Health and Human Services: "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality because they a) may represent inherently abnormal tissue b) have been subjected to diminished blood supply c) exist in a poor in-vivo environment d) may have been retained in the body for five to eight weeks prior to expulsion. The state of disintegration of these tissues is another factor affecting viability."

Dr. Moskowitz added: "In the future, ectopic pregnancies as a potential source of fetal tissue will be further diminished because invasive surgical treatments are being replaced by pharmacological approaches."

HUGE SHORTAGES PREDICTED

Data from the medical centers, the memo continued, indicated that the amount of tissue from spontaneous abortions, or miscarriages, "would not be sufficient."

Obtaining an adequate supply of tissue from ectopic pregnancies, as previously indicated, is more problematic," the memorandum stated.

Taking into account the doubts expressed by N.I.H. officials, the staff of the House Subcommittee on Human Resources and Intergovernmental Relations estimated the number of fetuses that could be collected at 24 for the entire nation in a year. A separate estimate of about 1.4 fetuses per hospital per year, or about 8 if the bank starts at the six hospitals, was made by the head of a fetal transplant group at Yale University, Dr. D. Eugene Redmond, who has spoken against the ban.

These numbers are far short of what might be necessary, Dr. Redmond said. He estimates that if the ban is lifted, at least a half a dozen scientific teams will want to carry out 20 fetal tissue transplants each in the first year and more as research progresses. Because of the varying quality of the tissue, each transplant can require dozens of fetal samples, he said. Even samples from 2,000 fetuses a year would not meet the need.

In fact, 2,000 samples could be obtained through a tissue bank only if these assumptions prove accurate:

Every hospital in the United States will participate, with each creating four teams of surgeons and specialists to collect the material on an emergency basis around the clock, 365 days a year, according to N.I.H. memos and interviews with agency officials.

All women admitted to the hospital for a miscarriage will actually have them in the hospital. In fact, many abort at home and go to the hospital afterward for treatment of bleeding and infection, memos from Dr. Moskowitz say.

Fifty-five percent of the fetuses will be free of infection. But because miscarriages and ectopic pregnancies are unexpected emergencies, it is unlikely that that many will be uninfected, Dr. Moskowitz's memos say. Other estimates say 60 to 75 percent will be infected.

The Administration will be willing to spend hundreds of millions of dollars a year to maintain the system. The Administration estimated that it would cost $3 million in the first year and $24 million in the first five years, but this is only for feasibility studies. To make the bank work nationally, each hospital would probably have to spend $500,000 or more in salaries for the emergency collection teams alone. For the 6,600 hospitals in the United States, that cost alone would be $330 million per year, N.I.H. officials said.

All women who are asked will be willing to donate the fetal tissue. Currently, 20 percent refuse to donate tissue for transplants for privately financed research at Yale University, doctors say. In addition, the women would have to agree to be tested for hepatitis, H.I.V. and other diseases. Another 20 to 30 percent are likely to decline on those grounds, doctors say.

Even if these assumptions were correct, quality control could be assured only if the tissue bank expended as many of its fetuses in testing as it sent to researchers, N.I.H. officials said.

Researchers would have an ample supply if they were to use fetuses from induced abortions: of the 1.5 million abortions a year, roughly half would provide usable cells. Though such fetuses are being used in privately financed experiments, many scientists are unable or unwilling to proceed without Federal money.

"It is profoundly disturbing that the N.I.H. Revitalization Amendments were vetoed on the basis of smoke and mirrors masquerading as hope for victims of Parkinson's disease, Alzheimer's, juvenile diabetes and other devastating illnesses," said Representative Weiss, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, who has investigated the Administration's statements.

Alixe Glen, a spokeswoman for Health and Human Services, said "Our commitment to establish a fetal tissue bank is totally supported by medical experts who confirm that this bank would provide sufficient tissue to meet research needs."

She added that the Federal Government was exploring areas in addition to current, privately financed fetal tissue research. "We are doing a lot of other promising research in Parkinson's, Alzheimer's and diabetes, but opponents have tried to frame the debate as though, without research from induced-abortion fetuses, cures for these diseases will never be realized," she said. "Not true."

"One thing lost during this debate," Ms. Glen said, "is the extension of appropriations and budget authority for N.I.H. is being held up with these political shenanigans."

Paradoxically, the Administration's tissue-bank proposal may be turned into a vehicle to overturn the fetal-tissue ban. Representative Henry A. Waxman, Democrat of California, chairman of the House Subcommittee on Health and the Environment, has introduced an amendment to the N.I.H. reauthorization bill that is expected to come up for a vote in the House by the end of August.

It would continue the ban on Federal financing of fetal-tissue research and proceed with the tissue bank, but if the bank did not produce all the tissue needed for research within one year, scientists would be permitted to use tissue from induced abortions. Scientists would be required, however, to go to the tissue bank first and to use all the tissue obtainable there before going to induced abortions.

Ms. Glen said: "Mr. Waxman is trying to circumvent our good-faith commitment to the tissue bank. His one-year deadline has absolutely no scientific basis whatsoever. This measure does not represent a compromise but an attempt to promote Federal funding for abortion research."

LINKS BETWEEN CONGRESS AND THE OFFICE OF SECRETARY OF THE NAVY

Mr. BYRD. Mr. President, a recent issue of Roll Call carried a comprehensive letter from Dr. R. Krasner concerning the ongoing relationships that have existed between the Senate and House of Representatives and the Office of Secretary of the Navy. I commend Dr. Krasner for taking the time to compose this thorough account of those who have served both in Congress and in the Office of Secretary of the Navy. Our colleagues will note that the letter particularly calls attention to the prior service of both Senator JOHN WARNER from Virginia and Senator JOHN CHAFEE from Rhode Island in recent years as Secretaries of the Navy.

In the interest of furthering our sense of history concerning this repeated feature of congressional history, I ask unanimous consent that Dr. Krasner's letter, "Navy Secretaries," as published in Roll Call, be included in the RECORD.

[From the Roll Call, July 16, 1992]

NAVY SECRETARIES

To the Editor:

In the Q&A section of your July 9 issue, your reader asked about the last Member of Congress to serve as Secretary of the Navy. You noted that Sen. John Warner (R–Va) was a Secretary of the Navy prior to moving to the Senate. There is a long tradition of moving both ways.

Thomas Jefferson reputedly preferred Sen. Samuel Smith of Maryland for the position of the nation's second Secretary of the Navy, but subsequently nominated the Senator's brother when the former declined the post, although Sen. Smith did serve temporarily until his brother could assume the responsibility.

William Jones, our nation's fourth Secretary of the Navy, who previously had served as a Republican Member of Congress, had the distinction of serving simultaneously as Secretary of the Navy and Secretary of the Treasury from May 1813 to February 1814. He reportedly cited exhaustion as a reason for his resignation.

His successor, Benjamin Crowninshield from Massachusetts, represented that state in the House after his own resignation as Secretary of the Navy. Samuel Lewis Southard from New Jersey, the son of a Congressman, served in the Senate (1821–1823) while his father was in the House and then became Secretary of the Navy in 1823.

He was later elected governor of New Jersey but resigned to return to the Senate and was eventually elected as President Pro Tem in 1841. When Tyler became president he became acting vice president of the United States.

John Branch, who served as Secretary of the Navy from March 1829 until May 1831, served as both governor and Senator from North Carolina. He was succeeded by Levi Woodbury, who is best remembered in Navy circles as the man responsible for abolishing the daily grog ration.

In 1834, Woodbury was appointed Secretary of the Treasury by President Jackson after the Senate refused to confirm Roger B. Taney. Ironically, Woodbury was appointed to the Supreme Court in 1845 and Taney was appointed Chief Justice in 1836.

Mahlon Dickerson was appointed Secretary of the Navy in 1834 at age 64 after an already long public career as governor of New Jersey and US Senator. He was succeeded by James Kirke Paulding, who may be best known for having been recommended for the position by the author Washington Irving after Irving declined it. He was followed by George E. Badger, who subsequently went on to represent North Carolina in the Senate.

The most tragic figure to go from the halls of Congress to the position of Secretary of the Navy had to be Thomas Walker Gilmer, who served only from Feb. 19 to Feb. 28, 1844.

President Tyler nominated Gilmer of Virginia to the post, and the candidate was confirmed the next day. Gilmer, Secretary of State Abel Upshur, and David Gardiner (the father of the President's fiancee) were killed, and Sen. Thomas Hart Benton and members of the Cabinet, Congress and the diplomatic corps were wounded when a demonstration of the new "Peacemaker" gun went awry during a celebration cruise to Mount Vernon on the Navy sloop Princeton.

Several subsequent Navy Secretaries had Congressional service, including John Young Mason, William Ballard Preston, and Claude Augustus Swanson of Virginia, and John Pendleton Kennedy of Maryland.

Former Secretary of the Navy William Alexander Graham was elected to the Senate from North Carolina after the Civil War, but was not allowed to take his seat by the Radical Republicans in control of Washington.

James Cochrane Dobbin, a former House Member from North Carolina, was Navy Secretary when an Assistant Surgeon named Squibb at the Brooklyn Navy Yard Hospital asked that his pay be increased because of his responsibilities and achievements for the Navy.

Although he had the strong support of his superiors, Squibb's request was denied, and he resigned to form E.R. Squibb and Sons. One of his descendants was former Sen. (now Gov.) Lowell Weicker (R-Conn), and a picture of Squibb used to hang in the Senator's Capitol hideaway.

Isaac Toucey represented Connecticut in the House before being elected governor of the state in 1846. He was defeated for reelection but appointed Attorney General by President Polk in 1848. He was elected to the

Senate in 1852, where he served until his appointment to the Navy post.

Subsequent Navy Secretary George M. Robeson represented New Jersey in Congress; Richard W. Thompson, Indiana; William E. Chandler, New Hampshire; Hilary A. Herbert, Alabama; John Davis Long, Massachusetts; Truman H. Newberry and Edwin Denby, Michigan.

William H. Moody had a fascinating career. As a district attorney he served as the prosecuting attorney in the 1893 Lizzie Borden trial and then was elected to the 54th Congress. He was subsequently chosen by Theodore Roosevelt as his Secretary of the Navy. After his tenure in that position, he was appointed Attorney General and in 1906 nominated to the Supreme Court.

Since the middle of this century, Navy Secretaries have tended to come from private industry or through the ranks of the executive branch. But, even in recent times, as noted in your response to the question, Secretaries of the Navy have gone on to become Members of Congress, most notably two sitting Senators, John Chafee (R-RI) and Warner.

R. KRASNER

WASHINGTON, DC.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now proceed to the consideration of S. 3026, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to specifically acknowledge the tremendous contribution over the past 12 years the distinguished Senator from New Hampshire has made to this particular process. He came as a former attorney general. He had a tremendous interest in law enforcement. He is brilliant with respect to our defense needs, security needs of our country with respect to the Commerce and State Departments foreign policy provisions.

He has been most supportive and he always has been on the side of economy in Government. We have all known how over the years we have worked on Gramm-Rudman-Hollings and deficit reduction. But, that is not the only area. We worked on this particular bill—the Commerce, Justice, and State—throughout the last 12 years. I want to, once again, thank him for his dedication and his commitment, his brilliance and untiring work to provide for the needs of Government within the confines of fiscal restraint.

I will elaborate further with respect to the Senator from New Hampshire again at an appropriate time.

Overall, Mr. President, the funding is at $22.9 billion in discretionary budget authority, with total appropriations of $16 billion allocated caps for domestic, international, and defense programs.

Mr. President, in highlighting it, let me state that as we launched upon this particular assignment, we realized in the very first instance we were $360 million below last year's budget in current policy. In other words, you take this year's budget, extend it to 1993 with inflation, and we have $360 million in outlays we have to immediately start cutting.

If we look at the President's request, we are below the President's request to the tune of some $900 million in outlays and then it might be well noted in the record at this particular point, because I understand there are some amendments, colleagues should get a feel for the dilemma in which the staff and Senators on the subcommittee and full Appropriations Committee find themselves. We literally had over 635 individual senatorial requests submitted to the tune of in excess of $8.5 billion in add-ons.

Now, I do not know where they got the idea we had any such appropriating in mind. They should remember that when they introduce their particular amendments.

We brought this bill under our 602(b) allocation by various cuts. We cut $62.6 million from the polar-next satellite program. We cut $72 million from overtime payment for agents in the FBI and DEA for exercising 3 hours a week. We cut $31 million from the State Department for their foreign national employee pay raises and lavish entertainment expenses, and on down the list.

Mr. President, we gave priorities to five areas: the Justice Department's law enforcement programs, continuing efforts to enhance the Nation's premier research and development organization, the National Institute of Standards and Technology, maintaining and modernizing the National Weather Service, overseas trade and competitiveness programs, and of course the defense economic conversion programs that have been submitted on both sides of the aisle.

It should be noted that the Justice Department's budget in the past 5 years has been veritably doubled. Congress and the executive branch have put a particular emphasis on law enforcement, and we have an increase of some $757.9 million or 8.7 percent in the Justice Department.

With respect to the Bureau of Prisons, we increased there some $409.3 million for new construction projects, new prisons. We are building more prisons than we are schools in this country, sad to say.

We put in an increase of $34 million for the Drug Enforcement Administration and also an additional $31 million to build a new DEA and FBI training center at Quantico, VA. We increased the Department of Justice for the hiring of some 261 additional U.S. attorneys for the prosecution of violent and white-collar criminals. There was an increase there of $87.1 million. There was an increase of $13.4 million for the prosecution of health fraud, an increase of $18.3 million for the prosecution of financial institution fraud, and of course we allocated $173.7 million for the payment of claims under the newly created Radiation Exposure Compensation Act.

There was also a $697.7 million appropriation for the grant programs to assist State and local jurisdictions. That was $79.2 million above the President's request, and we rejected the President's elimination of the juvenile justice and delinquency prevention grants to the States.

In commerce, we had an increase of $350 million to the National Institutes of Standards and Technology. That is $200 million in the main there for a new construction account to be rebuilding the National Institutes of Standards and Technology equipment and facilities at Gaithersburg and Boulder. They have been allowed to decline over the years and not given the real attention they deserve. And as we move into technological competitiveness, we have to refurbish these particular facilities.

There is $186 million provided in the National Institute of Standards and Technology advanced technology and manufacturing technology center programs, and $109 million of this is provided for the economic conversion initiative.

With respect to the National Weather Service, there is an increase of $54.6 million over this year's level to maintain the weather stations across the country at current operations, and there is the amount of $177 million—these things cost money—for the Nexrad tornado-detecting Doppler radar and the other technologies used in that weather service.

That is a big hunk of that Commerce budget, but we have to move forward with these advancements in technology with respect to the weather service.

There is an increase of $5.1 million for the International Trade Administration's Import Administration, and the administration finally recognized in the minivan dumping case a dumping violation, and they have just been rejecting all the petitions out of hand. Perhaps we can move now to create a competitive trade policy with the enforcement of our dumping laws that are already on the statute books.

The steel industry and others are coming in now with their particular petitions, and there is a logjam that must be cleared, so we appropriated the $5.1 million additional there.

There is $35 million for the NOAA fleet modernization including $22 million to convert a Navy oceanographic ship. There is a $7 million increase for the Foreign Commercial Service to open up the new post in the former Soviet Union.

In the Judiciary, there was an increase of $108 million for the Supreme Court and the article 3 judges.

With respect to the Department of State, there is actually $30.1 million less in the overall budget and we limited domestic representation expenses. We provide $140 million, however, for the building of the Moscow Embassy in pursuance of the administration's agreement with Boris Yeltsin on his recent visit here to Washington, specifically reaffirming what has been in the Freedom Support Act bill, namely, that the Russians shall have access to the embassy at Mount Alto. The State Department wanted to make sure that particular language was in this particular bill.

There is a new account of $25 million to establish the diplomatic post in the new republic of the former Soviet Union: $20 million for climate and global change research; as a result of the President's visit down to the United Nations Conference in Rio, a $30 million increase in the USIA Fulbright Exchange Program. We had very excellent requests from several of the colleagues for several student exchange programs.

In large measure, the subcommittee that is working directly in this particular field understands that we have—not been negligent but we have not been funding the Fulbright Program as high as it should be, the flagship exchange program. So we tried to bring that back up to where it should be, not quite where we would like it, but rather than a proliferation of every Senator having his own exchange program, let us go and support the Fulbright Program which is, tried and true, proven, and finance it the best we can.

With respect to the U.N. peacekeeping, there is an increase of $83.1 million for a total of $460.3 million for the matter of U.N. peacekeeping.

There is a provision in here of $229 million under our 050 allocation, for defense economic conversion; $80 million of it is put in for EDA grants and the defense conversion account, but only upon approval of the Secretary of Defense certification on a case-by-case basis.

There is $80 million in the EDA grants, $40 million for subsidized, $735 million in SBA loan guarantees, and there are other matters in here that need to be highlighted.

OVERALL FUNDING AND CONSTRAINTS

Mr. President, this appropriations bill provides for $22.9 billion in discretionary budget authority. The new outlays in fiscal year 1993 associated with these appropriations total $16 billion. This bill is at our 602(b) allocation caps for domestic, international, and defense programs.

This has been a tough year, and it has been quite difficult to fashion a bill within the tight domestic 602(b) allocation. It has given new meaning to the phrase "just say no." The allocation available for this bill for new domestic program outlays is $11.2 billion. That is over $900 million in outlays below the President's request and $360 million below the CBO estimate of the cost just to maintain current programs.

There are a lot of reductions in this bill, for those who stand on the floor and say they want to cut Federal spending—then here is a bill that does just that. A lot of domestic agencies will receive funding below the currently enacted level. There is going to have to be a lot of belt tightening as agencies absorb increases for must-pay bills such as pay raises and GSA rent increases. But, it is time for a lot of folks downtown and up here on the Hill to realize that we cannot continue business as usual.

The bill proposes to terminate or significantly reduce several programs. And, the bill does not include any small business or economic development administration earmarks for university research or special grant projects.

We have had our committee staff ferret into these agency budgets and make old-fashioned budget cuts. We cut $62.6 million by stopping the NOAA Polar-Next Satellite Program. In the process we have given the American people a program that is more reliable and saved them millions. We have cut $72 million from the FBI and DEA for overtime pay which they were providing to agents for exercising 3 hours a week. We cut $31 million from the State Department for foreign national employee pay raises and for their lavish entertainment expenses.

In putting together the bill, the committee rejected taking an everyone gets their fair share approach. That would have been the easy way out. But, it would have been mindless and it would have devastated a lot of essential government programs. Instead, we have done our job and made tough choices.

The committee assigned priority to five areas: First, the Justice Department's law enforcement programs; second, continuing efforts to enhance the Nation's premier research and development organization—the National Institute of Standards and Technology; third, maintaining and modernizing the National Weather Service in support of its mission to protect the life and safety of Americans; fourth, overseas trade and competitiveness programs; and fifth, defense economic conversion.

JUSTICE

I have been one of the Justice Department's chief proponents since coming to the Senate 25 years ago * * * and I am not about to stop being a proponent for justice now. Since I took over this bill in 1987, the Justice Department's budget has doubled. And even in light of this year's budget constraints, this bill makes the necessary tradeoffs to provide the Justice Department with a $757.9 million increase in discretionary appropriations or 8.7 percent above this year.

It is just fine for the Senate to worry about peacekeeping in Cambodia and Yugoslavia. But it is about time to start worrying about peacekeeping here at home in America. People downtown need to start understanding that when I say I am concerned about the crime situation in Columbia, I do not mean a country in South America.

OUR RECOMMENDATIONS INCLUDE THE FOLLOWING HIGHLIGHTS

JUSTICE

The sum of $2.071 billion for the FBI, an increase of $145.3 million or 7 percent over this year's level. We have fully funded their program increases for 210 more agents and anticrime initiatives—such as addressing the Asian organized crime threat.

The sum of $2.166 billion for the Bureau of Prisons, an increase of $105.3 million over this year's level. We have included $409.3 million for new construction projects—$70 million more than the President's budget request.

The sum of $750.7 million, an increase of $34 million to fully fund the Drug Enforcement Administration. And, an additional $31.1 million has been provided to build a new DEA and FBI training center at Quantico, VA.

The sum of $807.8 million, an increase of $87.1 million, for the U.S. attorneys. This will enable the hiring of 261 additional assistant U.S. attorneys to investigate and prosecute violent and white collar criminals.

The sum of $57.3 million, an increase of $13.4 million to fully fund an initiative to investigate and prosecute health care fraud.

The sum of $278.5 million, A $18.3 million increase, to investigate and prosecute financial institution fraud.

The sum of $173.7 million to fully support payment of claims under the newly created Radiation Exposure Compensation Act.

The sum of $697.7 million for Justice grant programs to assist State and local jurisdictions in the war on crime—the recommendation is $79.2 million above the President's budget request, and rejects the proposed elimination of juvenile justice and delinquency prevention grants to States.

COMMERCE

The sum of $597 million for the National Institute of Standards and Technology, an increase of $350 million. Included is $200 million for a new construction account to begin rebuilding NIST's equipment and facilities and ensuring that the agency can continue to conduct cutting edge scientific advances.

Included is $186 million for NIST Advanced Technology and Manufacturing Technology Center programs; $109 million is provided under the committee's economic conversion initiative.

The sum of $401.8 million for the operations and staffing of the National Weather Service, which is $54.6 million more than this year's level. This will enable the National Weather Service to maintain stations across the country at current operations and staffing.

The sum of $177 million is provided for acquisition of NEXRAD tornado detecting Doppler radar, facilities and other technologies needed to modernize the National Weather Service so it can continue to issue warnings to protect Americans from severe weather.

The sum of $27.9 million is provided for the Import Administration, an increase of $5.1 million, to ensure the agency reduces its backlog of antidumping and countervailing duty investigations—and to put some teeth into our trade laws.

A cut of $62.6 million from the budget for the ill-conceived Polar-NEXT Satellite Program.

The sum of $37 million, an increase of $35 million above the budget to maintain the NOAA Fleet Modernization Program—an initiative this subcommittee started last year. $22 million is included to convert a Navy oceanographic ship for use by NOAA.

An increase of $7 million is provided for the United States and Foreign Commercial Service to open new posts in the former Soviet Union.

THE JUDICIARY

The sum of $2.102 billion is recommended for the judiciary, an increase of $108 million or 4.6 percent above this year's level. We have fully funded the requested increases for the Supreme Court, and increases for the salaries of article III judges.

STATE AND INTERNATIONAL PROGRAMS

We have recommended $2.102 billion for State Department operations, a cut of $30.1 million. And we have limited domestic representation expenses to $1 million. They were having a great time at Foggy Bottom having Ridgewell-catered parties.

The recommendation provides $140 million to support the budget request to complete the new secure building at the Moscow Embassy. The administration has agreed to let the Russians occupy their Embassy at Mount Alto—but we are still stuck with an unfinished, and thoroughly bugged Embassy in Russia.

Provides $25 million for a new account to help cover State Department and USIA shortfalls in establishing diplomatic posts in the New Republics of the former Soviet Union—or Commonwealth of Independent States—or whatever their name is this week.

The recommendation restores funding for the State Department Environmental Grant Program established last year and recommends an appropriation of $30 million; $20 million of this amount is for climate and global change research—the need for which was highlighted during the President's recent trip to the U.N. conference in Rio de Janeiro.

The sum of $125 million, an increase of $30 million above the budget request for USIA's Fulbright Exchange Program. This will restore scholarships for students, and will enable Fulbright scholars to be sent to new republics such as Ukraine and Kazakhstan. For the past few years Congress has been creating new exchange programs at the expense of the Fulbright. Our recommendation seeks to restore it to its status as our flagship exchange program.

Finally, we have included the administration's full request for U.S. Peacekeeping—$460.3 million or $83.1 million above the level appropriated by both this bill and the foreign operations bill in fiscal year 1992.

ECONOMIC CONVERSION INITIATIVE

Since 1985, defense procurement has declined in constant dollars from $127 billion to $54 billion. It is estimated that 1.4 million defense-related jobs will be lost by the mid-1990's. And military end-strength is forecast to fall by another half a million soldiers, airmen, marines, and sailors.

The impact on businesses and communities, like Myrtle Beach, is devastating. And, there has been a lot of talk by congressional task forces and even in the budget resolution, of what needs to be done to help industries to convert, individuals to transition, and communities to adjust. The programs that everyone points to—EDA, SBA, and NIST—are all under this subcommittee's jurisdiction.

The subcommittee has put together a $229 million package from our 050, National defense allocation, for defense economic conversion. In each case, the special appropriations are worded to ensure that the funds are only used to address valid defense impacts. For example, the $80 million put in the EDA defense conversion account is only available if Dick Cheney's Office of Economic Adjustment certifies on a case-by-case basis that the funds are required.

Specifically, we have recommended the following:

The sum of $80 million in EDA grants to assist communities with planning and infrastructure projects;

The sum of $40 million to subsidize $735 million in SBA loan guarantees for loans to businesses hurt by cutbacks in secondary defense contracts and for loans to help members of the Armed Forces to establish small businesses.

The sum of $109 million for NIST advanced technology grants to help the defense industry develop new nonmilitary technologies and for manufacturing centers to help regions and communities reduce their dependence on defense manufacturing.

WHY A SENATE-ORIGINATED BILL?

Members will notice that we are considering a Senate-originated bill. We are taking this action because I feel strongly that we have to get on with the business of governing and get these appropriations bills finished. Under the U.C. agreement by which we are operating, our action on this bill will be incorporated as amendments to the House companion measure, H.R. 5678.

My House colleagues have delayed for over a month because of the reductions that must be required under such low allocations. They are finally moving now, partly because we did not wait any longer. If we did not bring this bill to the floor now, we would not be able to proceed until well into September. With this being a Presidential election year—there are not many work days before the end of the 102d Congress.

We intend to bring back a conference report, hopefully before the Republican Convention. I want to dispel the inside-the-Beltway pundits who say that appropriations will be on a continuing resolution.

Let me say this before yielding to my distinguished ranking member.

RECOGNITION OF STAFF

I want to recognize, Mr. President, the staff who have worked so hard on this bill. Our minority staff, John Shank and Santel Manos; and on the majority side, Liz Blevins, Dorothy Seder, Jolene Lauria Sullens, and my subcommittee director, Mr. Scott Gudes, have all done an outstanding job.

The full committee staff worked hard on a day-to-day basis and enable not only the Commerce, Justice and State Subcommittee, but all appropriations subcommittees to get their bills through committees and to the Senate.

Bob Putnam, Jodi Capps, and our "one-man congressional budget office," Mr. Jack Conway deserve special recognition.

The executive branch has many programs to recognize its civil servants for performance. Here in the Senate we do not. We always wait until the end, and then in a rush of our colleagues to a final vote, they do not want to hear about anybody or anything. They want to vote and go home or whatever.

I want to recognize, in the first instance, that our appropriations committee staff members worked day in and day out, often on weekends and into the early hours of the morning. The executive branch has thousands of

budget personnel proposing to spend money for the agencies and programs in this bill. We have but a handful.

Our staff are true professionals. They take personal pride in the technical accuracy of the bills and reports that our committee produces. And when they are not assisting with hearings or attending meetings, they are digging; they are digging into programs and budgets, forcing the executive branch to justify its budget estimates and how it is using past years' appropriations.

In this budget environment we ask them continuously—Senator RUDMAN and I both—to go back and try harder to find a way to bring in bills that are within these tight budget allocations. The roles of the staff are very important to the daily working of the U.S. Senate.

I remember when our distinguished former colleague, Senator John Stennis, retired, he attributed his successful career in main to good staff work.

While we do not have the programs that the executive branch does, it should not stop us from recognizing the people who support us. So I simply would like to note that our Appropriations Committee staff are true public servants in every sense of the word, and they are a credit to our committee. I particularly emphasize this with respect to our chairman of our committee, the Honorable ROBERT BYRD of West Virginia, and his chief of staff, director, Mr. Jim English. And our distinguished ranking minority member Senator HATFIELD, and the minority staff directors, Mr. Keith Kennedy.

I have some unanimous-consent requests but I will withhold, yielding to my distinguished ranking member.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first I want to thank my friend from South Carolina, the chairman of this subcommittee, for his gracious remarks. This is the 12th year that I will come to the floor in some way connected with this bill, but actually it is the 8th or 9th year that I have managed this bill either as chairman or as ranking member.

I echo Senator HOLLINGS' remarks concerning our staff. But I want to simply address to him through the Chair my appreciation of the fact that he has been unfailingly cooperative and courteous, whether he was the chairman or the ranking member in this committee which deals with core programs of this Government of extraordinary importance, and he has never become bogged down in some partisan bickering that so often, in my view, slows down the work of this body.

So I want to thank him for that.

Mr. President, I join the Senator from South Carolina in presenting the recommendations of the Appropriations Committee for fiscal year 1993 for the Departments of Commerce, Justice, and State, the judiciary and related agencies. It is important to note at the outset that the section 602(b) allocation for the subcommittee is $865 million in outlays below the request of the administration. The subcommittee was faced with attempting to respond to the important increases requested for the Justice Department and the Judiciary while at the same time restoring funding for programs of congressional priority.

The allocation available to the subcommittee is not only below the level proposed by the administration, it is approximately 2 percent below the CBO baseline; therefore any increases above that level for individual programs and agencies result in further reductions below baseline funding—and in many cases below the enacted level—for other programs.

The committee approach has been to fund the core functions of government—the administration of justice and the protection of public safety—at the highest levels possible. As an even more dramatic illustration of the emphasis on law enforcement, approximately 82 percent of the new domestic discretionary outlays contained in these recommendations are generated by the Justice Department and the judiciary.

Total discretionary resources available to the Department of Justice would increase by $757.9 million, or over 9 percent, above the 1992 enacted level. The increase for the judiciary is almost $108 million, or 4.6 percent. Total budget authority for the judiciary has increased $745 million, or 44 percent, since fiscal year 1990.

The emphasis on law enforcement and the judiciary is nothing new for the subcommittee. Appropriations for the Justice Department totaled $2.45 billion when I became a Member of the Senate in 1981; the total recommendation for fiscal year 1993 is $9.8 billion. That represents an increase of 400 percent in 12 years.

Funding for the judiciary was $652.5 million when I arrived in 1981; the total recommended in this bill is $2.45 billion, an increase of 375 percent in 12 years.

The recommendations in this bill also provide important funding for the National Weather Service. The full budget request of $129.6 million is provided for the weather service modernization program, including the procurement of the new next general Doppler weather radars. In addition, $55 million of the $60 million increase in weather service operations is provided. This will avoid weather station closures and service reductions.

The bill also provides for important initiatives in trade and research and development. The full budget request for the International Trade Administration is provided, as well as a $7 million enhancement to open offices of the Foreign Commercial Service in the new republics of the former Soviet Union. In addition, the requested increase of $5.1 million has been provided to reduce the backlog of antidumping and countervailing duty investigations at the Department of Commerce. Finally, a $200 million construction and renovation program has been included for the laboratories and research facilities of the National Institute of Standards and Technology in Gaithersburg, MD, and Boulder, CO.

Within the subcommittee's defense allocation, we've included an economic conversion program to assist members of the Armed Forces and defense industries in the transition from military to civilian employment and manufacturing. Based on recommendations contained in the Republican task force on defense conversion, which I chaired, and on the recommendations of a Democratic task force chaired by Senator PRYOR, funds are provided through the programs of the Economic Development Administration, the National Institute of Standards and Technology, and the Small Business Administration.

Within the allocation for international programs, the bill provides for the full 1993 request for peacekeeping operations. In addition, funds have been provided to the Department of State and the United States Information Agency to open new posts in the Confederation of Independent States. The committee has not funded new educational exchange programs which have yet to be authorized, but has provided an enhancement of $30 million for the Nation's premier international education program, the J. William Fulbright exchanges. This will allow the Fulbright program to expand operations to the new republics of the former Soviet Union.

In conclusion I should make clear that, given the subcommittee's allocation and the shortage of funding for domestic discretionary spending in general, many of the agencies and programs in this bill are funded at a freeze level, or are reduced from the current year's level. This will cause problems for many of them, but it is the inevitable result of trying to balance the budget on discretionary spending alone.

Finally, I would like to thank my chairman, FRITZ HOLLINGS, for his leadership and cooperation. Since 1984 I have served as either the acting chairman, chairman, or ranking minority member of the subcommittee. It has been my privilege and pleasure throughout that period to have at my side the Senator from South Carolina.

Mr. President, Senator HOLLINGS and I are here to do business, and we would welcome anyone who has an amendment to come to the floor. Hopefully we can wrap up this legislation before

this evening and allow the Senate to move on to another appropriations bill.

Mr. President, I would simply echo some of the things that Senator HOLLINGS said, and I will be brief. First, what we have attempted to do, and I believe we have done with this bill, is to fund the core programs that involve public health, public safety, and defense that are charged to this subcommittee. There are things that we would have liked to have done that we are unable to do. This, of course, comes about because we have been trying now with little success for 8 years to bring this budget into balance on the back of the discretionary programs alone. That cannot be done. It is mathematically impossible. And the sooner the people recognize that, the sooner we will have a serious opportunity to address the size of these deficits.

It is interesting to look at the demands that have been put on this committee by the increase in crime, drug activity, and the incarceration of Federal prisoners over the last 10 years.

I point out a very interesting statistic. Appropriations in 1981 for the Justice Department totaled $2.45 billion. This year that number is $9.8 billion, an increase of 400 percent in 12 years. If that does not say something about the problems in our society, nothing does. That is an enormous amount of money to be spent on something which is essentially nonproductive.

Where this country will go with these problems of crime and drugs, I do not know. But I know this: simply spending money on more prisons, more FBI agents, more DEA agents, more drug interdiction, is not the solution. Somebody will be standing here 12 years hence and will have a Department of Justice budget which will then be $20 billion or up 800 percent from 1981. That is the trend. None of the things that have been tried so far have truly worked.

Finally, I want to say this: I hope that our colleagues who are interested in offering amendments would come to the floor forthwith and do it. This legislation before the Senate has been in preparation since last January. We have done it carefully, but obviously there are those who will disagree with parts of it. That is fine. I hope that we are not standing here at 8 or 9 o'clock tonight waiting for people to offer amendments.

The Senate has a lot of things to do between now and the time we recess. This bill, with its amendments, ought to be finished by 6 o'clock tonight. We ought to debate any amendments, vote on them, and get on with our business. If we go into the late hours or early morning hours of tomorrow, it seems to me we are not doing our job.

So I understand from the staff that there are probably three or four people out there that have some amendments. With all due respect to time, I hope they will come to the floor and offer them now.

I thank the Chair.

Mr. HOLLINGS. Mr. President, I, too, join in the distinguished Senator's request. We are not going to sit here and dilly all day long, having quorum calls, and then start business up at 5 or 6 o'clock this afternoon. I do not mind calling for third reading, and I put everybody on notice that we are not trying to rush the bill. This bill is printed. You can see it here.

I have had the Senators who are interested, as the Senator from New Hampshire indicated, talk to me about their amendments.

Let me note one concern of my ranking member on our authorizing committee, the distinguished Senator from Missouri [Mr. DANFORTH]. He has a grave concern relative to FCC language. Senator RUDMAN and myself have agreed with him.

We will go forward on this particular bill. They are negotiating, the two staffs, along with each other, and Senator DANFORTH is not losing any right whatsoever to raise what point he may wish to raise, or what amendment he might wish to offer, or what objection he might wish to make. He will be notified before we move on any kind of consent, relative to that language.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. We worked with the colleagues, and in that light, I do have some unanimous-consent requests here that have been cleared on both sides of the aisle.

I ask unanimous consent that Jolene Lauria Sullens, of our staff, be granted the privilege of the floor.

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

AMENDMENT NO. 2745

Mr. HOLLINGS. Mr. President, there are several accounts in which the House bill and the bill before us are very close, and a minor change would bring the two bills into agreement. So the following changes should be made in the Senate bill with respect to eight amendments.

I ask unanimous consent that we amend our bill here for the Fishing Vessel and Gear Damage Fund. On page 50, line 3, strike the sum of $1.281 million and insert in lieu thereof $1.306 million.

For the Fishermen's Contingency Fund, on page 50, line 8, strike the sum of $1 million and insert in lieu thereof $1.025 million.

Three, for the Foreign Fishing Observer Fund, on page 50, line 20, strike the sum of $571,000 and insert in lieu thereof $565,000.

Four, for the Commission of Agricultural Workers, on page 73, line 5, strike the sum of $585,000 and insert in lieu thereof $578,000.

Five, for the Department of State, Salaries and Expenses, on page 78, line 16, after the word "amended," delete the following, in parentheses "(22 U.S.C. 2669)."

Six, for the Repatriation Loans Program Account, on page 82, line 2, strike the sum of $1 million and insert in lieu thereof $624,000.

Seven, for the American Sections, International Commissions, on page 85, line 14, strike the sum $4.410 million and insert in lieu thereof $4.403 million.

Eight, for the Russian, Eurasian, and East European Research and Training Program, on page 86, line 17, strike the sum of $4.784 million and insert in lieu thereof $4.961 million.

I send the amendments, en bloc, to the desk and ask for their immediate consideration.

There are actually eight amendments. They have all been cleared on both sides.

Mr. RUDMAN. Yes.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2745.

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

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

The amendment is as follows:

For the Fishing Vessel and Gear Damage Fund—

On page 50, line 3, strike the sum "$1,281,000," and insert in lieu "$1,306,000".

For the Fisherman's Contingency Fund—

On page 50, line 8, strike the sum "$1,000,000," and insert in lieu "$1,025,000".

For the Foreign Fishing Observer Fund—

On page 50, line 20, strike the sum "$571,000," and insert in lieu "$565,000".

For the Commission on Agricultural Workers—

On page 73, line 5, strike the sum "$585,000," and insert in lieu "$578,000".

For the Department of State, Salaries and Expenses—

On page 78, line 16, after the "amended" delete the following: "(22 U.S.C. 2669)".

For the Repatriation Loans Program Account—

On page 82, line 2, strike the sum "$1,000,000," and insert in lieu "$624,000".

For the American Sections, International Commissions—

On page 85, line 14, strike the sum "$4,410,000," and insert in lieu "$4,403,000".

For Russian, Eurasian, and East European Research and Training Program—

On page 86, line 17, strike the sum "$4,784,000," and insert in lieu "$4,961,000".

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

The amendment (No. 2745) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2746

(Purpose: To provide for land transfers to support National Oceanic and Atmospheric Administration programs)

Mr. HOLLINGS. Mr. President, on behalf of Senators REID, BRYAN, INOUYE, and AKAKA, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. BRYAN, Mr. REID, Mr. INOUYE, and Mr. AKAKA, proposes an amendment numbered 2746.

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

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

The amendment is as follows:

On page 63, line 10, strike from "Sec. 206." through to and including "Louisiana." on line 13 and insert in lieu thereof the following:

SEC. 206A. The Under Secretary of Oceans and Atmosphere is authorized to construct a building, on approximately 15 acres of land to be leased for a 99-year term from the University of Southwestern Louisiana.

SEC. 206B. (a) The Under Secretary of Oceans and Atmosphere is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as a part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada, area.

(b) The Under Secretary is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 206C. (a)(1) The Under Secretary of Oceans and Atmosphere is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair rental value as established by governmental appraisal.

(b) The Under Secretary is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

Mr. HOLLINGS. Mr. President, as I have indicated, this is on behalf of these Senators. It has been cleared on both sides of the aisle.

I urge adoption of the amendment.

NOAA ENVIRONMENTAL RESEARCH LABORATORIES

• Mr. WIRTH. Mr. President, I would like to engage in a brief colloquy with my friend, the distinguished chairman of the Subcommittee on Commerce, Justice, State, and Judiciary; Senator HOLLINGS. First, let me acknowledge my understanding of the very demanding circumstances that the chairman faces in this year of very tight budgetary constraints. He has done a difficult job well and let me assure him that I am well aware of the tough nature of the issues he must face in moving this bill forward.

With his indulgence, I would like to briefly discuss three programs of importance to the Nation operated by the National Oceanic and Atmospheric Administration's Environmental Research Laboratories in Boulder, CO. These are the PROFS Program, the Wind Profiler Program, and the Solar-Terrestrial Services Program.

PROFS is the backbone of NOAA's effort to modernize its weather offices with current data processing and weather information analysis. This program has and continues to develop new techniques that have demonstrated significant improvements in severe weather forecasting and is critical to continued transfer of new observational technology and forecasting techniques to the National Weather Service. It is also essential that the PROFS technology demonstrated in the Denver area to provide block-by-block advanced warning for tornadoes and severe thunderstorms be expanded to reach people in all parts of the country.

The Wind Profiler Program produces 6-minute vertical profiles of winds that are used to improve weather forecasting and commercial aircraft routing. Preliminary results have demonstrated that the high resolution wind information can significantly improve 3- to 6-hour forecasts of storms and of potential wind shear, a known cause of aircraft crashes. These wind profiles are also used to increase fuel savings for aircraft due to more efficient routing.

Solar-Terrestrial Services provides this Nation's space environment forecasts and warnings for near-Earth particle and magnetic storms that can cause disruption of communications, electronic navigation, power distribution, and space operations. Improved forecasts will result in reduced potential for northern and northeastern electrical blackouts, and allow protective action to reduce damage to communications and navigation systems, and reduce potential for injury in manned space activities caused by solar activity.

The Federal Government has already made prudent investments in these programs. Unfortunately, the funding provided by the Appropriations Committee in this bill would significantly hamstring these programs, reducing their effectiveness. As these programs are extremely important to all citizens through the services they provide, I hope that the chairman will work with me to craft final legislation that more closely approaches the appropriation detailed by the House of Representatives concerning these programs.

Mr. HOLLINGS. I say to my good friend, the senior Senator from Colorado, that I am pleased that he recognizes the severe budget contraints that we must operate within. I, too, recognize the importance of the PROFS, Wind Profiler, and STS programs to Colorado, and to the Nation. The House of Representatives provided a higher level of funding for these programs than has the Senate. I look forward to working with my friend from Colorado and my colleagues in the House to address these programs in conference with the House. We will see what we can do.•

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

The amendment (No. 2746) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I am ready to move forward with amendments to the particular bill. I talked with one of the colleagues earlier with respect to a cut, for example, of the administrative costs. Let me emphasize again, that is one of the reasons I thank our staff. They already cut them.

As you can well see, we have been into the administrative costs. We have cut those administrative costs, and we would be in a position of having to resist or oppose, because the assumption is that we are not taking these things step by step and looking into each one anew; that we are casually just taking the administrative officers of the various departments ipso facto, approving them, and moving to the operation side.

We look at every particular section, every general administration request; all the subcommittee chairmen have to do this. We all have 602(b) allocations substantially less than what we have hoped for. You can see at a glance, in my opening comment, that we got an allocation of $81½ billion less than what some colleagues are ready to vote for here. So we are holding the line here, and we are ready for amendments.

I think my colleague from Montana, Senator BAUCUS, has a statement he wishes to include in the RECORD at this time, while we are waiting for Senators to come to the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. 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. 2747

(Purpose: To provide funds for the Commission on Immigration Reform and to offset such funds from the "Salaries and Expenses" account of the Immigration and Naturalization Service)

Mr. HOLLINGS. Mr. President, on behalf of Senator KENNEDY and Senator SIMPSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. KENNEDY (for himself, and Mr. SIMPSON), proposes an amendment numbered 2747.

Mr. HOLLINGS. 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 20, line 4, strike out "$990,894,000" and insert in lieu thereof "$990,694,000".

On page 20, between lines 14 and 15, insert the following:

COMMISSION ON IMMIGRATION REFORM

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $800,000.

Mr. HOLLINGS. Mr. President, this is a Kennedy-Simpson amendment for the Commission on Immigration Reform. The amendment appropriates $800,000 for the work of this important Commission.

The Commission was appointed earlier this year, a bipartisan group of eight Commissioners appointed by the Congress, and the Chairman, Cardinal Law, of Boston, appointed by the President.

The Commission has received no funding. It is within our 602(b) allocation and has been cleared on both sides of the aisle.

I urge adoption of the amendment.

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

The amendment (No. 2747) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, while awaiting just a moment here, let me read the letter that we received from the Office of the Attorney General earlier this morning. It says to Senator RUDMAN and myself:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 27, 1992.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you take the Commerce, Justice, State 1993 Appropriations Bill to the Senate floor, I urge you and your colleagues to provide no less than the amounts proposed in your Bill for the Department of Justice. I believe you and I agree that the Department of Justice provides, on behalf of all the American people, a core function of government.

Though the net change in total discretionary funding for the Department of Justice is some $257 million (or 2.67 percent) below the Administration's 1993 request, your Bill is some $820 million greater in net discretionary funding for the Department of Justice than the companion 1993 House Commerce, Justice, State Appropriations Bill reported by the full House Appropriations Committee.

I commend your leadership, and that of your Subcommittee colleagues, in focusing on the priority needed to be accorded the Department of Justice's program needs in areas such as violent crime, drug trafficking, and white collar crime in 1993. I also recognize, from a quick review of the Bill and accompanying Report, the difficult tradeoffs you made to provide the level of funding contained in the Bill for the Department of Justice.

I appreciate your support for the "Weed and Seed" initiative and the flexibility afforded me to execute this vital program. I am also heartened by your support across the criminal justice system for resources to support the investigative, prosecutive, incarceration, and State and local assistance programs of the Department in 1993.

You must know, however, that I am disappointed that for the second successive year the President's request for Department of Justice law enforcement initiatives are not fully funded. In major part, I understand this is caused by an inadequate 602(b) outlay allocation provided to your Subcommittee. This is a problem I hope we can jointly address in the coming year.

Once the Senate and House Bills pass the respective bodies, there are several serious non-appropriations matters, such as the reauthorization of the Legal Corporation contained in the bill, that we will need to resolve in conference.

In close, though your Bill does not provide all the funds needed, the Senate Bill is much preferred in its funding level for the Department of Justice compared to the companion House Bill. I urge you and your Subcommittee colleagues success in retaining no less than the amounts proposed for the Department of Justice both on the Senate floor and in the Conference Committee. I look forward to working with you in a continued spirit of trust, cooperation, and courtesy in the year ahead.

Sincerely,

WILLIAM P. BARR,
Attorney General.

Mr. President, I yield the floor, and 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. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2748

(Purposes: To ensure compliance with GAO requirements regarding the independent counsel)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2748.

At the appropriate place, add the following:

SEC. . The General Accounting Office is hereby directed to report to Congress by September 1, 1992, their explanation for failing to comply with Public Law 100-202, and to complete by the adjournment of Congress sine die of the 102nd Congress, the reports required to be submitted pursuant to Public Law 100-202.

Mr. DOLE. Mr. President, as many of my colleagues know, I have not been a big fan of the Office of Independent Counsel. In far too many instances, the investigations conducted by independent counsels have turned out to be partisan political fishing expeditions—expeditions which accomplished nothing more than wasting millions—and I say millions of tax dollars.

The most egregious example of this is, of course, the never-ending Iran-Contra investigation being conducted by Lawrence Walsh. This December, Mr. Walsh will celebrate his sixth anniversary as independent counsel, the same as a term for Senator. He has been there 6 years.

And since Mr. Walsh spends most of his time in Oklahoma, leisurely working on his memoirs, while his crew of attorneys are ensconced in some of Washington's cushiest office space, all enjoying the luxury of operating with an unlimited budget, there is little hope that the end is in sight.

Why would you want to give it up? They have it made. They may be here longer than most anybody in the State.

My intention in offering this amendment, however, is not to send a message to Mr. Walsh—who has already proven his inability to understand the simple fact that it is time to leave Iran-Contra to the history books.

Rather, my intention is to send a message to the General Accounting Office.

I know that many Senators shared my fiscal accountability concerns when Congress established a permanent indefinite appropriation to fund the expenses of all independent counsels.

Therefore, in the DOJ Appropriations Act of 1988, a provision was adopted that required the Comptroller General to perform semi-annual financial reviews of independent counsel expenditures. These reviews were then to be provided to the House and Senate Appropriations Committee, so we could tell the taxpayers how many millions

of dollars we are spending on all of these things.

Unfortunately, as the GAO confirmed to my office this past week, no reviews have been provided to the House and Senate. No reviews have been provided to anyone. And the sad fact is that no reviews have ever been completed; not one review since 1988 by the Government Accounting Office, which is supposed to be the watchdog. They have not done one thing to see how many millions and millions and millions of tax dollars have been spent by all the independent counsel.

The GAO and Mr. Bowsher, the Comptroller General, are extremely apologetic for ignoring the specific request of Congress, as indeed they should be.

So this amendment is a simple one. And it is going to be complied with by GAO, I think. It just says you have to provide an explanation to Congress on their failure to comply with the law by September 1, 1992. Tell us why you cannot comply with the law. We will give you 2 months to do that, or about 6 weeks.

The amendment further requires the GAO complete and submit their financial reviews to Congress prior to adjournment.

Mr. President, I think it is an important amendment. We talked about accountability and the money that is spent and I hope the managers might be able to accept the amendment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. We accept the amendment on this side and think it is well received and supported.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, the amendment addresses something that many have wondered about, and I am delighted that the minority leader has done so. We support it.

Mr. DOLE. I thank the managers.

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

The amendment (No. 2748) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 2749

(Purpose: To provide for a loan military vessel obligation guarantee program)

Mr. BREAUX. 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 Louisiana [Mr. BREAUX], for himself, Mr. HOLLINGS and Mr. RUDMAN, proposes an amendment numbered 2749.

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

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

The amendment is as follows:

Strike the paragraph regarding the Ready Reserve Force on page 71 of the bill, on line 10 beginning with "for" through to and including "program." on line 21, and insert in lieu thereof:

"For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $146,000,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. HARKNESS: *Provided*, That funds available under this heading shall be available only to acquire ships which were registered in the United States on or before January 1, 1992, or to build Ready Reserve force ships in United States shipyards: *Provided further*, That reimbursement may be made to the operations and training appropriation for expenses related to this program.

MILITARY VESSEL OBLIGATION GUARANTEE PROGRAM

For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $44,800,000: *Provided*. That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of having naval and military utility in time of war or national emergency: *Provided further*, That such loan guarantees shall be available only for construction of vessels in United States shipyards: *Provided further*, for administrative expenses to carry out the Guaranteed Loan Program, $2,350,000, which may be transferred to and merged with the operations and training appropriations for the Maritime Administration."

Mr. BREAUX. Mr. President, both Senators RUDMAN and HOLLINGS are cosponsors of this amendment. I present the amendment to comply with the Credit Reform Act which now, of course, requires that all guaranteed loan programs by the Federal Government have appropriated, up front, the necessary funds not only to fund the risk of potential defaults of any new loan guarantees, but also to cover the costs of administering the loan guarantees.

This amendment provides $44,800,000 to fund the title XI loan guarantee program to build ships which would be required to be built in American shipyards. In other words, private industry would be able to borrow money on the commercial market, and have the Department of Transportation guarantee that loan, in order to construct vessels in U.S. shipyards.

The important point here is that this language clearly requires that these funds can only be used for the types and classes of vessels determined by the Secretary of Defense in consultation with the Secretary of Transportation to be capable of having naval and military utility in time of war or in time of national emergency and that, further, such loan guarantees can only be used for construction of vessels in U.S. shipyards.

The purpose of this program is to ensure that in a time of emergency, the U.S. Department of Defense would have the vessels that are capable of transporting men and women, equipment, goods, and services to serve the American military wherever they may be called upon to be utilized.

The recent example—and the chairman of our Commerce Committee knows this very well—was in the Persian Gulf when the military had to go out and find ships that were mothballed or in reserve to be used to transport helicopters, tanks, men and women to the Persian Gulf. They found that, in many cases, the ships had been laid up so long that they were not in proper condition to be used, No. 1, and; second, the crews were not available to run the ships when the ships were finally put into tiptop shape.

So this legislation and this amendment would merely add some funds in order to guarantee loans for the construction of vessels that can be used in military and national emergencies and that are built in U.S. shipyards. This legislation is necessary so that when the Secretary of Defense says we need some ships, those ships will be on the seas being used by the private industry and can be converted immediately, that day, if necessary, to be used for the military. They will have trained crews because they will be running those ships already. Second, the ships will be in top shape because they will be in actual use rather than sitting somewhere mothballed, just deteriorating while waiting to be used.

So this amendment provides essential money for the loan guarantee program, including the risk that would be associated with making these guaranteed loans and the costs of administering the loan guarantees. I recommend adoption of the amendment as offered.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this amendment has been cleared on both sides of the aisle.

Let me at this point commend my distinguished colleague from Louisiana, the chairman of our subcommit-

tee. He has been working tirelessly on the lack, frankly, of a marine reserve capability in the United States and specifically commend, of course, Secretary Andrew Card.

I talked earlier this morning with Secretary Card. He is our first Secretary of Transportation in quite a while who had a real feel for the merchant marine, its needs and an understanding of the embarrassment we had under Desert Shield as we were gearing up in the fall of 1990 and moving forward. At one time, it appeared like instead of going into the gulf, we were going to invade Spain. Ships were falling apart, breaking apart in the mid-Atlantic, and we were limping into Spain. The plumbing and everything else, the outfitting was rusty.

As the distinguished Senator has pointed out, we did not have the crews—and I have been, as chairman of our Commerce Committee, on to this particular problem for years, meeting with generals and admirals and just meeting and meeting and nothing getting done and everybody crying on each other's shoulders and nothing happens.

Now this makes it happen. It keeps alive the title XI program. We can help finance construction and reconstruction in domestic shipyards of these vessels. That not only give the jobs, obviously, to the shipyard workers but more or less gives the Secretary of Defense a valid option in his military and security commitments whereby he will have vessels ready, willing, and able not only by way of soundworthiness, seaworthiness, I should say, but by way of crews themselves who are ready to go.

They are what we call ship fit and ready to go at any time.

I commend Senator BREAUX for presenting this amendment, Secretary Card's support, the administration's support and, of course, it has been cleared on both sides of the aisle.

Mr. BREAUX. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. BREAUX. I also thank the chairman of the Commerce Committee as well as the Appropriations Subcommittee for his attempts to guide this effort. Those of us who have been around Congress for quite a while here or in the other body have worked a long time to try to get a maritime policy that is a true U.S. maritime policy. It seems we never could get all the competing interests, the shipbuilders, the ship owners and the shippers, together. I think the chairman has spoken correctly about Secretary Andy Card's effort at trying to get something working so that we can come up with a new act which would set maritime policy for Americans.

I know that my ranking colleague on the subcommittee, Senator LOTT, from Mississippi, has been working in our subcommittee along with Senator INOUYE, to try to come up with a program, I think we are very close, certainly the closet I can remember in 20 years in Congress. I think we have made some progress. With the leadership of the chairman and this effort, I think we are getting closer day by day.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, the ranking Member, Senator RUDMAN, is momentarily taking a call but he has permitted me to say this amendment has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2749) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote.

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

Mr. HOLLINGS. I suggest the absence of a quorum.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. If my colleague from South Carolina will withhold, I ask unanimous consent to speak for 5 minutes as if morning business.

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

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, my colleagues may recall that a year and half ago, we finally, after a bit of a struggle, passed a bill that the President signed which made an exemption in the antitrust laws for 3 years so the television industry could get together and establish standards for violence on television.

Study after study has shown that violence on television is adding to violence in our society. Over the weekend—and I spent the weekend in Washington, DC, which I do not do very often—I had a chance to do some reading. I came across two books written by people I know and for whom I have great respect, and in both there is a reference to this problem. One is a book, "Today's Children," by Dr. David A. Hamburg, a physician by background, used to teach at Stanford and Harvard, president of the Carnegie Corp. Let me read a couple of sentences from his book.

> TV as a baby-sitter is not a substitute for intimate personal contact between parent and child. Television's graphic portrayal of violence as a means of dealing with life's problems has extensive repercussions. Although violence has long been an integral part of human history and of child development, no generation in history has ever grown up with so much exposure to vivid, immediate, and wanton violence divorced from moral as well as physical consequences.

This is not some far out kook who is talking; this is the president of the Carnegie Corp., a physician himself, former member of the faculty at Harvard and Stanford. Listen to another paragraph:

> Television is a persuasive presence in the lives of most American adolescents. One responsible estimate is that the average seventeen- to eighteen-year-old has spent 15,000 hours watching television, compared with 11,000 hours spent in school. Television programs often present violence and sex in an attractive way. Contraception is rarely mentioned. In effect, television provides young people with guidance about how to be sexy, but not much about how to be sexually responsible. Explicit linkage of sex and violence has increased in recent years. The vast exposure to television violence during the years of growth and development is well known. Some adolescents in turmoil are especially susceptible to this stimulation.

The second book, written by Fred Hechinger—he used to be on the editorial staff of the New York Times, is associated with the Carnegie Council on Adolescent Development—is titled "Fateful Choices." One section says:

> In a crisis that demands a comprehensive and urgent response, Prothrow-Stith says bluntly: "Our children are killing each other because we teach violence. We've got to do something to stop the slaughter."
>
> If violence prevention is to be successful, she warns, the television and film industry must be reached to change its ways. At present, she charges, the industry goes out of its way to portray violence as glamorous and painless. We had an incident at Boston City Hospital not long ago in which a 13-year-old kid came in with a gunshot wound," she recalls, "and he was surprised because it hurt."

Then there is another page here outlining why it is important that we deal with this problem of television violence. And then finally the recommendation that Fred Hechinger makes in his book:

> Today great efforts short of censorship should be made to purge the visual media, particularly television and rock programs, of their orgy of mindless violence. Sex reforms ought to begin with cartoons produced for young children that often make violence appear amusing.

We are, as I indicated, at the halfway point in this 3-year window we have given the television industry to come together and establish standards. One article recently published in the American Medical Association Journal estimates—on the basis of a study that they have made—that television has doubled the number of murders in our country as well as rapes and other attacks.

I do not know whether that is right or wrong. Suppose they are off by a factor of 90 percent. It is still a wanton, needless slaughter in our country.

I do not know, frankly, at this point whether the television industry is going to act and take advantage of this opportunity for voluntary standards on violence or whether they will not.

The cable industry has hired a distinguished researcher from the University of Pennsylvania to look at this. That is a good sign.

The broadcast industry has informally met twice. Whether, in fact, we are going to get any action or just spinning of wheels and public relations, I do not know. But I believe it is important for the country that we get action.

I think these comments by Dr. David Hamburg and Fred Hechinger in these two books illustrate the need for action.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2750

(Purpose: To provide $300,000 in funding for follow-up activities to the United Nations Conference on Environment and Development)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. PELL, proposes an amendment numbered 2750.

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

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

The amendment is as follows:

On page 79, line 15, after "(22 U.S.C. 2718(a))" insert the following: ", and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for follow-up activities to the United Nations Conference on Environment and Development, including necessary travel".

Mr. HOLLINGS. Mr. President, this is an amendment that earmarks $300,000 within the salaries and expense accounts of the Office of Environmental and Scientific Affairs budget for the particular function in that section. In other words, it is in addition to the research funding that we have provided for $12.405 million that is contained in the OES Department's budget.

This is a $300,000 add-on that is taken care of within the 602(b) allocation. This is simply an earmark, and is part of providing some $30 million for research on a variety of environmental issues.

Mr. PELL. Mr. President, I want to congratulate the Senator from South Carolina [Mr. HOLLINGS] on his efforts to strengthen the Bureau of Oceans and International Environmental and Scientific Affairs within the Department of State. The Senator has provided the Bureau with $30,000,000 for research on a variety of environmental issues, including climate change and antarctic environmental protection. This money should significantly strengthen the U.S. research program in these critical areas affecting the global environment. It is particularly appropriate in the aftermath of the U.N. Conference on Environment and Development.

In this connection, I also want to thank the Senator for accepting an amendment that I have offered to earmark $300,000 within the Salaries and Expenses account for the OES Bureau for staff for follow-up to that meeting. I want to clarify with the Chairman of the Subcommittee that it is his understanding that this funding will be in addition to the research funding he has provided and the $12,405,000 that is contained for OES in the Department's budget request.

Mr. HOLLINGS. That is correct.

Mr. PELL. I thank the Senator for his understanding. I look forward to working with him in the future.

Mr. HOLLINGS. Mr. President, the amendment has been cleared on both sides. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 2750) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we are momentarily moving along. We have an amendment by the distinguished Senator from Connecticut [Mr. DODD] who is on his way to the floor, and several other amendments we are clearing; with respect to an amendment by the Senator from Delaware, and a few others.

I hope Senators will be forthcoming about amendments that we have not been notified about, because we are ready to move this bill right along.

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. HOLLINGS. 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. HOLLINGS. Mr. President, most respectfully we have killed a half hour now, or 40 minutes, under the words we received as managers of the bill that "I know of four Senators who are on their way to the floor."

Mr. RUDMAN. Nobody told us from where.

Mr. HOLLINGS. No. We have understood that there were several.

We will be here at 6:30, or 7 o'clock tonight. The leadership on both sides of the aisle counseled us that this bill would commence at 2 o'clock.

This particular Senator had to call off a longstanding commitment. I would have loved to have been there.

I know we all have to do these kinds of things to get the business of the Congress moving along. We want the colleagues to help us with a little bit better discipline.

I am prepared to move and I know some Senators on the other side of the aisle are trying to get out of here to make further commitments they have made this evening. I am going to cooperate to the fullest with them trying my best to bring this to a close momentarily.

Now we keep on hearing and waiting, and they are coming to the floor, and then the staff calls them to the floor, and everything else.

I do not see any reason to delay.

I yield the floor.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, there has been longstanding notice that we were going to have this bill on at 2. That was given last week. The majority leader made it clear, after consulting with the Republican leader, we are going to vote on Monday. I do not know how the Senator from South Carolina feels about this, but, frankly, I would like to make a request of the majority leader and Republican leader that at 5:30, if we have done all the business that is before us, that we simply put in a unanimous-consent request that, with the exception of the matter we have discussed with Senator DANFORTH, the bill is closed, because, obviously, without that granted we cannot go to final passage without the substitution, and essentially for all intents and purposes close the bill.

I am going to ask Senator DOLE if he would agree with that. I think that gives people 3½ hours to do what they want to do.

Mr. HOLLINGS. Right; and another hour-and-a-half to find their way to the floor. I think it is very much in order.

So everybody has notification now, so they cannot come, in fairness, and say they did not know, and that we acted peremptorily or without consideration.

We need consideration down here on the floor, all of us, to move all of these bills before we have to recess in 10

days' time, or a couple of weeks I guess it is, for the Republican Convention, and then come back after Labor Day with only a few weeks to close these matters out.

This Congress, this Senate, has very, very important business under time constraints that force us to move ahead, and we are prepared and ready to do so.

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

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2751

(Purpose: To provide small business loan guarantees to displaced defense workers)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. LIEBERMAN, and Mr. PELL, proposes an amendment numbered 2751.

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

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

The amendment is as follows:

On page 76, line 25, strike all after "Armed Forces" up to and including page 77, line 2 and insert in lieu thereof the following: "of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement, a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement, or an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program,".

Mr. DODD. Mr. President, I ask further unanimous consent that the distinguished senior Senator from Rhode Island [Mr. PELL] be added as a cosponsor along with Senator LIEBERMAN.

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

Mr. DODD. Mr. President, let me begin by commending the distinguished chairman and ranking minority member for a very fine piece of legislation that they brought to the floor of the Senate today. This legislation is going to do a great deal to assist in the transition after the end of the cold war from an economy that is dependent on defense in many areas of the country. The $230 million of economic conversion assistance in this legislation will go a great distance toward helping defense companies and the surrounding communities as well as the employees who work in those communities and work for those companies.

The amendment I am proposing, along with my colleague Senator LIEBERMAN of Connecticut, and Senator PELL, is aimed at broadening the authority under the Defense Economic Transition Loan Program which is established in title IV of the pending legislation.

As reported, Mr. President, the legislation would do two things. First, it would extend loan guarantee assistance to small businesses that are prime contractors, or subcontractors, to the Pentagon. Second, it would provide loan guarantees to members of the Armed Forces who wish to start up their own businesses.

This amendment, Mr. President, would broaden the authority of this second provision to ensure that displaced defense workers, as well as members of the Armed Forces, are made eligible for this type of assistance. It replaces the language of the bill with the language included in the legislation that Senator LIEBERMAN and I introduced a few weeks ago, the Small Business Defense Economic Transition Assistance Act.

This language has also been included in the Small Business Credit and Business Opportunity Enhancement Act of 1992, which is a coordinated effort between the House and Senate small business committees. So Members can be confident that this language has received a full and careful scrutiny.

The logic behind this language lies in the fact that if we want to preserve the skills and talents of the defense industry, our focus should be on the people of the defense industry.

We often talk in this Chamber about the steps we are going to take to preserve the defense industrial base as we go about this downsizing of the defense budget. I know many Members of this body are concerned, as I am, that if we cut too fast and too deep, we will lose many of the vital skills and technologies that helped us to win the cold war.

This is one very simple step, Mr. President, that can help us prevent such an outcome. By providing loan guarantees to displaced defense workers, we are giving them a green light to take the technologies and skills that they learned in the defense industry and put them to work in the civilian sector. If there is a better definition of the term "conversion," Mr. President, I don't know what it is.

We have some experience with this in Connecticut, Mr. President. The recent cutbacks at Electric Boat, in Groton, threaten serious damage to the economy of the region. But if there is hope, Mr. President, it can be found in the many former workers of Electric Boat and other defense industries in the region who are taking business ideas of their own and putting them to the test.

In fact, the director of the local Small Business Development Center in Groton says he will counsel over 400 people this year—and about half of them are laid-off defense workers or veterans. That should say something about the importance of this type of assistance.

I will not take a great deal of time on this amendment because we talked with both the majority and minority staff about this particular proposal. But I believe very strongly that the people who have worked as our welders, pipefitters, designers and engineers over these past four and half decades, who contributed, essentially, to the victory of the cold war—these are in fact the veterans of the cold war. And in our debate of who needs to be thanked for what happened over the last four and one-half decades, certainly the American taxpayers and people in the uniformed services deserve recognition, but oftentimes these people who worked in the defense plants, subcontractors, suppliers, as well as the major industries, are left behind in that discussion.

This amendment merely says if these dollars are going to be used for economic conversion, that these people, as they lose their jobs—and thousands already have, in my State, in California, across the country deserve our recognition, and our assistance.

I want to thank Senator HOLLINGS and Senator RUDMAN for their support of this amendment.

Mr. PELL. Mr. President, the amendment offered by Senator DODD would simply broaden the coverage of small business loan guarantees being made in connection with defense adjustment.

As provided in the bill as reported, defense economic transition assistance under the Small Business Loan Guarantee Program would be extended to two groups: existing small businesses adversely effected by contract terminations or base closures, and new small businesses being established by former members of the Armed Forces.

This amendment would simply add another group adversely affected by defense curtailments, and that is former employees of defense contractors who have been laid off as a direct result of contract curtailment or termination.

The amendment would not increase the amount of authorized funding but would expand the number of potential applicants for the guarantees backed by the $40 million appropriation.

The actual impact is difficult to estimate, but I can say that a small but energetic minority of the 2,000 Electric

Boat employees being laid off in my State and nearby Connecticut are actively pursuing careers as independent entrepreneurs.

On their behalf I ask to be added as a cosponsor and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Connecticut has indicated this recognition is long overdue. What it provides now is in conformance with our defense conversion provisions. It has been cleared on our side of the aisle, and I think on Senator RUDMAN's side of the aisle.

I urge the adoption of amendment.

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

The amendment (No. 2751) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. SMITH].

AMENDMENT NO. 2752

(Purpose: To restore the Second Amendment rights of all Americans)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2752.

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

Mr. SMITH. Does the manager of the bill wish a time agreement on this? I have no objection to a time agreement if you wish to have one.

Mr. RUDMAN. If my colleague from New Hampshire will yield for just one moment.

Mr. President, this will be very brief. 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. RUDMAN. 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. RUDMAN. Mr. President, I suggest to my colleague from New Hampshire that we proceed with this amendment. We are unable to get an agreement at this moment for a limitation on debate on the amendment. We may have it in a few moments. When and if we do, I will ask the Senator to yield for the purpose of getting an agreement. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH].

Mr. SMITH. I thank my colleague from New Hampshire and will inform him my remarks should not be more than 10 or 15 minutes and would inform any colleague of that fact in case they wish to make plans one way or the other regarding this amendment.

Mr. President, this amendment would simply repeal the District's liability gun law. This is a very strange, to say the least, and counterproductive law. It was enacted by the District of Columbia last year, as you know, and it would attempt to control the District's admittedly serious crime problem but in a way that is quite controversial and, frankly, unconstitutional by allowing the District of Columbia to determine what types of firearms residents of the 50 States may or may not buy.

It also makes manufacturers, as well as distributors, liable for a crime committed with a semiautomatic firearms in Washington, DC. The ramifications of that law, Mr. President, are startling.

Assume, for example, that a resident of South Carolina legally purchases a semiautomatic firearms, legally purchases a semiautomatic firearm manufacturered by, say, company Glock in Georgia. Assume further that the firearm is then stolen and transported into the District of Columbia where it is used by a drug dealer who shoots a rival drug dealer. Under the D.C. gun law, the injured drug lord could sue Glock, the company in Georgia who made the gun, and the South Carolina dealer to recover damages. In fact, the only party that the D.C. gun law would not allow him to sue is the criminal who shot him. The company gets sued who made the gun; the distributor gets sued who sold the gun; and the person who did the killing does not get sued. Both the manufacturer and the distributor do.

Surely there is some twisted sense of logic here that I fail to understand as we try to control crime, and we need to control crime, in the District of Columbia. The only conceivable rationale behind this misbegotten enactment is that the District of Columbia is trying to control its own crime problem by enacting national gun control. I think that is really the agenda here.

If the manufacturer of a semiautomatic firearm can be held liable for all damages and thus potentially put out of business every time one of its firearms is misused—not used—misused, the District of Columbia assumes that the national manufacture of semiautomatics will come to a complete halt.

While we are all concerned about the crime problem in D.C., this legislation creates far more problems than it could possibly solve. In the first place, the District's action threatens to cut off the sale of all firearms to Federal and local law enforcement authorities based in the District of Columbia. I want to make sure that is understood. It threatens to cut off the sale of all firearms to Federal and local law enforcement authorities based in the District. Why is this? It is because the one sure way that firearms manufacturers and dealers can avoid liability under the D.C. law is to deny the District jurisdiction over their operations, and this can be accomplished quite easily: By refusing to sell firearms of any type to the Capitol Police, the FBI, the Secret Service, the D.C. Police, the Bureau of Alcohol, Tobacco and Firearms, and other D.C.-based law enforcement officials or agencies.

Already, Colt Manufacturing Co.—this is very significant, Mr. President—Colt Manufacturing Co. of Connecticut, Gun South, Inc., of Alabama, Intratec of Florida, Action Arms Lts. of Pennsylvania, Beretta USA of Maryland, Springfield Armory of Massachusetts, and Sturm, Ruger & Co. of Connecticut have indicated either that they will cease doing business with District-based law enforcement authorities or that they are seriously considering doing so.

Mr. President, I ask unanimous consent that letters from Colt, Gun South, Intratec, Action Arms, Beretta, Springfield Armory, and Sturm, Ruger be printed in the RECORD.

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

COLT'S MANUFACTURING CO., INC.,
Hartford, CT, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: Colt's Manufacturing Company has been a proud supplier of reliable firearms to the United States Government and to America's law enforcement officers for over a century and a half. However, we are now faced with a law in Washington, D.C. unlike any other in history, and this new law may force Colt's to reconsider its sales policies regarding both the D.C. law enforcement community and the U.S. Government.

This unconscionable new law could make Colt's and other manufacturers liable in civil lawsuits to anybody claiming to be injured by anyone using, or misusing, certain firearms without regard to the conduct or misconduct of the person who fires the shot, and without regard to the care and safety with which the firearm is manufactured.

Because Washington, D.C. already has restrictive gun laws, Colt's does business there only with law enforcement and military agencies. Since the new law contains no exemptions for firearms sold to law enforce-

ment or the military, all of Colt's future business in the District of Columbia could be in question. We may be forced to refuse to sell our products to such agencies in order to protect out company, its union work force and its management from the disastrous consequences of lawsuits which could be filed under the new law.

Sincerely,

JOHN HOLJES,
Vice President.

GSI INC.,
Trussville, AL, December 10, 1991.

Senator BOB SMITH,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: It is with deepest regrets that GSI Incorporated must reexamine our current marketing policies in regard to current sales to US Government and District of Columbia law enforcement agencies in the event legislation is passed that would make firearms manufacturers or their agents liable for damages to persons injured by criminal misuse of firearms. If such legislation is passed, it is our intention to refrain from participation in any procurement action made by all of the subject agencies in order to protect GSI from the adverse effects of litigation resulting from the proposed legislation.

Sincerely yours,

DONALD F. WOOD,
President, GSI Inc.

INTRATEC,
December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: The following is in reference to the Washington, D.C. firearms manufacturers' liability law. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

We regret to inform you, that in the event this law goes into effect, it is our intention not to sell our firearms to any person, governmental agency, or law enforcement agency located in the District of Columbia.

We regret having to consider such an action, but the board and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

Sincerely,

MARTHA FERNANDEZ,
Office Manager.

ACTION ARMS LTD.,
Philadelphia, PA, December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: Since our founding over 12 years ago, numerous federal departments, agencies services and bureaus have procured firearms from our company, and are continuing to do so. However, a new law in the District of Columbia has convinced us that a reassessment of this supply program is necessary. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

Our only sales within District boundaries are to U.S. government and security agencies. Restrictive gun laws have precluded us from selling our products to the commercial market. However, the fact that these agencies have not been excluded from the new law will have a devastating impact on our company by in effect making Washington D.C. off limits for U.S. governmental sales.

Sincerely,

JERRY STERN,
President.

BERETTA U.S.A. CORP.,
Accokeek, MD, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Committee on the District of Columbia.

DEAR CONGRESSMAN ROHRABACHER: I wanted to write to you to express my concern regarding the recent bill passed in the District of Columbia which would make firearms manufacturers responsible for damages to persons injured by the criminal misuse of a firearm. I understand that your committee has oversight authority with respect to legislative actions taken within the District of Columbia.

I have several concerns regarding this legislation. First, it is wrong to say that, when a company manufactures any of the firearms depicted in this legislation, they do so with the intent that the weapon will be misused by criminals. Firearms manufacturers make their products for use by the sporting public, for collecting, for use in law enforcement and for use in self-defense. Laws currently exist which penalize those who make or sell a weapon for use in criminal activity. The Beretta Model AR 70 rifle, specifically named in the D.C. legislation, has been sold by my company over the years to shooting enthusiasts, to collectors, and to law enforcement agencies. To suggest that Beretta should be held responsible for actions of criminals when Beretta's production and sales of the AR 70 rifle were made for legitimate pursuits smacks of gross unfairness.

Second, the D.C. bill is vague. While it lists some specific weapons as falling within its scope, it does not, on its face, define whether those weapons are listed as examples of firearms subject to the law, or whether they are simply demonstrative of firearms which would be subject to the jurisdiction of the law. My concern in this regard is increased by the introductory language of the bill, which makes a reference to handguns as contributing to crime problems in the District. A court, citing this language as expressing the intent of the law, could seek to hold the manufacturer of semiautomatic pistols or revolvers responsible for criminal acts committed with those products, even though the manufacturer had no notice of such potential liability.

Third, the bill may effectively rob government agencies located in the District of the ability to purchase weapons with which they can effectively respond to criminals. If the D.C. liability law becomes effective, Beretta, for example, will be compelled to consider ceasing any further sales to the D.C. police, the Park Police, the DEA, the FBI or any agency located in the District. Our concern, of course, would be that we not establish minimum business contracts in the District such that D.C. long arm statutes would be used to impose liability on Beretta for criminal misuse of any of our products. Stated more simply, we are concerned that court, citing as evidence sales by Beretta to the D.C. police department, the FBI and other agencies, will rule that Beretta, by virtue of its close business contracts with the District, has agreed to be governed by the laws of the District of Columbia and can be held liable for criminal acts coincidentally involving a Beretta product. The net effect of Beretta's refusal to do business in the District would be that the law enforcement agents who most urgently need its excellent and reliable products will be unable to purchase them.

I have other concerns about the D.C. liability bill, including its unconstitutional encroachment on interstate trade, its continuation of the erosion of vital Second Amendment rights, and its tendency to distract attention from the causes of crime—which supporters of the bill seem loath to address because these causes go to the heart of the failure of social and political institutions of which they are the major component—by placing attention on the mechanical devices which criminals sometimes use (or, in the case of the weapons listed in the bill, almost never use).

The D.C. liability bill will have no effect on crime, will impose liability on parties who are not responsible for the criminal conduct involved, is unconstitutional and vague, will with certainty involve the district in expensive legal defenses, and may strand District and Federal law enforcement agencies from the advances in technology which their counterparts and, ironically, the criminal element, will remain free to enjoy. For these reasons, I would encourage you to do everything possible to ensure that the bill is overturned by Congress.

Sincerest regards,

ROBERT L. BONAVENTURE,
Executive Vice President.

CALIFF & HARPER, P.C.,
ATTORNEYS AT LAW,
Moline, IL, November 19, 1991.

Hon. DANA ROHRABACHER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: This office is general counsel to Springfield Armory, Inc., Geneseo, Illinois. I have been authorized to inform you that in the event the Washington, D.C. firearms manufacturers' liability law goes into effect, it is Springfield Armory's present intention not to bid on any contract nor sell any of its guns, both pistols and rifles, to any person, governmental agency, or law enforcement agency located in the District of Columbia.

Springfield regrets having to consider such an action, but the broad and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

With best regards, I remain,

Very truly yours,

WILLIAM H. DAILEY.

STURM, RUGER & CO., INC.,
Southport, CT, December 9, 1991.

Hon. BOB SMITH,
Attn: Mr. Corrigan
Dirksen Senate Office Building, Washington, DC.

DEAR MR. CORRIGAN: We would like to register in strongest possible terms our opposition to the above. Although we manufacture no firearms that appear on this list, we are most concerned that this is bad law, bad social policy, and bad precedent for any product, firearm or otherwise.

Sturm, Ruger & Company, Inc. was founded in 1949 and is a domestic manufacturer of high quality firearms for sporting, police, personal defense, and military applications. Federal agencies that have used Ruger firearms over the years include the Federal Bureau of Alcohol, Tobacco and Firearms, the U.S. State Department, the U.S. Customs Service, the U.S. Postal Service, the Department of Immigration and Naturalization, the Border Patrol, and the U.S. Marshall's Of-

fice. We have also recently sought to obtain U.S. government contracts from the U.S. Army, the F.B.I., and the D.E.A. We do no civilian business within the District of Columbia.

If not repealed by Congress, the courts will have to interpret the "doing business" aspect of the D.C. Long Arm Statute, and whether or not selling to a Federal agency within the District would thereby subject a manufacturer to this indefensible absolute liability sought to be imposed against lawful manufacturers of firearms many states away. Sturm, Ruger & Company, Inc. would then have to carefully consider whether the risk of payment of multimillion dollar judgments, without any available defenses under the Act, can support that relatively small portion of it's business that arises out of Washington-based Government sales.

I must stress that no such decision has yet been made, and indeed, it cannot be made until the law is either overturned or the appellate courts speak conclusively on this subject. However, suspension of any sales within the District would have to be considered if such sales were to be held a basis for long arm jurisdiction under the D.C. Act.

Thank you for allowing us to explain our position.

Very truly yours,

STEPHEN L. SANETTI,
General Counsel.

Mr. SMITH. Mr. President, the second problem with the District's strict liability gun law is that it threatens to bankrupt legitimate gun manufacturers and dealers through lawsuits brought by injured drug lords. Injured drug lords can bring suit against manufacturers and dealers.

How genuinely ironic it would be if 1,000 honest, hard-working people were thrown out of work in Florida, Connecticut, or Massachusetts in order to finance a D.C.-based drug empire, because that is exactly what would happen.

The third deficiency in D.C.'s approach has to do with its potential precedential impact on tort law. Historically, liability has not been applied to products that are lawfully manufactured, lawfully sold, lawfully distributed, and function properly. If the District can implement national firearms policy because of its distaste for guns, well, who is next Alcohol, cigarettes, condoms? As a result of the almost limitless implications of imposing strict liability on the manufacture or distribution of an otherwise lawful or nondefective product, virtually all of our Nation's top torts scholars oppose laws similar to this one.

Let me cite a couple. Victor Schwartz, author of "Schwartz on Torts" testified against the D.C. law in the House. Here is what he said:

Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacture of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.

These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, "The Fall of the Citadel," a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are suppose to operate and have nothing wrong with them. Lawyers would say that the product has "no defect." Dean Prosser and other great scholars, judges, and practicing lawyers helped formulate strict products liability in a 1965 document called, "The Restatement (Second) of Torts"

Sec. 402a. It echoes the same theme. A principal comment to section 402a says that a product manufacturer is not to be held liable for "inherent characteristics of a product." These are characteristics that are commonly known and cannot be removed from the product without compromising its basis function.

Schwartz goes on to cite support from coauthors of the leading American textbook in the field of products liability, Jim Henderson of Cornell and Aaron Twerski of Brooklyn Law School, pointing out that courts have been steadfast in not applying the [strict liability] doctrine manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.

These are the scholars in the field, Mr. President.

I ask unanimous consent that the testimony by Victor Schwartz be printed in the RECORD.

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

THE IMPOSITION OF LIABILITY WITHOUT DEFECT IS UNSOUND PUBLIC POLICY ADVERSELY IMPACTING INTERSTATE COMMERCE

(Testimony by Victor E. Schwartz, partner, Crowell & Moring Before the House Committee on the District of Columbia, November 21, 1991)

Thank you Mr. Chairman for the opportunity to testify about legal issues that have been raised concerning the District of Columbia Assault Weapon Manufacturing Strict Liability Act of 1990 and the need for passage of H.R. 3712.

Let me briefly state my background regarding the subject of liability. Beginning in the late 1960's I was a Professor of Law at the University of Cincinnati and, subsequently, its Acting Dean. Apart from tort law, I taught conflicts of law which has some relevance to the issues of concern to this Committee. I have written many articles in the field of tort law and am the co-author of the most widely used torts-liability casebook in the United States, W. Prosser, J. Wade and V. Schwartz, *Cases and Materials on Torts*. The book is now in its Eighth Edition. From 1976 to 1980, under both Presidents Ford and Carter, I chaired the Federal Interagency Task Force on Product Liability—it conducted the most in-depth study of product liability that has been published in the United States to date. Since 1980, I have been a member of the Washington law firm of Crowell & Moring and co-chair its Torts and Insurance Practice Group. Over the past 25 years, I have represented both plaintiffs and defendants. My views today are based on all of these experiences—that is where I am coming from.

Let me make clear where I am not coming from. I am not a gun owner—I have never owned one. I have not and am not representing people who manufacture or distribute guns. From what I have read, I can truly appreciate the harms that so-called "assault" weapons have done in our society. I also have been informed that law enforcement officials have used these weapons to combat crime.

Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacturer of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.

These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, *The Fall of the Citadel*,[1] a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are supposed to operate and have nothing wrong with them. Lawyers would say that the product has "no defect." Dean Prosser and other great scholars, judges, and practicing lawyers helped formulate strict products liability in a 1965 document called, *The Restatement (Second) of Torts* §402A. It echoes the same theme. A principal comment to §402A says that a product manufacturer is not to be held liable for "inherent characteristics of a product." These are characteristics that are commonly known and cannot be removed from the product without compromising its basic function.

When §402A was debated, Dean Prosser said, "[T]he fact that the product itself is dangerous or even unreasonably dangerous to people who consume it, is not enough. There has to be something wrong with the product." Similar thoughts were expressed by, my now senior co-author, Dean John W. Wade. *See* Wade, *On the Nature of Strict Liability for Products*, 44 Miss. L. Jour. 825, 842 (1973).

In 1991, over 25 years after Restatement §402A was published, a number of prominent academics, assisted by advisors from courts and practice, conducted a five-year study for the American Law Institute entitled, "Enterprise Responsibility for Personal Injury." While they made many recommendations for changes in the law of products liability, they stated clearly:

"A product's design should be deemed defective if, and only if, there was a feasible alternative design which, consistent with the consumer's expected use of the product, would have avoided the particular injury . . ."

See A.L.I. Reporters' Study, "Enterprise Responsibility for Personal Injury," Vol. 2, p. 56 (1991).

The co-authors of the leading American textbook in the field of products liability, Professor Jim Henderson of Cornell and Professor Aaron Twerski of the Brooklyn Law School, have recently completed a seminal article dealing with the same topic. *See* J. Henderson and A. Twerski, "Closing the American Products Liability Frontier: The Rejection of Liability Without Defect," 66 N.Y.U. L. Rev. (1991) (to be published). This article, in an in-depth fashion, shows why it is unsound public policy to impose liability on manufacturers where there is nothing wrong with a product.

As the article indicates, some have suggested that the manufacturer of assault weapons is akin to what tort law has called an "abnormally dangerous" or a "ultra-hazardous" activity—some courts have ruled

[1] 50 Minn. L. Rev. 791 (1966).

that conducting certain selected activities justifies the imposition of strict liability. A few such activities have been singled out by courts, such as blasting and the use of poisonous gas, principally because they are highly dangerous and "abnormal" to their environment. But there is a great deal of difference between that type of liability and imposing liability on a manufacturer of a product. Under the abnormally dangerous activity doctrine, the active party who causes the harm is the person who *engages in the activity itself*, he conducts the blasting or sprays the poisonous gas. Courts have been steadfast *in not* applying that doctrine to manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.[2]

Legal niceties aside, what are the basic public policy reasons for this result? First, when a person is killed by an assault weapon, the wrongdoer is the person who pulled the trigger, not the weapon itself. Assault weapons have caused a great deal of harm in our society, but they have also been used safely, and for legitimate purposes. Our liability law should not *externalize* responsibility, that is, shift responsibility away from the people who did the wrong—the person who pulled the trigger, or any individual who, in violation of criminal law, sold him that weapon, and, instead, place blame on the so-called "deep pocket" manufacturer who did nothing more than produce a lawful product.

Tort law has properly concentrated on defective products, products that manufacturers could have made safer. In the classic case of the Ford Pinto, the gas tank could have been placed further away from the rear of the car and a firewall could have been installed. With these changes in place, an automobile would be less likely to be subject to fire in low impact collisions. In point of fact, there is no way to make a gun that can only be used for legitimate and not illegitimate purposes—it is impossible if the product is still to be a gun. The same is true of a knife, a hatchet, a rope, or any product that can be used to kill or maim. Let me get to a more practical example, alcoholic beverages. Many people enjoy alcoholic beverages without causing harm to others. Nevertheless, all of us know that alcohol has caused a great deal of harm in our society. The number of people killed by drunk drivers probably exceeds those who have been killed by assault weapons. Should this Congress support a principle that could subject manufacturers of alcohol to liability for every person harmed by a drunk into American law? I think not. The implications of this principle for businesses operating in interstate commerce are staggering.

When this new law is placed in the context of general American product liability law, it stands alone—all states now require that a plaintiff show that something is wrong with the product.[3]

The European Economic Community recently drafted an EC Directive on product liability. It is now law in eight countries (the United Kingdom, Greece, Italy, Luxembourg, Denmark, Portugal, Germany, and the Netherlands). The EC Directive, in clear language, states that for liability to be imposed, there must be a "defect" in the product. *See* Article 4.[4] The District of Columbia Assault Weapon Strict Liability Act of 1990 is isolated not only in the United States, but the entire commercial world. The most modern principles of foreign product liability law do not hold manufacturers or distributors of products responsible when that product has not been shown to be defective.

Some have said that the Assault Weapon Manufacturing Strict Liability Act of 1990 is confined to the perimeters of the District of Columbia. This is not in accord with practical fact. This law can affect manufacturers who never sell weapons privately in the District. If they sell weapons to law enforcement officers, but other weapons made by the same manufacturer find their way into the District, this well could be enough to provide District of Columbia courts with jurisdiction over the manufacturer if these other weapons are used for illegal purposes. The Assault Weapon Manufacturing Strict Liability Act of 1990, as the Congressional Research Service has reflected, has extraterritorial impact, there is no getting away from it.

The liability exposure from imposition of liability where a product works as it is supposed to is beyond any liability exposure that has been witnessed in the United States. Under the Assault Weapon Manufacturing Strict Liability Act of 1990, this exposure can be thrust on a manufacturer even though it produced a lawful product and broke no criminal law of the District of Columbia.

Our country has problems with our liability system as it is—many state statutes have been enacted to confine some of the excessiveness of the 1980's. Recently, a number of leading state supreme courts have taken similar steps. To impose liability on a product without defect thrusts interstate commerce on a deep, dark ocean of liability from which there is no point of return—it is a legal distortion that cannot be justified.

The Assault Weapon Manufacturing Strict Liability Act of 1990 placed tort law in the middle of a broad-based political fight between those who want to regulate and those who do not want to regulate assault weapons. That fight should be resolved within the framework of regulation—legislators and others who wish to ban or limit weapons in the United States should make their case and persuade persons that this is sound public policy for our society. That is the arena for the fight, not tort law.

I will end where I began. I am not a member of the NRA or any organization that either supports or opposes gun control. I have been in the field of liability law throughout my professional life. That experience says that manufacturers of guns should be subject to liability if they fail to provide adequate instructions to the product user, if they make weapons that blow apart or do not function properly; they should not be subject to liability when their product works as intended. In my judgment, H.R. 3712 represents sound public policy in repealing the Assault Weapon Manufacturing Strict Liability Act of 1990.

Mr. SMITH. Mr. President, in addition to Professor Schwartz, Justice Richard Neely, of the West Virginia Supreme Court of Appeals, testified in the House in opposition to the District of Columbia law, and he said this:

> Consequently, it appears to me that if D.C. Act 8-289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District of Columbia and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers.

Or perhaps the distributors of red meat, Mr. President. Who is next?

Mr. President, I ask unanimous consent that the full statement of Richard Neely be printed in the RECORD.

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

TESTIMONY BY JUSTICE RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

(Before the House of Representatives Committee on the District of Columbia, September 12, 1991)

Thank you Mr. Chairman and the other distinguished members of the committee for the invitation to discuss the impact on the national law of products liability of the Assault Weapon Manufacturing Strict Liability Act of 1990.

For those of us who favor a national law of products liability, and particularly for those of us who favor S640 currently under consideration in the United States Senate, D.C. Act 8-289 is, perhaps, a Godsend. This statute makes such a mockery of what are generally thought to be "legitimate" tort principles that D.C. Act 8-289 may succeed in forcing the Supreme Court of the United States—even in the absence of Congressional action—to create a new, national common law of products liability.

Current American tort law, particularly the law of products liability, rests on three pillars. D.C. Act 8-289 burdens each and every one of these pillars to the breaking point.

The first tort law pillar is the constitutionality of state long arm statutes that permit plaintiffs to sue out-of-state defendants in local courts when the defendants have some "minimum contact," such as doing business or advertising for customers, in the plaintiff's home state. The U.S. Supreme Court has been surpassingly liberal towards plaintiffs of late in its determinations of what is sufficient to constitute a jurisdiction-giving "minimum contact."

The second pillar of modern tort law is the constitution's full faith and credit clause which requires all other state courts to enforce judgments entered under jurisdiction conferred by virtue of a long arm statute.

The third pillar is substantive tort law. Today's tort law is increasingly based on insurance principles, so that theories like strict liability and comparative fault (which were thought unacceptably radical just twenty years ago) are now accepted by the courts everywhere. These theories, in turn, are premised on risk-spreading insurance principles and, as a practical matter, tort liability is something against which every company with assets insures.

D.C. Act 8-289 is, at late last, an official codification of what have previously been either thickly veiled or entirely unconscious schemes that redistribute wealth from out-of-state defendants to in-state plaintiffs

[2] *See Armijo v. Ex Cam, Inc.*, 656 F.Supp. 771 (D.N.M. 1987), *aff'd*, 843 F.2d 406 (10th Cir. 1988); *Perkins v. F.I.E. Corp.*, 762 F.2d 1250 (5th Cir. 1988); *Caveny v. Raven Arms Co.*, 665 F.Supp. 530 (S.D. Ohio 1987); *Riordan v. International Armament Corp.*, 132 Ill. App. 3d 642, 87 Ill. Dec. 765, 477 N.E.2d 1293 (1985); *Knott v. Liberty Jewelry and Loan, Inc.*, 50 Wash. App. 267, 748 P.2d 661 (1988).

[3] The only case that "went the other way" involving guns was in Maryland in a decision dealing with handguns. *See Kelley v. R.G. Industries, Inc.*, 304 Md.2d 124, 497 A.2d 1143 (1985) (handgun). That case was subsequently overruled by the Maryland legislature. *See* Md.Stat.Ann. at 27 §36(h)(1) (1987).

[4] Article 4 says that, "The injured person shall be required to prove the damage, the defect, and the causal relationship between the defect and damage."

through state tort law. Therefore, in order to understand how D.C. Act 8-289 mocks the tort system, laughing at the apparently sincere protestations of trial lawyers, law professors and state court judges that the states can be "fair and honest" in product liability cases, we must examine the current state of product liability law. Indeed, even before D.C. Act 8-289 was enacted, a national law of products liability was desperately needed!

I

I have been a judge of West Virginia's highest court since 1973, and I have served three times as West Virginia's chief justice. In that time, product liability law has undergone great changes, but as long ago as 1976 we were beginning to see a "competitive race to the bottom" in product cases. Typically, in a product liability case, there is an in-state plaintiff, an in-state judge, an in-state jury, in-state witnesses, in-state spectators, and an out-of-state defendant. When states (or the District of Columbia) are entirely free to craft the rules of liability any way they want, it takes little imagination to guess that out-of-state defendants as a class won't do very well.

Business justifiably complains of what appear to be utterly perverse results. For example, in 1976 John Newlin, a Pennsylvania farm manager, ordered an International Harvester Front End Skid Loader. That model came equipped with a roll bar, but Mr. Newlin requested that the roll bar be removed so the tractor could go through his low barn door. Jim Hammond, a farm employee, operated the skid loader for several months, but then one day in a freak accident turned the machine over and killed himself. Mrs. Hammond, Jim's widow, sued International Harvester and recovered a big verdict because the skid loader was defective for not having a roll bar—the roll bar that had been removed at the direction of the purchaser. This type of result is typical in product cases and is not necessarily even irrational if we want to create a no-fault insurance mechanism. But it is now time to give rational order to the insurance mechanism that we have created helter-skelter. The value, then, of D.C. Act 8-289 is that it focuses attention on the entire system's perversity and makes explicit certain premises that until now have been only implicit.

Until about 1960 a plaintiff in a product case had to show that the manufacturer was negligent, but now such a showing is no longer required. Today it is necessary only to demonstrate that the product had either a design or manufacturing defect that caused the plaintiff injury while the product was being used for either its intended purpose or another foreseeable purpose. Furthermore, juries are given such broad discretion that the purchaser—as in the Harvester case—can be entirely at fault yet an injured victim may still recover. None of this, however, was expressly admitted before the arrival of D.C. Act 8-289.

Unlike England, France and Germany (our major European competitors), the United States does not have one unified court system. Rather, we have fifty-three separate, uncoordinated court systems. First, there is the nationwide system of federal courts, which is divided into thirteen separate circuits that are only loosely held together by the Supreme Court of the United States. In addition to the federal courts, however, there are freestanding court systems in the fifty states, the District of Columbia, and Puerto Rico.

America's diversity of court systems leads to a diversity of law systems because American judges, like their English predecessors, have extensive law-making powers. Because each separate court system is administratively independent of the others, each separate court system is free to generate eccentric judge-made law at odds with the statutory and judge-made law of other jurisdictions. Thus, there is no "American" law of product liability in the sense of uniform national standards.

Given the profile of product liability suits, where the defendant is invariably from out-of-state, there is a "competitive race to the bottom" among state courts to create ever more liberal liability rules. This is not necessarily an intentional anti-business policy, but simply an exercise in economic self-defense: Any state court (or state legislature, for that matter) that does not keep up with the latest pro-plaintiff rulings is behaving entirely irrationally. That is why when one court pushes the frontier of product liability law further out because of an extraordinarily sympathetic set of facts, the new pro-plaintiff frontier quickly becomes the law for all, or nearly all, of the states. Now, however, with the advent of D.C. Act 8-289 the state legislatures have joined the fray, which will dramatically speed up the competitive race to the bottom.

Although my personal experience has been in a state with elected judges, I have found that many of the most pro-plaintiff decisions—like the Harvester case—have come from either federal judges or appointed state judges. This is because even appointed trial and appellate judges are swayed by the emotional incentives that favor the redistribution of wealth from out-of-state defendants to local residents, which is why product liability law becomes more and more oppressive to business. In the case of the District's strict liability bill for the manufacturers of certain types of firearms, product liability's oppression of those who cannot respond politically is finally explicit. It is certain as night follows day that the District would never have passed the statute now under consideration if firearm manufacture were a major taxpaying D.C. industry with employees who could vote and management who could make campaign contributions.

By pointing these dynamics out I do not mean to imply that every, or even most product liability decisions are the result of bias against out-of-state defendants or of a cavalier disregard by judges and juries of accepted standards of right and wrong. But it is not the overwhelming majority of ordinary cases or ordinary statutes that determine the contours of the law; rather, it is the extraordinary case, like the International Harvester case I discussed earlier, and the extraordinary statute, like D.C. Act 8-289 under discussion here today, that determine the contours of the law.

Thus, in close product liability cases where fact patterns are on the edge of existing law and the sympathies of a normally compassionate judge or juror would be aroused, there is no local incentive against nudging the case over the line in favor of, say, a widowed mother of four. However, these hard cases do not stand in isolation: As individual hard cases are nudged across the frontier by sympathetic judges, the frontier itself changes, but only in one direction. The District's strict liability law for certain types of firearms, however, is a new wrinkle in this whole process. Now, instead of an out-of-state defendant being required by local tort law to pay for an injury regardless of fault, tort law is being used to destroy an industry employing thousands of people who are total strangers to the jurisdiction abolishing the industry. This, then, dramatically highlights the most serious problem with current products liability law and shows conclusively why a national products law is necessary.

II

Product liability exposure is one of the most serious long-term problems facing the American economy, but the full dimensions of the problem are as yet only dimly understood by the public. In general, most large American companies have managed to live with current product liability law without going bankrupt or closing plants. But that is because most large American companies manufacture established products with known liability risks and have devised schemes—such as introducing new products off-shore—to keep their product liability exposure in the American market within manageable limits. Thus, the problem for the American economy is not that product liability will bankrupt otherwise solvent American companies, but rather that the defensive actions that American companies are forced to take to protect themselves from product liability exposure will move research, development and American jobs offshore.

Not all segments of American society face the same jeopardy from global competition. Thus, the upper middle class of lawyers, judges, university professors, doctors, and other "professionals" are not subject to having their jobs moved overseas. The District of Columbia is almost a one industry town, and that industry—national government—always takes its salaries, perks and benefits off the top! Skilled and unskilled labor in the private sector, on the other hand, as well as business managers, face constant competition from low cost foreign producers. America, then, is divided into two classes—those for whom America's international competitive position is a life or death issue, and those who are insulated from international competition.

The strength of the Roosevelt administration's New Deal was the breadth of shared economic concerns. Even those who had secure jobs during the 1930's still had parents, brothers, or friends who were out of work. The same broad unity of interest in economic matters does not exist today. Current social stratification produces a leadership class of professionals, journalists and academicians who are both psychologically and geographically removed from the lower middle class of blue collar and clerical workers threatened by foreign competition. Were this not the case, far greater attention would be paid in the media or our product liability law because the big loss from runaway product law is research and development not pursued, new technologies not developed, new products not introduced, market shares not dominated, learning curves not exploited and, most important, new jobs not created.

Draconian product liability rules discourage American companies from introducing new products in the American market until those products have been thoroughly tested abroad. However, if the initial product introduction is to be done, say, in Japan, then it is only intelligent to manufacture the product in Japan initially. Logically, if the manufacturing is to be done in Japan, then the research, development and engineering ought to be done in Japan as well. Inevitably, the product becomes a Japanese product and not an American product. The company doing the manufacturing may be an American company in the sense that it is owned by American shareholders, but the

real wealth—namely the jobs associated with the production of the product and the technical skills acquired by managers and labor force—is owned by the Japanese. Firearms manufacture is a major worldwide industry. One effect, then, of D.C. Act 8-289 will be to encourage firearms manufacturers to relocate abroad.

If you ask the average state judge whether she would like to redistribute some wealth from, say, Colt firearms to a local resident who was severely injured in a shooting accident, the judge will probably answer "yes." But if you ask the same judge to make a choice between high local employment in Colt's plants on the one hand, and redistribution of Colt's money on the other, she is likely to favor high employment over simple wealth redistribution. The problem is that except for the U.S. Supreme Court, no American judge can affect these trade-offs.

If, for example, as a West Virginia judge I insist that West Virginia have conservative product liability law, all I will do is reduce my friends' and neighbors' claims on the existing pool of product liability insurance paid for by consumers through "premiums" incorporated into the price of everything we buy. This is the explicit rationale of Blankenship versus General Motors, 406 S.E.2d 781 (W.Va., 1991). Blankenship adopted the "crashworthiness" doctrine in automobile collision cases in West Virginia. In Blankenship I wrote for a unanimous court:

"[W]e do not claim that our adoption of rules liberal to the plaintiffs comports, necessarily, with some Platonic ideal of perfect justice. Rather, for a tiny state incapable of controlling the direction of the national law in terms of appropriate trade-offs among employment, research, development and compensation for the injured users of products, the adoption of rules liberal to plaintiffs is simple self-defense." 406 S.E.2d at 786.

Thus, as a state judge I have admitted in a unanimous opinion written for the highest court of one of the fifty states that we, as a state court, cannot be rational in the crafting of product liability rules. If this is true of the highest court of a state, it is equally true of the D.C. City Council or a state legislature. No matter, then, how responsible I or the other members of our court want to be as state court judges, we are powerless to improve the overall American product liability system or reduce the exposure of West Virginia manufacturers to the caprice or malice of out-of-state courts, out-of-state juries, and out-of-state legislatures.

By trying unilaterally to make such improvements, we will succeed only in impoverishing our own State's residents without doing anyone, anywhere, any measurable good. Unless we want to be "suckers," as state judges we must immediately incorporate the latest pro-plaintiff wealth redistribution theories applied in other states into West Virginia's decisional law. If we conceive and apply new wealth redistribution theories before anyone else, as the District of Columbia has in enacting D.C. Act 8-289, we can even garner for ourselves more than our fair share of the national product liability insurance pool. Every jurisdiction, then, must ultimately follow the most irresponsible state, or in this instance, the District of Columbia.

III

There is no question that the District of Columbia has a problem with violent crime, but the manufacture of firearms is legal everywhere in the United States under preemptive federal law. All West Virginians have a state constitutional right to own and carry firearms, yet West Virginia has the lowest crime rate in the United States. On the other hand, in the District of Columbia it is illegal to import or own a handgun not used for law enforcement purposes. Consequently, it is difficult to see how any firearms manufacturer could have "minimum contacts" with the District except through selling law enforcement agencies.

Under D.C. Act 8-289, a Connecticut manufacturer who legally produces a gun proscribed by D.C. Act 8-289 and then legally sells it to a West Virginia resident (from whom, perhaps, it is illegally stolen) will be strictly liable for injury done with that weapon in the District. Although an argument can be made that this spreads the risks of inevitable injuries from misused firearms, it makes a mockery of strict liability concepts because this is not a hazard against which manufacturers can insure, nor does the scheme collect the product liability "insurance premium" in the form of higher prices from the same class that either (1) commits the tort, or (2) suffers the injury. Manufacturers will either beat the "minimum contacts" requirement by never setting foot in the District, or go out of business.

No court in Connecticut, therefore, would willingly acquiesce in putting a local firearms manufacturer out of business by enforcing judgments rendered against Connecticut employers in the courts of the District. Given that under D.C. law a gun manufacturer is prohibited from doing business in the District (except when selling to law enforcement agencies), a state court asked to enforce a D.C. judgment against one of its own residents would be surpassingly reluctant to find the "minimum contacts" necessary to justify long arm jurisdiction. In other words, strict liability for manufacturers of certain firearms places an insupportable burden on principles of comity among state courts and stretches the full faith and credit clause to the breaking point.

For that reason, lawsuits filed under D.C. Act 8-289 will invite the U.S. Supreme Court to revisit its holdings on what "minimum contacts" are necessary to justify long arm jurisdiction when a litigant seeks to compel enforcement of a foreign judgment through the U.S. Constitution's full faith and credit clause.

Consequently, it appears to me that if D.C. Act 8-289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers. After the cigarette manufacturers, states like Idaho and Louisiana may decide to establish strict liability for manufacturers and distributors of specialized medical equipment used in performing abortions. From there the health fascists can make a stab at imposing strict liability on the distributors of red meat.

And at that point the White Rabbit, perhaps in the form of Congress, will come by, look at his watch, and announce that the story is over.

Thank you Mr. Chairman.

RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

CURRICULUM VITAE

Education: A.B. Economics, Dartmouth College, 1964 LL.B. Yale Law School, 1967.

Military: Captain, U.S. Army Artillery, 1967-69. Served on the personal staff of John Paul Vann in Republic of Vietnam, 1968-69; author of the economic development portion of the 1969 pacification plan. Awarded Bronze Star.

Business and professional: Practiced law alone in Fairmont, W. Va., 1969-73. Chairman of the Board of Kane & Keyser Hardware Corp., Belington, W. Va., 1970-1988. General Partner in Forest Festival Terrace, a West Virginia real estate holding company.

Government: Elected to the West Virginia House of Delegates for the 1971-73 term from Marion County. Elected state-wide to the West Virginia Supreme Court of Appeals in 1972 for a twelve-year term. Reelected to a full term in 1984. Chief Justice of the West Virginia Supreme Court of Appeals, 1980-81, 1985-86, 1990-91. This is West Virginia's highest court with administrative responsibility for all lower courts.

Major publications: "How Courts Govern America," Yale University Press (New Haven and London, 1981); "Why Courts Don't Work," McGraw-Hill (New York, 1983); "The Divorce Decision," McGraw-Hill (New York, 1984); "Judicial Jeopardy: When Business Collides With the Courts" (Addison-Wesley, 1986); "The Product Liability Mess," The Free Press (New York, 1988); "Take Back Your Neighborhood: A Case for Modern-day 'Vigilantism,'" Donald I. Fine, Inc. (New York, 1990); "The Politics of Crime," The Atlantic Monthly, (cover story) August 1982, pp. 27-31; "The Primary Caretaker Parent Rule: Child Custody and the Dynamics of Greed," 3 Yale Law and Policy Review, p. 168, (1985); "Why Wage-Price Guidelines Failed: A General Theory of the Second Best Approach to Inflation Control." 79 W. Va. Law Review 1, (1976).

Academic: Professor Economics, University of Charleston, Charleston, West Virginia, 1979-90; Frederick William Atherton Lecturer, Harvard University, 1982-83; Visiting Professor of Law, Fudan University, Shanghai, People's Republic of China, 1984.

Mr. SMITH. Mr. President, this brings us to the fourth principal problem with the D.C. law. It is unconstitutional, pure and simple. It is unconstitutional. Sometimes that does not matter around here, but it is unconstitutional. It is an effort by a local jurisdiction to bring a halt to interstate commerce in a particular commodity. That is what it is, pure and simple.

Let there be no mistake about the objective of this legislation. It is not to regulate guns. The objective is to eliminate the manufacture and distribution of an entire class of guns, and ultimately of all classes of guns. D.C. Councilman William Lightfoot admitted this when he said:

It would seem that the merchants of death—and that's what they are, they are merchants of death, the people that manufacture these guns, distribute these guns and sell these guns are merchants of death. * * * It is time they no longer earned money and income from sales of these weapons. We cannot allow them to roam free in our society.

Honest, hard-working manufacturers and distributors, men and women across this country who produce weapons, are now merchants of death because somebody misuses that weapon and commits a crime. Has it really come to that, Mr. President?

Fortunately, neither the Constitution's commerce clause nor D.C.'s home rule charter permit the District of Columbia to regulate commerce between the States. As recently as last January, the Supreme Court reiterated this reading of the commerce clause in its decision Wyoming versus Oklahoma.

Now, Mr. President, I understand that there are many who are concerned about the rights of the District of Columbia under the Home Rule Act, and I share this concern. Traditionally, however, the committees of jurisdiction have applied a three-fold test which has allowed them to overturn a D.C. enactment if that enactment were, first, unconstitutional; second, a violation of the D.C. home rule charter; or third, an impingement on a Federal interest.

Mr. President, the D.C. gun liability law is an unconstitutional violation of the commerce clause. It violates the D.C. home rule charter which limits the District's jurisdiction to legislation dealing with the District's own affairs. This goes far beyond the District's own affairs. It interferes with Virginia. It interferes with New Hampshire, with Georgia, with South Carolina. It interferes with every State in the Union by telling a manufacturer he cannot manufacture or distribute a gun. Finally, it impinges on a Federal interest because it threatens to cut off the supply of weapons to Federal law enforcement agencies.

And you have heard it in the words of the people who sell and produce those weapons, that they would not feel they could do that without the risk of a lawsuit.

Mr. President, the District does have a serious crime problem. We all know that. But serious problems, however severe, do not justify unconstitutional and counterproductive legislation.

The crime problems in the District of Columbia should be dealt with by punishing the people who misuse the weapon.

Mr. President, at this time, unless there is further—there is further debate.

I urge adoption of my amendment, and at some point in the debate, Mr. President, I am going to ask for the yeas and nays.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, first of all, I think the Senator from New Hampshire has made a powerful argument why we ought to make the District of Columbia a State—so we do not try to handle every little iota of legislation. I think he probably is correct when he says this bill is unconstitutional.

But, Mr. President, I rise for another reason. I make a point of order that this is legislating on an appropriations bill, and I ask the Chair to rule on a point of order.

The PRESIDING OFFICER. The amendment by the Senator from New Hampshire, number 2752, constitutes legislation on an appropriations bill. It repeals existing law. The point of order is sustained.

Mr. SMITH. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there debate on the appeal of the ruling of the Chair?

Mr. HOLLINGS. Mr. President, I did my best to persuade the distinguished Senator from New Hampshire that this was not good procedure on this particular bill. I happen to agree with the substance of the argument of the Senator from New Hampshire relative to the little ordinance that they have down here in the District of Columbia, and for the many reasons as outlined by the distinguished Senator. But I was unable to persuade him. Unfortunately, now we get to the point of order. I could not assure him on the contrary.

I was assuring him that in all probability this could not be held in our conference because it belongs on the District bill and not the State, Justice, Commerce. I think, as the manager of the bill, I should make a record to that particular effect. While I am agreeing with the substance, I have to disagree with the procedure itself.

The PRESIDING OFFICER. Is there further debate? If not, the question is, shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

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

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

Mr. SIMON. Mr. President, I will just take 3 minutes. The point is, first of all, that we are legislating on an appropriations bill. Unless it is an extreme situation, it is something the Senate ought to avoid. The Chair's ruling is a proper ruling, and the Senate should sustain the Chair on this.

But there is a second issue here; that is, we are dealing with something that is taking place by action of the City Council of the District of Columbia. If it is unconstitutional, the place to deal with that—I happen to think it probably is unconstitutional—is in the courts, not on the floor of the U.S. Senate. If the State of New Hampshire passes a bill that I believe is unconstitutional, I do not come into the U.S. Senate and offer an amendment to negate the action taken in the State of New Hampshire.

If we believe in home rule here, let us let the District of Columbia run its affairs. The Senator from New Hampshire has made, through his motion, a powerful argument for statehood for the District of Columbia. I assume, after that eloquent statement, that he will support statehood for the District of Columbia. But the way we settle constitutional disputes is in the courts, not to come in here with amendments on appropriations bills. The procedure is completely flawed.

So I made my point of order.

Mr. President, if no one seeks—I see my respected colleague from Idaho seeking the floor. I am sure he will agree with me 100 percent. So I will yield the floor to my colleague from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, I hate to disappoint the Senator from Illinois. On this issue, I do not agree with him. I say so because I am one of those who recognizes this city as a Federal city. But it is also a city that I think has been tremendously irresponsible in the management of a problem that plagues all who reside here and that victimizes on a daily basis the citizens who live here as citizens of the District and who are law-abiding.

Of course, that is the crime that goes on in the city relatively unchecked. Yet, we see a city council who would pass legislation of a kind that my colleague, Senator SMITH, has recognized as unconstitutional and, at best, foolhardy. I do not know of any other way to explain this kind of legislation, the Assault Weapon Manufacturing Strict Liability Act of 1990.

I am not a lawyer, Mr. President, but I have read the comments of the American Tort Reform Association, and some of the leading tort lawyers in America speak to this and say, the longstanding principles of tort law, the principles, are based on our commonsense understanding of responsibility. When someone misuses a product or deliberately uses it to cause harm, tort law does not absolve the user of the responsibility. More importantly, then, responsible legislators and city council persons ought not try to absolve them by pushing this responsibility off on someone else as they have attempted to do here in the District of Columbia.

I in no way in my comments on this amendment attempt to downplay the crisis of violence that is occurring in this city. It is, without any other definition, that and that alone.

But the mentality that suggests, as this city council has for too many

years, that the criminal is not the problem and that the criminal is innocent of the act, that for some reason it is the instrument of the criminal that is evil and not the act or the criminal itself, I suggest, by my earlier words, that that is, by some stretch of the imagination, foolhardy at best.

Our society, for a long time, has suggested that when someone perpetrates an act of violence, by that very action, they are the criminal, they are responsible. This city council and this city suggests otherwise, and this law of the city, if you will, the law of the city that my colleague, BOB SMITH, is attempting to suggest in this legislation is unconstitutional and would be outlawed by this amendment, is most appropriately spoken to.

I support the amendment. I hope to vote against the ruling of the Chair so that we can complete the debate on this and do as I think we ought to responsibly do when we see an act that we believe to be clearly unconstitutional. Speak to it and speak to it with our votes.

That concludes my comments. I yield the remainder of my time.

Mr. ADAMS. Mr. President, I am absolutely appalled by this amendment, and I hope that the point of order of my colleague from Illinois will be sustained. It should be.

It should be sustained first on the principle that has been enunciated by the Senator from South Carolina so well, Senator HOLLINGS, that this is an appropriations bill, and this type of legislation should not be put on an appropriation bill. We should be dealing with money matters and this is a highly substantive matter. That alone should be enough to defeat the amendment, regardless of how you feel about it on the merits.

The second point is that we have a committee, and if they wish to take these matters before them, it is available. There is a Senate committee that handles District matters, the Committee on Governmental Affairs, and a House District of Columbia Committee that has a certain type of jurisdiction, and if they wish to put a substantive piece of legislation forth, let them go to Senator SASSER and to the House side and do it.

The third point which is involved—I happen to be the subcommittee chairman of the D.C. Appropriations Subcommittee, and I would be fighting this the same way on the D.C. appropriations bill for the same reasons—is that these appropriations bills have special privilege status, and they are to be honored in that status by not being laden with legislation of this type.

Finally, I want to discuss substance itself. There have been some comments made here that to me are absolutely appalling, which is that a weapon, an automatic or semiautomatic weapon, an AK-47, a street sweeper, the Colt equivalent, an Uzi, these weapons should be protected under the general statement that a product used for its purpose should be allowed to move in interstate commerce freely.

That is preposterous. It has never been upheld by the Supreme Court of the United States. Things that are dangerous can be kept out of interstate commerce. I can say that as a former Secretary of Transportation and former chairman of the Constitutional Law Committee that drafted the home rule charter for the District of Columbia. Yes, I was one of those original authors of the home rule charter. It is true there is a divided jurisdiction, because the Constitution of the United States says that the Congress of the United States shall have jurisdiction over those areas that have been set aside for congressional action.

I think what has happened today has been the opening gun—it certainly changed my viewpoint—of let us have statehood for the District of Columbia and just a Federal enclave. We began by saying we would have home rule, and the District would enact its own legislation, and in their own way, Congress would keep its hands off the city, and we would make our payments for the use and assistance the District gives both in land and in personnel for the Federal presence.

But if we are going to have these arguments, which no State would ever accept, maybe because we happen to have some jurisdiction over the District of Columbia, and we have to fight that, I guess the one way is through statehood. I did not used to take that position. I felt we should have the Federal presence.

Let us go to the deep merits of this matter. There is a particular reason. I was appalled to hear it stated that people in the District of Columbia, the District Council, and the Mayor's office, favor the criminal rather than the instrument that was involved. They have placed people in jail to the point of overflowing—not only all the jails and prisons here, but they have rented space throughout the United States, including in my State, to put people in jail.

We have some of the strictest preventive detention laws on bail in this area of anyplace in the United States. We have literally been faced with an overwhelming attack by two things in this city since the invention of crack. As a former U.S. attorney, I am going to comment on that. I mentioned what I have done, so that it is not that I am just up here spouting that I have a theory about this.

Cocaine used to be—I say used to be—a very expensive, high-quality habit, and you had to fight it by means of certain detection devices and trying to arrest the kingpin and so on. With the invention of crack about 4 years ago—which is simply a baked cocaine product that is cracked later into small nugget like stones—the price of this product dropped dramatically from $200 or $300 a dosage to where people could buy rocks for $5, $10, $15 apiece. It changed the whole complexion of what was happening in this city and many other cities.

I will take just this city, because it goes to the merits of why they passed this law and why we should not interfere with this law.

What happened at that point was these little rocks became incredibly valuable. They give an immediate high and a very cheap way of obtaining it. So it moved out among the kids and among the teenagers, and gangs began to move in—Haitians, Jamaicans, those from New York—overwhelming the local communities and hiring local kids to do all kinds of things, because the product now is a street product. It was not a product that was dealing in high society. It was a product that was dealing on every street corner. It is what you see and hear about now with these terrible homicides we have in this city.

As many of you know, I personally directed my attention to this when we held the subcommittee hearings and had lengthy discussions with the Mayor and with the public, on that we have to stop these homicides. She has moved on this. But there are only two ways you can move on it. The two ways you move on this are: One, you have to put police presence in the whole area, and they are now up to nearly 5,000 policemen. These have to be quality policemen—put people on corners, not driving by in cars anymore. They have to be involved in the community, because the community is saturated with this drug. This drug leads to enormous highs and to enormous activity.

The second part of the problem is not just the individuals, but the weapons that they use. We just had people convicted here of these drive-by killings, and what is involved in that? It is the use of these kinds of weapons. My God, nobody in law enforcement that I know in the United States—I have discussed this at length with our chief of police—wants to have these kinds of weapons on the street. An Uzi, AK-47, and street sweeper, are all combat weapons.

As the occupant of the Chair at the present time, who is a veteran, knows, these weapons are dangerous in the jungle, and they are fired at will with indiscriminate spraying of bullets. What happens in the city when these weapons come into the city is that they are fired often by kids. When I am saying kids, I am talking about 13, 14, 15 year olds. When they fire down these blocks, people are killed indiscriminately in cross fires.

That is the merits of this. That is why they passed it. It was not protected criminals. They were trying to find a way to keep manufacturers from

putting these weapons into the stream of trade, so they got it into the hands of the people in this city. We cannot pass a national gun law that requires people to register or to control these weapons, so they had to try to make people liable.

I hope that the manufacturers in the United States do not sell these weapons. I hope they do not sell them on the streets. If you worry about law enforcement, we will pass a law for it, and if we cannot, we will let them buy it directly abroad.

For God's sake, keep these out of the stream of commerce. We have just had not only the stream of commerce being involved, where these weapons could be moved, but they now also are being stolen directly out of UPS vans. When you see these weapons, you will begin to understand when you can put a clip of 26 at the bottom and spray the street with it, that you are not dealing with a standard item of commerce.

So I am talking about the merits of this matter. If this matter is going to be debated, we should debate it at length, and we will debate in on its constitutional basis, and on the powers of the District of Columbia. We will debate it on any basis that the Senator from New Hampshire wishes to, or the Senator from Idaho. But this should not be tacked on at 5 o'clock in the afternoon to a Commerce, Justice appropriations bill—and I sit on that subcommittee, where we have had no prior warning of the fact that this was going to be a major debate on this.

We should get it out of here on a point of order and then the Senator can bring it up in any form he wants and we will argue it. The bottom line that is going to come down on this matter is the fact are we going to allow in our major cities weapons of combat construction to be handled by everybody. It is bad enough when somebody has a 6-shot revolver or has a clip automatic. And I know the Senator in the chair and myself have both fired all kinds of these weapons.

I even fired a Thompson 38 machine gun. And I would not ever, ever want anybody in my family or any family that I know to ever have one of those anywhere close to them. They are not accurate. They take great skill to keep them anywhere under control. You start at the bottom of the target and move up across it. It throws out shells over a wide area. People are in danger up to a quarter of a mile from the explosions from it.

And the new sophisticated weapons are so much, much more dangerous. The reason they call it the street sweeper is because it is like a garden hose with bullets. You just sweep a whole area.

We just had a woman killed in a car. Two people were going by. She was not involved with anybody. She was caught in a crossfire. Maybe she would have had half a chance if they were using a revolver or automatic. If they are using an automatic weapon, a weapon with such power that is used in combat by the U.S. military, they do not stand a chance. Kids do not stand a chance. Kids are on a front porch. A little old lady, was shot sitting on her front porch.

I am appalled at anybody not wanting to shut these off.

What did the District do? These are my final comments. I hope the Senator from South Carolina and Senator from Illinois, and others, will join in. What they tried to do was this: They could not get a national gun law passed. There is a gun law in the District of Columbia, but it does not do any good, because weapons flow in from Virginia, Maryland, New York, every place in the country, they flow into the District, because they can be paid for in drugs.

The last deal that was made in the UPS case that is just being tried now was a swapping of drugs for guns, to bring guns into the District, bring drugs out of the District. They even raided police stations and stole weapons to swap for guns to become part of the drug trade. What the citizens of the District tried to say, and I think it was a valid attempt and I hope it works, was to say if you manufacture these weapons, you darn well better see who has them and who is using them. If law enforcement has them or legitimate gun clubs, and you know where they are, you are not going to be held liable. But if you have allowed these to go indiscriminately out in interstate you are liable for the effect of them. You are liable for what happens. And that to me was the only way they had left to try to control these weapons.

So instead of criticizing the District, instead of trying to do away with it, we should be trying to support them, support them in their efforts to get more police officers on the street, have them be on the street, and get rid of this artillery that is out there on the streets. I have suggested, for example, to the mayor that she try to recruit people out of the military as they are being discharged from MP units for the Metropolitan Police Department, and put them on the street corners. Imagine how they are going to feel if they are on the street corner armed at best with a 9-millimeter, probably with a short-barreled .38, and somebody is coming down the street with an AK-47 or with a Uzi, or with a street sweeper.

This is an incredible thing. And I do not know a police department in the United States that does not say: Get rid of these guns. Get them off the streets. Get them off the streets.

If the NRA wants to put out ads, fine. Let them put out ads, but let us beat them on this. I mean, there is a great, great difference between hunting rifles, pistols—all of us have used these—and a street sweeper. I sent my boys down to learn how from the NRA to be certain they fired a .22 in a correct manner, and so on. I do not have an ideological feeling that we should not be able to see a weapon or deal with a weapon. I just think if I can register my car and I can register my dog, I can register my guns, because if you do not you will never find them. You will never find them when stolen. You will never find them when they are out in trade, and never be able to help solve the burglaries and the killings in this city by being able to trace the weapon.

The same responsibility should go to the manufacturers. I would be very pleased to see these manufacturers cause all their weapons to be traced, or not sell them at all except to the military or to police departments.

Those are the merits of this matter. That is why the District of Columbia passed this. They did not pass it for some extraneous reason. They passed it because they could not think of any other way to keep the guns out of the District. It may not be successful, but it is a step forward. They should be commended for it. And I hope they will be commended for it. I hope that this law will stay in place, and I hope that we will stop having these weapons on the street.

If the Senator from New Hampshire, the Senator from Idaho, or anybody else can tell me a way, a system, of getting these automatic weapons off these streets other than through this kind of system, fine, let us pass it. We tried to pass a gun registration law. We tried to pass a waiting period law. We tried to pass a prohibition law. Now we will try to pass a manufacturer's liability law.

I do not think that ought to be on this bill. Let us get it out of here.

Let us get it before the Congress and let us debate. The chairman has been very patient in listening to my comments. I agree with the chairman. I do not think it ought to be on this bill. The chairman and I may be on different sides when it comes to the merits. Let us keep it out of the appropriations process and debate it fully with these Senators when they put it on a bill that is an appropriate bill, and we will debate whether or not people should be doing this and how they should be doing it.

I am pleased now to yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I am sorry my colleague from Washington is appalled. I am frankly appalled at the law. And the issue here is far more than guns. First of all, as the Senator from Washington knows, the D.C. gun control bill was passed in 1976, and every year since, murder has gone up with guns, so I do not see where the connection makes a lot of sense to me.

If the crime keeps going up where is the effectiveness of the law that the Senator talks about?

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

Mr. SMITH. I yield.

Mr. ADAMS. New York has a gun law and so does the District of Columbia. I will tell the Senator what the problem is. Because you cannot get a national gun law, all of these guns that are being used are ones that are coming from across the border from another State and other States where they manufacture these and have no control of it and they cannot stop them. If you do not stop interstate commerce they will continue pouring through.

I suggest to the Senator the case was just this week. It was on television last night about the UPS truck carrying all these weapons. There is an interstate problem.

Gun laws are only effective if you can make them effective where they are manufactured and where they are being shipped and sold. They are not being shipped and sold within the District.

Mr. SMITH. If I could just reclaim my time, the issue is not putting undue burden on those honest individuals throughout America who manufacture a product. It is what somebody does with the product when they get it in their hands. The issue is those people behind the weapon who commit the murder ought to be put away with mandated sentences so they do not get back out on the street to kill people again. That is where the problem is, and the Senator knows that.

We kill 58,000 people a year in automobiles. Do we want to ban all automobiles in America? How about when a baseball player swings a bat and hits someone in the stands and unfortunately kills him? Should we ban baseball bats so the player will come up to the plate without a bat?

Nobody mentioned knives in here. Guns are not the only things that kill people. It is the person behind the weapon that does the killing. It is a copout, and we all know it.

That is what the problem is bringing in the NRA. The NRA is not the issue. The issue is crime in this country. And the issue is whether or not we have the guts to put the people who commit the crimes off the streets, away from the innocent victims. That is the issue.

Mr. President, I wanted to briefly respond to District home rule and then I will yield the floor and be prepared to vote on the point of order.

Mr. President, a lot has been made here in remarks by Senator ADAMS and others about District home rule as an important consideration. It is not more important than the Constitution of the United States. We are not talking about only home rule in Washington, DC. This law that was passed in Washington, DC, interferes with the home rule in New Hampshire, Virginia, Florida, South Carolina, and every State in the Union, because it says that a manufacturer who produces a product is going to be liable if in fact that product is used to commit a crime.

And as I said in my opening remarks, this will have a negative effect on police, law enforcement individuals in the District of Columbia, because those manufacturers and distributors, because of the risk of liability, will not in fact sell those products to the law enforcement people and they have stated so, and I indicate that for the record.

Let me just quickly say, Mr. President, committees with jurisdiction over D.C. affairs, as I said, have applied this threefold test. The first is, is it constitutional? The second is, is it consistent with the Home Rule Act? And, third, does it interfere with a Federal interest?

Most tort scholars, as I stated, and many others, believe that the D.C. gun liability law is unconstitutional. Pure and simple, if it is unconstitutional, then it ought not to be the law. It is not law by definition.

As recently as last January, the Supreme Court overturned an Oklahoma enactment which made only minor impositions on interstate commerce in natural gas. Surely, the D.C. gun liability bill, which attempts to ban interstate commerce in an entire commodity, would run afoul of the same commerce clause prohibitions.

The D.C. gun liability also violates the home rule act, which limits the scope of the District's jurisdiction to issues of local concern. Earlier this Congress, the Senate passed, by unanimous consent, and the President signed legislation to overturn a D.C. enactment concerning the height of a building proposed to be constructed in the vicinity of the FBI headquarters on the basis that that enactment contravened the home rule charter.

Finally, the D.C. gun liability law impinges on a Federal interest because it forces gun manufacturers to cease doing business with Federal law enforcement offices located in the District. Among the Federal agencies which might be affected, as I indicated, are the FBI, the Capitol Police, Secret Service, and on and on. Surely, those of us in this body would not like to see that happen.

For all these reasons, I hope that my amendment will pass.

As of now, as I understand it, Mr. President, we do have a point of order raised, and I believe that that is the issue before the Senate.

At this time, I yield back my time.

Mr. ADAMS. Mr. President, this amendment would deprive the citizens of the District of Columbia their right—their right—of initiative. What the Senator's amendment seeks to do is to repeal a law that more than three-quarters of the district's voters said ought to be the law in this city. The initiative that they adopted provides that a manufacturer, importer, or dealer of assault weapons would be held strictly liable for damages that result from the use of the assault weapon in the District of Columbia. Let us make no mistake, this amendment is not about whether or not the letter of the law is constitutional, only a court can decide that. It is not about whether District citizens were within their rights to enact such a provision, the Home Rule Act grants them that right. It is about democracy. It is about whether U.S. citizens dare enact legislation that some in the Congress may disagree with.

It is about whether this body is going to take away from the citizens of the District the right to fight back against violence that takes the lives of the innocent as well as the guilty. We are all aware of the drugs and violence that grip the streets of our cities, including Washington, DC. We know that we have added more police, more drug treatment beds, more prisons, but the carnage continues. Is it any wonder that the people who live with this chaos would look to any measure that might relieve their suffering?

We can share their frustration. We can share their outrage.

However, we do not live where they live. We do not walk where they walk. We do not grieve where they grieve. We do not suffer the loss that they suffer. How can we decide what measures they should choose?

I can not make the case more eloquent than Rev. Beecher Hicks, of the Metropolitan Baptist Church, did before the House District Committee on November 21, 1991. Reverend Hicks is the chairman of the committee for strict liability. In his testimony he stated:

> Our position * * * is based on a position which we believe is ethically correct and morally just. We have been to too many emergency rooms, we have held too many hands, we have carried too many messages of bad news, and we have preached too many funerals. * * * Those who oppose the will of the people must live where we live and experience what we experience before they choose bullets over bodies and weaponry over humanity.

It may be that it is ill advised. It may be that this law is unconstitutional. But it is not for us to decide. The citizens, the government, and the courts of the District will decide those issues. For now 77 percent of the voters on November 5 have decided that this measure must be tried to stop the bloodshed in this city. It is the grossest act of cynicism to invalidate their franchise.

It is said that this legislation reaches beyond the District to effectively ban assault weapons nationwide. That seems to be an overly broad claim by the initiative's opponents. If there is any truth in that assertion then the courts will strike it down or the legislature will modify it.

Mr. President, there were countless initiatives passed across the country last election day. Many that every Member of this body could not vote for. However, we are not asked to vote on those that don't appear on the ballot outside our States, except when it comes to the Nation's Capital. We happen to work here so we hear about those that the local citizens initiate. Those citizens have no Senator in this body to speak for them so some feel compelled to second guess them. I urge my colleagues to guard the democratic prerogatives of the citizens of the District of Columbia just as ardently as they would those of the citizens of their own State. That is why we are called U.S. Senators.

If it is the will of this body to prohibit such local provisions the proper way to do it is to enact legislation to ban such provisions nationwide, not to invalidate the will of 77 percent of the citizens of the District of Columbia.

Mr. President, in closing I again want to share the words of Reverend Hicks with my colleagues, he said that:

The referendum passed by the citizens of the District of Columbia, who have little voice and no vote at all within these walls, is not only morally just, it is the only reasonable response to an unreasonable and unacceptable situation. The Congress must not use the repeal of this referendum as a means of further extracting from the citizens of the District the privilege of self-determination which is theirs by right and by law.

Mr. President, I hope that everyone will vote in support of the ruling of the Chair which is that this amendment is out of order in this bill. The vote is yes.

I want at this time to say that when the Senator said that this was something that involved the District reaching out or doing something foolish, this came from an initiative of the citizens. Seventy-seven percent of the people in this District voted by initiative to try to stop the killing in the District.

You have a very simple vote. Vote to support the Chair, and you support people who are out on the streets endangering their lives, trying to keep from being killed. Vote to overturn it—in other words, voting no—means that you are voting with the gun manufacturers of the United States, and they can send their guns elsewhere.

So I hope that the Members will vote to support the ruling of the Chair, which is to vote "aye."

Mr. President, I ask unanimous consent that a statement by CRS that there are no provisions in the House Rule Act that appear to preclude enactment of the gun manufacturers liability statute, and an editorial from the Washington Post of November 21, 1991, be printed in the RECORD.

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

[From CRS]

HOME RULE

Section 302 of the Home Rule Act states, in relevant part, that "* * * the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act.* * *"

No provisions in the Home Rule Act appear to preclude enactment of the gun manufacturers liability statute.

[From the Washington Post, November 21, 1991]

CONGRESS AND D.C. GUN LIABILITY

This morning the House District Committee will consider yet another act of intervention in the District's affairs—a bill that would repeal an action just taken by a good 77 percent of the voters of this city. The D.C. vote, an expression of desperation on the part of a city where gunfire is mowing down young and old day and night, was to hold manufacturers, importers and dealers of assault weapons liable for all injuries inflicted by certain assault weapons. The Congressional reaction—a bill introduced even before the polls closed on Nov. 5—would summarily dismiss the will of the voters. In its place would be the will of the NRA and its paid politicians on the Hill.

The only hope of letting the vote stand is a vote in Congress to kill the repeal bill. Any House District Committee member who has any respect for local self-determination in this country should vote to reject the repeal bill.

One of the arguments of the NRA Semi-automatic/Multiround Magazine Pushers is that the D.C. law stretches well beyond the city limits in its impact—which it does. It is a long reach for one city to wipe out the making and marketing of weapons considered legal elsewhere. And no doubt this aspect will undergo some court test. But the message of the ministers and families who led the campaign for the liability bill was—and still is—that the industries that supply these weapons of immorality that are made to kill people should bear the costs of their decisions to market such a deadly line of products.

Why not let a local law, supported by the local electorate, stand on its own—as it would if it were enacted in any other locality in the country? Or is this particular American city destined to remain forever the Last Colony?

Mr. KOHL. President, I do not endorse the D.C. law which holds the manufacturers of guns responsible for any injury caused by the weapons they produce. Actually, I think it is an unwise approach to the problem. If legislation along those lines were offered as a Federal policy, I would vote against it.

But that policy question is not before us now. What is before us is a simple question: Is the Smith amendment legislation on an appropriation bill and therefore a violation of the Senate rules? The answer to that question is yes. And, as a result, I will vote to sustain the ruling of the Chair.

I do, however, want to make one additional point, Mr. President. I find this situation ironic. In 20 minutes we can overturn a gun control law adopted by the District of Columbia. But over the last 20 years we have not been able to adopt Federal gun control legislation.

I was involved in shaping the compromise on the Brady Bill which this Senate approved last year as part of the crime bill. Ever since the crime bill fell victim to a Republican filibuster, I have been suggesting that we at least move on the Brady bill. But I am always told that we can not. It would be filibustered or vetoed by the President unless it was part of a larger crime bill. There is, Mr. President, something strange about a system which can overturn one city's effort—no matter how unwise—to enact gun control but, at the same time, be totally unwilling to consider the kind of gun control law which would make sense for the entire nation.

The PRESIDING OFFICER. Is there further debate? Is there further debate?

If not, the question before the Senate is, Does the decision of the Chair stand as the judgment of the Senate?

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

The legislative clerk called the roll.

Mr. DIXON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. FORD], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

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

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Alaska [Mr. MURKOWSKI] would each vote "nay."

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

The yeas and nays resulted—yeas 32, nays 50, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—32

Adams	Chafee	Jeffords
Akaka	Cranston	Kennedy
Bentsen	Dixon	Kerrey
Biden	Exon	Kerry
Boren	Graham	Kohl
Byrd	Harkin	Lautenberg

Leahy	Moynihan	Sarbanes
Levin	Pell	Simon
Metzenbaum	Riegle	Wellstone
Mikulski	Robb	Wofford
Mitchell	Rockefeller	

NAYS—50

Baucus	Durenberger	Packwood
Bingaman	Gorton	Pressler
Breaux	Gramm	Pryor
Brown	Grassley	Reid
Bumpers	Hatch	Roth
Burns	Hatfield	Rudman
Coats	Heflin	Sasser
Cochran	Hollings	Seymour
Cohen	Johnston	Shelby
Conrad	Kassebaum	Simpson
Craig	Lieberman	Smith
Danforth	Lott	Stevens
Daschle	Lugar	Symms
DeConcini	Mack	Thurmond
Dodd	McConnell	Wallop
Dole	Nickles	Warner
Domenici	Nunn	

NOT VOTING—18

Bond	Fowler	Kasten
Bradley	Garn	McCain
Bryan	Glenn	Murkowski
Burdick	Gore	Sanford
D'Amato	Helms	Specter
Ford	Inouye	Wirth

So the decision of the Chair was overruled.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2753 TO AMENDMENT NO. 2752

(Purpose: To restore the second amendment rights of all Americans)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2753 to amendment No. 2752.

In lieu of the matter proposed to be inserted, insert the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted. The provisions of the preceding sentence shall take effect one day following enactment.".

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I might just explain the amendment. It just says it is effective 1 day after enactment instead of day of enactment.

The PRESIDING OFFICER. Is there debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my understanding is that upon adoption of this amendment the amendment would thereafter be open to amendment?

The PRESIDING OFFICER. Will the Senator withhold?

The amendment offered by the minority leader is a substitute amendment, and therefore its adoption would render it no longer amendable.

Mr. METZENBAUM. Mr. President, I am not prepared to vote on this amendment.

The PRESIDING OFFICER. Does the Senator from Ohio seek recognition?

Mr. METZENBAUM. I do.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, Members of this body, we sure go out of our way to accommodate the American people who have very little respect for the Members of Congress.

This amendment has no other purpose than our moving in and telling the people of Washington who have no representation in the Congress—or no real representation as far as voting rights are concerned—that some piece of legislation that was enacted by their city council is no longer valid; it is no longer applicable.

To me, I think it is absurd. In a community of about 750,000 people; they have no senatorial representation, they have no congressional representation as far as voting rights are concerned. We come along and tell them that an act that that body put into law we are going to undo.

What is so terrible about what they did? I think maybe we ought to talk about what it is that we are really trying to do. Let us take a look at the act that the Council of the District of Columbia put into effect.

First of all, there were a certain number of findings.

The Council finds that: (1) The incidents of criminal use of assault weapons are increasing nationwide and in the District of Columbia ("District");

(2) Assault weapons include both automatic and semi-automatic weapons and include some handguns and rifles;

(3) In 1976, the District recognized that handguns and machine guns (including, by definition, assault weapons) and the manufacture, sale, or importation of handguns and machine guns were abnormally and unreasonably dangerous, and, in an effort to reduce the risk associated with them, banned the further manufacture, sale, and importation, or limited the further possession of these weapons;

Does anybody really take issue with anything that the council stated to that point?

(4) For 11 years (1976-1987) after the enactment of the ban on the manufacture, sale, or importation of handguns and machine guns (including, by definition, assault weapons) and of the limits on their possession, the number of homicides by these weapons declined in comparison to the number of homicides in the District committed by these weapons in the years before enactment of the ban and limits;

Would anybody not want to be for that?

(5) In 1988, there were 372 homicides in the District—a 27% increase over the 1987 rate;

(6) In 1989, there were 438 homicides in the District, an 18% increase over the 1988 rate;

(7) In 1990 (through December 6), there have been 447 homicides in the District;

Which is a number substantially in excess of the 1989 figure, plus the fact that it was only as of December 6.

The ordinance want on to say:

(8) In the past 15 years, both before and after the enactment of the District's ban on the sale or distribution of handguns and machine guns (including, by definition, assault weapons), the number of justifiable homicides by these weapons has never exceeded 6 per year while the number of homicides by these weapons has never been less than 75 per year;

(9) According to the Metropolitan Police Department, the increase in homicides in the District has been accompanied by a proliferation of use of assault weapons (i.e., automatic and semi-automatic guns) in the community;

(10) Semi-automatic handguns represent a growing percentage of the handguns recovered by the Metropolitan Police Department—growing from 46% (1072 of 2,333) in 1989 to 50% (1108 of 2,228) in 1990 (Statistics for 1990 are through December 6).

The Metropolitan Police Department advises there has been a similar increase of percentage of semiautomatic handguns involved in handgun crime;

(11) In 1988, because of the number of assault weapons seized by the Metropolitan Police Department, the Metropolitan Police Department purchased semiautomatic pistols for the Metropolitan Police Department to replace the service revolvers used by the force," so they escalated the amount of military or semiautomatic weapons, guns, that could be used, first of all, by the criminals or alleged criminals, and then by the police department.

(12) Assault weapons, and the manufacture and distribution of assault weapons are abnormally and unreasonably dangerous, and pose risks to the citizens of and visitors to the District, which far outweighs any benefits that assault weapons may bring;

(13) It is foreseeable by manufacturers and distributors of assault weapons that the criminal or accidental use of assault weapons will cause injury and death;

(14) The manufacture and distribution of assault weapons are among the proximate causes of the rising number of homicides in the District, exposing the citizens and visitors to the District to a high degree of risk of serious harm.

So as a consequence, the City Council was trying to do something about it. There are more semiautomatic weapons coming in. There are more being used. There are more homicides in the District, and the District is trying to do something about it. The amount of crime in the District is an embarrassment not only to the people who live in the District but to Members of Congress as well.

(15) As between the manufacturer or dealer of an assault weapon on the one hand and the innocent victim of the discharge of an assault weapon on the other hand, the manufacturer or dealer is more at fault than the victim.

The bill then goes on with a list of definitions, which I will not read. Then it goes on to liability.

Any manufacturer, importer, or dealer of an assault weapon shall be held strictly liable in tort, without regard to fault or proof of defect, for all direct and consequential damages that arise from the bodily injury or

death if the bodily injury or death proximately results from the discharge of the assault weapon in the District of Columbia.

This is the substance of the legislation. That is the crux of it. It is a matter of holding the manufacturer, the importer, or the dealer of an assault weapon strictly liable; if that weapon causes death or consequential damages, including bodily injury, but are proximately a result of the assault weapon in the District of Columbia.

It goes on to provide exemptions:

(a) No assault weapon originally distributed to a law enforcement agency or a law enforcement officer shall provide the basis for liability under this act.

(b) No action may be brought pursuant to this act by a person injured by an assault weapon while committing a crime.

(c) This section shall not operate to limit in scope any cause of action, other than that provided by this act, available to a person injured by an assault weapon.

(d) Any defense that is available in a strict liability action shall be available as a defense under this act.

(e) Recovery shall not be allowed under this act for a self-inflicted injury that results from a reckless, wanton, or willful discharge of an assault weapon.

Section 6. Applicability.

This act shall apply only to the discharge of an assault weapon that is manufactured, imported, or distributed after the effective date of this act.

Section 7. Effective date.

This act shall take effect after a 30-day period of congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

It refers to certain other technical phraseology.

Mr. President, this legislation does not make good sense. We are trying to pass an appropriations bill, and in attempting to pass an appropriations bill, we are moving in on the people of the District of Columbia to tell them what legislation they can or cannot enact into law. That is not right.

I think that the legislation that they enacted has merit. I do not know whether it is right or wrong. I know that it is wrong for the Congress of the United States to tell them what they can or cannot do. Who do we think we are? We do not pay taxes. We provide appropriations for them. But we certainly get our dollar's value for those appropriations. There are dozens and dozens of Federal buildings in this community with respect to which we pay no taxes. So we have to have an appropriations bill in order to help the District of Columbia in meeting its expenses.

Now we come along and say, yes, but if you want to get that money, you can only have the money if you will make ineffective an ordinance that you passed. We would not do that for any particular community in any other city in the country, and we have no right to do that. We should not have the right to do so here on the floor of the Senate.

This is the fun and games we play, the kinds of things we do that make the people of this country respect us so much. Sure, they respect us for telling the people of Washington what they can or cannot do.

There are arguments pro and con with respect to whether this is a good ordinance or bad ordinance. But there are arguments pro and con with respect to good and bad ordinances in communities across this country.

We do not say that the State of Ohio, or the State of South Carolina, or the State of New Hampshire, or any other State in the country cannot have the particular funding that we provide on a Federal basis because they have enacted a particular law in their community. But we do that for the District of Columbia. That is not right. It should not be. It is unfair. There is a kind of impropriety and offensiveness about it.

Now this amendment comes along, and the distinguished Senator from Kansas offers a second-degree amendment in the nature of a substitute so there can be no further amendments to it. Is that not a wonderful way to proceed? So now we cannot even amend the proposal that is before us.

Mr. President, I think this legislation ought to come up some other day, some months, or some years from now.

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

Mr. METZENBAUM. I object.

The PRESIDING OFFICER (Mr. KERREY). Objection is heard.

The bill clerk resumed the call of the roll.

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

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

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio be permitted to yield the floor to the Senator from New Mexico for the purpose of offering an amendment which is totally unrelated to the pending amendment and the substitute amendment, and that there be unanimous consent that the amendment be handled in a totally separate manner from the pending business.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I did not hear the request.

Mr. METZENBAUM. Senator Bingaman wishes to offer an amendment. I am asking for unanimous consent that he be permitted to do so, it having nothing to do with the pending amendment and the substitute amendment of the Senator from Kansas; and that immediately thereafter, Mr. President, I ask unanimous consent that the Senator from Colorado be recognized to be permitted to offer an amendment, again that amendment having nothing to do and not being applicable to either the pending amendment or the substitute amendment; and thereafter the Senator from Ohio retain his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Would the Senator from Ohio be willing to make the same request for the distinguished Senator from Colorado?

Mr. METZENBAUM. I just did that.

Mr. HOLLINGS. How about an amendment by the distinguished Senator from Connecticut, Senator DODD, that has been agreed upon?

Mr. METZENBAUM. What is that amendment?

Mr. HOLLINGS. That amendment has to do with the fees with respect to the investment advisors.

Mr. METZENBAUM. I add to my unanimous-consent request that the amendment of the Senator from Connecticut be permitted to be considered in the same manner and that the pending amendment, as well as the substitute amendment, retain its place on the calendar and it not be affected by any of the pending proposals.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. Parliamentary inquiry. I just want to make sure I get the last part of this. It is my understanding that, after the consideration of these three amendments, the Chair will then recognize the Senator from Ohio.

The PRESIDING OFFICER. The Senator is correct.

Mr. RUDMAN. I do not have an objection.

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

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me thank the Senator from Ohio for his courtesy, and the floor managers and the Republican leader.

AMENDMENT NO. 2754

(Purpose: To provide funds for the Competitiveness Council)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2754.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 73, line 18, delete the figure "$750,000" and insert in lieu thereof "$1,750,000";

On page 43, line 8, delete the figure "$121,021,000" and insert in lieu thereof "$119,923,000".

Mr. BINGAMAN. Mr. President, this is a very simple amendment that adds a small amount of money to the budget of the Competitiveness Policy Council, which is a group we set up by statute in the Trade Act of 1988. It would allow them to continue to do their work, and they have commenced doing that work this last year.

This Council has done a tremendous job of putting together about 200 leaders throughout this country who are working in 8 different subgroups to try to come up with recommendations on ways to improve the competitive posture of the country. This is not, I should point out to anyone listening, this is not the Council which is somewhat more controversial, that the Vice President has headed in recent months, but this is the Competitiveness Policy Council established by the Omnibus Trade Competitiveness Act of 1988.

The amendment that I am proposing here is one that is acceptable to the managers of the bill on both sides. I commend it to the Senate for adoption.

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

Mr. HOLLINGS. Mr. President, this amendment has been cleared on both sides. We are willing to accept the amendment.

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

The amendment (No. 2754) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, I wish to take one additional moment before yielding the floor.

I want to commend the managers of the bill, Senator HOLLINGS and Senator RUDMAN, for the superb work they have done on this legislation. I do think that this appropriations bill contains in it some very important initiatives that were recommended both by the defense conversion task force that Senator PRYOR headed and the defense conversion task force that Senator RUDMAN headed.

We have significant increases in funding for the advanced technology program. We have considerable increases for the Economic Development Administration; funding for NIST, necessary facilities at the NIST headquarters in Gaithersburg. We have also a very substantial increase in funding for small business loan guarantees.

I think all of these are very useful initiatives. They follow through with the recommendations that have been made by both Democrats and Republicans here in the Congress in recent months. I think the managers of the bill are to be commended for their excellent work.

Mr. President, with that, I yield the floor. I thank the managers for their assistance.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2755

(Purpose: To insure that any new International Coffee Agreement is submitted to the Senate for advice and consent)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2755.

On page 83, line 10, after "Agency" insert the following: ": *Provided further*, That none of the funds made available by this Act may be used to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent:".

Mr. BROWN. Mr. President, the amendment is quite straightforward. In this bill is funding in excess of $900,000 to fund the negotiation of a new coffee agreement. The last coffee agreement, when it was in effect, cost American consumers millions of dollars, literally millions of dollars. When quotas expired in 1989, the wholesale price of coffee dropped 46.1 percent worldwide, an enormous savings for American consumers.

The administration is now negotiating a new coffee agreement, one that could reverse those savings and could again cost American consumers literally billions of dollars. What this amendment simply does is hold in abeyance a new coffee agreement until the Senate has had an opportunity to lend its advice and consent. It does nothing more than to make it clear that this body will exercise its constitutional powers to review treaties; to make sure that this particular new agreement does not slip through the cracks.

Mr. President, if it were up to me alone, I would eliminate all money for negotiating a new cartel agreement. This amendment does not do that. What it does, though, is ask that at least this body have its opportunity to review the new agreement before it goes into effect.

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

Mr. HOLLINGS. Mr. President, this amendment was cleared on both sides, and I urge the adoption of the amendment.

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

The amendment (No. 2755) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2756

(Purpose: To provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DODD, proposes an amendment numbered 2756.

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

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

The amendment is as follows:

On page 109, after line 8, insert the following new section:

SEC. 612. FEES FOR REGULATION OF INVESTMENT ADVISERS.

(a) IN GENERAL.—

(1) FEE.—

(A) CURRENTLY REGISTERED ADVISERS.—Each investment adviser registered under the Investment Advisers Act of 1940 prior to the effective date of this section shall submit to the Securities and Exchange Commission (hereafter referred to as the "Commission") an annual fee to be used by the Commission for recovery of the costs of supervision and regulation of investment advisers, as determined according to the schedule set forth in subparagraph (C).

(B) NEWLY REGISTERED ADVISERS.—Each person that becomes registered as an investment adviser in accordance with the Investment Advisers Act of 1940 on or after the effective date of this section shall pay the fees specified in the schedule set forth in subparagraph (C) upon such registration and annually thereafter.

(C) SCHEDULE.—The schedule set forth in this subparagraph is as follows:

Assets under management	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000
$500,000,000 or more	$7,000

(2) USE OF FEES.—Fees collected in accordance with this subsection shall—

(A) be deposited as offsetting collections to the Securities and Exchange Commission appropriation for the fiscal year ending September 30, 1993;

(B) be available to the Securities and Exchange Commission in addition to any other funds provided for in this Act; and

(C) remain available until expended.

(b) EFFECTIVE DATE.—This section shall become effective upon the enactment of authorization legislation and adoption by the Securities and Exchange Commission of appropriate implementing rules and regulations.

Mr. DODD. Mr. President, let me say at the outset that this amendment has been worked out with the SEC, as well as with the industry. We also worked very closely with the manager of the bill, and I understand he supports it, and it has been cleared on both sides.

This amendment addresses the serious inadequacies in the SEC's current inspection program for investment advisers. It would establish a fee structure for registered investment advisers and the fees would be used as offsetting collections to fund an increase in the SEC examiner staff responsible for investment advisers.

The fees would be paid annually and would be based on assets under management. The fee for the smallest investment advisers would be $300, and the fee for the largest—those with over half a billion dollars under management—would be $7,000.

Mr. President, the public probably is more familiar with the term financial planner than investment adviser. The terms are used interchangeably by many people. Technically, an investment adviser is someone who receives compensation for giving advice relating to securities. Investment advisers are required to register with the Securities and Exchange Commission, and must comply with disclosure, recordkeeping, and other investor protection requirements.

Congress long ago determined that it was in the national interest to have strong Federal oversight of investment advisers. If we want people to have confidence in our securities markets, to invest in our markets and provide the funds necessary for capital formation, economic growth and, above all, jobs for American workers, we simply cannot permit unscrupulous investment advisers to take advantage of people who come to them for advice. Congress passed the Investment Advisers Act in 1940, and gave the SEC the responsibility to inspect advisers, for the protection of investors.

Unfortunately, we now have at the SEC an oversight program that, in the words of one official, "doesn't even pass the laugh test." How in the world can we represent to the public that we are supervising this industry, when the SEC has so few examiners that it inspects investment advisers, on average, once every 25 to 30 years.

In the past decade, the industry has grown dramatically; SEC staff resources have not. From 1981 to 1991, the number of advisers registered with the SEC increased from 4,500 to over 17,500, and the assets under their management soared from $440 billion to $5.3 trillion. That is an increase of more than 1,100 percent, and represents more than twice the amount deposited in U.S. commercial banks.

But, during the past decade, the SEC examination staff increased from 36 to just 46 examiners. That's 46 examiners to inspect over 17,500 firms—with assets of $5.3 trillion.

There is a reason why the industry has grown so fast. Quite simply, the financial services world has become incredibly complicated for the average American. More and more Americans are turning to professional advisers for help.

Those individuals who seek help from an investment adviser may be seniors—those who have retired and are looking for ways to make their savings last for the remaining years of their lives. They may be young couples planning for a family or saving for their children's college education. They may be couples reaching middle age, trying to invest so they can be comfortable in their retirement years. They may be widows or divorcees who have a small inheritance or a lump sum payment they need to invest safely, to provide for their future.

Many of them are unsophisticated and unsure, and they are looking for someone to trust. So they turn to an investment adviser. But, in some cases, investment advisers may be more interested in the fees they collect or in the commissions they generate than they are in rendering sound, objective advice to their clients.

At our subcommittee hearing on this issue, one investor, Elizabeth Faitella, from Unionville, CT, lost more than $30,000—most of her family's savings, as a result of dealing with an unscrupulous investment adviser.

The SEC and other experts share my concern that seniors may be the most vulnerable. The current low interest rate environment is forcing many of our seniors to look for alternatives to interest-bearing instruments. And, when they are taken in by con men, they, unlike many of us, have no opportunity to recoup their losses, because their income-earning days are over.

And, it is not just individuals who use investment advisers. Many cities and counties rely on professional investment advisers, to help invest tax receipts or other government funds. In just this past year, Iowa trust fund, a group of cities that invested funds with a California investment adviser named Steven Wymer, may have lost over $70 million in the taxpayer funds of that State as a result of his fraud.

When the SEC simply does not have enough cops on the beat, individual investors suffer, taxpayers suffer, and capital formation suffers—because investors lose confidence in our capital markets.

Now, the SEC and the industry have studied this problem for more than 5 years. They developed a bill, which we reported from the Securities Subcommittee with broad support by committee members and with the strong support of the industry. The bill, S. 2266, established a new fee structure for investment advisers and provided that those fees would be used as offsetting collections to fund an increase in the number of SEC examiners assigned to inspect investment advisers. The bill contained other provisions, to give the SEC authority to require fidelity bonds for investment advisers and to provide one-stop filings, so that advisers would not have to file separately with 50 States. It also contained provisions which removed certain restrictions on mutual funds trading for their customers—to provide savings of hundreds of millions of dollars, according to industry estimates. The Banking Committee voted to report the bill on May 21, and it is pending on the Senate calendar. But, in order to implement the fee provisions of the bill, the fees must be passed separately as part of the SEC's appropriations. My amendment contains that portion of the bill.

Let me underscore that the bill we reported is the only proposal that has achieved broad consensus—from the industry and the regulators alike. Consumer groups would like us to have gone further. I, personally, might like to see a few more things in the bill.

But, we worked this out very carefully. The industry has stepped up to the plate and said it is willing to pay an annual fee based on the assets under their management—ranging from $300 for small advisers to $7,000 for the largest ones, so long as the fees are used to fund an enhanced SEC inspection program.

If we pass this amendment, we finally will have more cops on the beat. The SEC will be able to inspect investment advisers at least once every 3 to 5 years.

This approach is endorsed by: The SEC, by State regulators, the Investment Company Institute, associations representing small financial planners, and by the securities industry association.

Mr. HOLLINGS. Mr. President, the Securities and Exchange Commission currently has 46 examiners assigned presently to score some 17,500 investment advisers. Obviously, the chance for an examiner to really review the activities is very, very limited. It is on the average about once every 25 or 30 days. The funds appropriated by the new fees in this particular amendment would permit the Securities and Exchange Commission to add approximately 120 examiners, and enable the SEC to reduce the inspection cycle to approximately once every 3 to 5 years.

The fee schedule provided has the support of the SEC, the industry, and the State regulators.

The amendment has been cleared on both sides. I urge the adoption of the amendment.

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

The amendment (No. 2756) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Ohio is contemplating offering one or more amendments with respect to the pending amendment. But in the interim, while we are working to prepare it, I thought I would share with my colleagues what the papers have been saying about the action of the City Council of Washington, the action which the pending amendment would undo.

On November 1, 1991, the Washington Post said:

ASSAULT WEAPON LIABILITY: YES

Should the manufacturers, importers and dealers of assault weapons be held liable for all injuries inflicted by the use of assault weapons in this city? In the past, our answer has been no, but we believe it's time to say yes, with votes for Referendum 006 on the D.C. ballot Tuesday. Our opposition until now was on grounds that (1) these weapons already are banned in the District, (2) the effective answer would be federal action banning them everywhere in the United States, and (3) it is a long reach for one city to try to wipe out the making and marketing of firearms considered legal elsewhere. But too many innocent people in too many bullet-riddled neighborhoods are at wit's end—desperate for help that Congress and the White House refuse to extend by stopping the flow of weapons that have no purpose other than to maim and kill.

Ministers, civic leaders and grief-stricken, angry relatives of victims see an opportunity in this vote not only to send a message to the industries that supply the world with these weapons of immorality but also to make them bear the costs of conscious marketing decisions that expose society to extraordinary, costly risks. The more than 125 ministers supporting this referendum proposal will tell you they are burying young people all the time, that the semiautomatic weapons specifically cited in the measure are playing an increasing role in the taking of lives that now is witnessed so frequently. "Something more has got to be attempted," says the Rev. Albert Gallmon Jr., pastor of Mount Carmel Baptist Church. "We can't just say, 'Let God take care of it.'"

What would the proposal do? It might just cause the forces behind assault weapons to be a little more careful in their manufacturing and distribution. And though it would be one city acting on its own, it could show other cities and states a way to join up and increase the pressures. Supporters of the D.C. proposal note that in liability cases, the issue is not whether an activity such as making or distributing weapons is allowed to occur, but rather who should pay for the damage that results.

The Rev. H. Beecher Hicks Jr., senior minister of the Metropolitan Church and chairman of the Committee for Strict Liability supporting the referendum measure, says that however complex the politics of this proposal may become, "We cannot be silent in the face of the misery confronting our city. Human life is at stake, and we are compelled to stand up for that life." The message of the ministers is compelling—and should be sent where it counts by the voters of this city.

What they are saying is that there are more and more human lives being lost by the use of assault weapons and semiautomatic weapons in this community, and there has to be a stop put to it. And they believe this is one way they can have an impact upon it.

Is that the only editorial, from the Washington Post? No: the New York Times. I am reading from the editorial, which was November 12, 1991; and the Washington Post editorial was November 1, 1991.

Last week, voters in Washington, D.C., reversed their City Council's craven repeal of a law that would make gun makers and dealers liable for injuries caused by assault weapons. That sends a message to all jurisdictions where voters are fed up with gun violence and official reluctance to confront it.

Late last year the Council enacted a law imposing "strict liability" on purveyors of 14 types of semiautomatic rifles and pistols designed for military use but prized by criminals. Strict liability allows victims to recover damages from the manufacturers and dealers even though they had nothing to do with gun crimes. The law already recognizes such liability for other businesses engaged in "abnormally dangerous" commercial activity, like shipping explosives or disposing of toxic wastes.

Representative Thomas Bliley of Virginia, the ranking Republican on the House committee that supervises the District of Columbia, objected. Assault weapons are sold legally in his home state. In fact, Virginia is a big source of guns smuggled into the District. Mr. Bliley played hardball: he threatened to block $100 million in emergency aid for the District unless it repealed strict liability.

He may get onto the list of "Profiles in Courage" for offering that amendment—maybe not.

Mayor Sharon Pratt Dixon and the City Council caved in.

Supporters of the law then tried to repeal the repeal with a ballot initiative. Last week a 77 percent majority approved the initiative; the law will now take effect at Christmas. The gun lobby can be expected to press Congress to overrule the vote and test the law in court. But legislation would require support from a Senate that has already passed a ban on the same weapons.

In 1985 Maryland's Court of Appeals upheld strict liability for makers of cheap "Saturday night special" handguns. There appears to be an even stronger case for classifying the sale of assault weapons as abnormally dangerous activity. (The Maryland finding no longer stands because the legislature subsequently overruled it when it passed an outright ban on Saturday night specials.)

Some people question the whole idea of using liability law to advance gun control when legislatures refuse to approve more direct bans. But in Washington's case, both the City Council and Congress ignored the public demand expressed in the ballot initiative. Such an initiative, and strict liability, may be imperfect devices, but the daily bloodshed caused by assault weapons goes on.

Mr. BIDEN. Will the Senator yield for a second?

Mr. METZENBAUM. I yield without losing my right to the floor.

Mr. BIDEN. Mr. President, let me begin by saying I strongly support the position of the manager of this bill that this is legislating on an appropriations bill. I wish we could get on with the debate on the underlying appropriations as opposed to the legislating that is going on. And I respect my friend from New Hampshire for pressing the point.

But I kind of find it fascinating. I just sat through, as did the Senator from Ohio, the better part of 3 months of off-and-on debate—sometimes on—and very vigorous debate in the Senate Judiciary Committee, with a group of Senators—it turned out to be a bare majority, but a majority of Senators—who thought we should change the tort laws and liability law so that any book store owner who sold any material that turned out to be obscene, if that material was ever read by someone who committed a crime, a sexual offense, that that book store owner—not just the person who wrote the literature, but the book store owner—and everyone else should be liable for damages, et cetera, et cetera, et cetera.

I will not bore my friend, who knows the issue well. I took a glance at the vote on this amendment. The very people who are telling us that it is outrageous that we allow bookstore owners, whether they knew it or not, to sell any material out of the 20,000, 30,000, 40,000, 50,000, 70,000, 100,000 volumes of material they sell, that that person should be liable, even though there is no evidence of a causal connection between someone reading that book and crime being committed, they are ready to scuttle the first amendment, and they vote for or speak for or have voted for changing the tort law so that a bookstore owner, for example, will be held liable.

Pornography is a serious problem. Obscenity is a serious problem. Crimes against women are a horrendous problem, the worst single problem we face on the crime front in America. So I acknowledge it is arguable—I happen to not agree with the specific legislation—and now I find we come along here with guns and, lo and behold, the protectors of those in America who may or may not directly, indirectly, incidentally, or otherwise have been exposed to a piece of obscene material who may have later committed a crime, whether or not there is a causal connection, because they wish to protect the American people, they are willing to take the first amendment and basically drop it in a bin over here.

But when it comes to guns, 24,600 murders this year—24,600 murders.

This President has the worst record of any President in the history of the United States of America based on the statistics in terms of fighting crime. But when it comes to guns, that tort principle does not make sense; that is, to hold someone liable for selling a gun that ultimately is purchased by someone who commits a crime. I happen to think it is all, whether it applies to guns or to bookstore owners, very, very shaky law. I understand the view of the people from the city of Washington, DC, but I must say, as matter of a principle of tort law, it is a shaky principle to extend it this far, notwithstanding what the Washington Post thinks.

But all I want to point out to my friends here, those who are going to come to the floor today and argue that the D.C. law should be repealed because it is bad law, I hope you are going to be here when legislation comes forward relating to the first amendment because I am going to remind you of your votes. I am going to read back into the RECORD the same tort principles that you want to see changed and applied to the notion of obscenity and pornography, and yet unwilling to have it apply to guns.

I do not ever ask for consistency. Lord knows many of us are not consistent. Ralph Waldo Emerson said:

> A foolish consistency is the hobgoblin of little minds, adored by little statesmen and philosophers and divines.

We see it all the time here, inconsistencies. We seldom even see foolish consistency.

Without belaboring the point, I want to remind my friend from New Hampshire, my friend from Ohio, and all my friends on the floor of that old expression we heard our mothers grandmothers use: What is good for the goose is good for the gander. If it is good enough to stop murder, then maybe it is good enough to try is stop pornography-related sexual crimes, if that can be shown. If it is good enough to stop pornography-related sexual crimes, if it can be shown, maybe it is good enough to stop crimes resulting in maiming and death of individuals.

But we cannot have it both ways. Either we change the tort law and change the product liability law or we do not change it. To say bookstore owners are on the hook, but gun store owners are not on the hook, that seems to me to be a little bit frivolous. I thought I would remind my colleagues of that.

I thank my friend for being kind enough to yield the floor. I support his position in terms of getting this piece of legislation off this appropriations bill and let the folks of D.C. fight out what they think is the appropriate change, if any, in the law.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Delaware, as usual, makes a very persuasive argument, that if you are going to have one line of reasoning when it comes to the consequential effects of pornography, then you ought to have the same line of reasoning with respect to assault weapons. But the fact is the Members of this body, too many of them, feel differently. The committee discussed this for some weeks and indicated that, without any special causal relationship, those who sold pornographic material were to be held responsible. And that is what the people of the District of Columbia said.

I was in error when I spoke earlier because I talked about the enactment of the District Council. The fact is it was an enactment of the people of Washington, a referendum. Seventy-seven percent of the people indicated that they are sick and tired of having their sisters and their brothers and their fathers and their mothers and their grandparents and the babies mowed down by assault weapons put in the hands of maniacs who roam the streets, and they want to put a stop to it. So they tried to do the decent, responsible thing. But this great United States Senate says:

> Oh, no, you cannot do that which you think you should do in order to protect your community. We are going to tell you what to do because we have the power of the purse strings.

I think it is absurd, I think it is irresponsible, and I think it is shameful. Every editorial that has been written on the subject has indicated support for the District of Columbia position, at least every one that I have seen. I came across another one in Roll Call. Roll Call says:

> DC'S GUN LIABILITY LAW, AND CONGRESS
>
> Earlier this year, Mayor Sharon Pratt Dixon and the DC City Council in an act of cowardice, agreed to rescind a law that held manufacturers and sellers of vicious semi-automatic assault weapons liable for the deaths and injuries they cause. On Tuesday, in a sharp rebuke, District voters, by nearly four-to-one, approved a ballot initiative to restore the legislation. This city is sick of violence, and sick of politicians who don't make fighting crime their top priority. Certainly, the gun liability law will end up in court, where we hope it will be upheld. But there's a more important issue at hand. Congress has the authority to pass its own legislation rescinding the initiative, and, even before the referendum passed, Reps. Dana Rohrabacher (R-Calif) and Larry Combest (R-Texas) submitted a bill to do just that. The gun-loving residents of Palos Verdes and Lubbock may not want a liability law to deal with disgusting weapons like the Tec-9 and the "Street-Sweeper" (a sawed-off shotgun that can fire 12 rounds in three seconds), but the residents of this city—especially the black residents, whose neighborhoods have been overrun by thugs—clearly do. For Congress to deprive the District of this defense against crime would be a crime itself, an affront to self-determination and human rights.

I say to my colleagues, how can you do this to a community? These are people, decent people who have children, who have parents, who want their families to grow up without being murdered in the streets every night, and, yes, too often in the daytime. But what happens? They pass a bill, an ordinance to do something about it. And what do we do? We come here because we are subject to the whims and the pressures of the National Rifle Association. They might not support somebody if we voted the wrong way with respect to this proposal.

So the National Rifle Association puts pressure on the Congress of the United States and the Congress of the United States buckles in and we say to the people of Washington, the ordinance that you passed by a 77-percent margin, you cannot have that legislation. We are going to tell you what to do. We repeal it.

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

Mr. SMITH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded with the understanding that the Senator from Ohio and such other Members on the floor may be involved in a colloquy, but not for the purpose of offering an amendment, and that immediately thereafter, the quorum call be put into effect.

THe PRESIDING OFFICER. The Chair is informed from a parliamentary perspective that the Senator may not qualify the conditions under which the quorum call may be rescinded.

Is there objection?

Mr. SMITH. Reserving the right to object——

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs the Senator that there is not a provision for debating whether or not the quorum call can be rescinded.

Mr. SMITH. I withdraw the objection.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I assure the Senator from New Hampshire that I asked for the quorum call to be called off in order that I may engage in a colloquy with the distinguished manager of the bill.

Am I correct in the advice that has just been given to me that the Senator

from South Carolina will be the chair of the conference committee, or rather will be the chair from the Senate side, and that the Senator from South Carolina has every intention of dropping the amendment that is presently pending before the body?

Mr. HOLLINGS. In response to the Senator from Ohio, I told our colleague from New Hampshire that is within the matter, at best, of the District of Columbia appropriations bill, and had no relation whatsoever to the Departments of Justice, State or Commerce, and that I did not see how we could hold it on the bill. I was more or less indicating no Senator could say we are going to knock it out or keep it in, but if I had bet on it, I would bet it would not be in the bill.

Mr. METZENBAUM. Does the Senator from South Carolina mean by his response that he would personally urge the conference committee to drop the amendment? I am aware of the fact that the Senator from South Carolina, I believe, has voted to overrule the chair in its decision on this subject.

Mr. HOLLINGS. Yes. I said at that particular time—and it is already a matter of record—that I agree with the Senator from New Hampshire as to the substance and not the procedure. Therefore, on the procedural point, it would not be in our bill.

Mr. METZENBAUM. It would not be in our bill?

Mr. HOLLINGS. Would not be in our bill.

Mr. METZENBAUM. Such a representation will be made to the conference committee, and you will make every possible effort to eliminate this amendment from the bill?

Mr. HOLLINGS. That is correct, and that is the position of the Senator from New Hampshire, as far as I understand it.

Mr. METZENBAUM. Is the Senator from New Hampshire available to respond?

Mr. HOLLINGS. He is on his way back.

Mr. METZENBAUM. I would like to put that question to him, as well, and I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. 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. HOLLINGS. Mr. President, I am not trying to interrupt their understanding, but just on two amendments that have been cleared on both sides, I would like to use this time.

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

AMENDMENT NO. 2757

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senators from Rhode Island [Mr. PELL and Mr. CHAFEE] I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from South Carolina [Mr. HOLLINGS], for Mr. PELL for himself and Mr. CHAFEE, proposes an amendment numbered 2757.

On page 91, line 17 delete the period and insert in lieu thereof the following: ": *Provided further*, That $800,000 shall be available for the World Scholar-Athlete Games.".

Mr. HOLLINGS. Mr. President, this is an $800,000 earmark under the USIA budget for the World Scholar-Athlete Games to be held next June in Rhode Island.

Mr. PELL. Mr. President, on behalf of Senator CHAFEE and myself, I am offering an amendment to provide $800,000 in fiscal year 1993 for the World-Scholar Athlete Games to be held next June in Rhode Island.

These games will bring together some 2,000 scholars and scholar-athletes from more than 100 countries to participate in educational, cultural and athletic events.

In order to participate in these games, American and foreign participants will have to have high academic achievement, demonstrated proficiency in cultural or athletic endeavors, and clear leadership qualities.

The games will have three components: an educational portion revolving around topics such as world peace, drug abuse and the environment; a cultural program consisting of workshops in art and music; and athletic competition.

Our distinguished colleague from New Jersey, Senator BRADLEY, is the honorary chair of the games.

To date, more than 1,500 students worldwide, including young scholars from all 50 States and the District of Columbia, have been nominated to participate in the games.

The budget for the games is $4.3 million. The Institute of International Sport, which is organizing the games, has received donations from private contributors and corporations. However, that funding is not sufficient to cover all of the costs.

The amount sought from Federal funding is modest compared to the overall budget. Moreover, there is precedent for funding games such as these. The Pan Am Games and the World University Games are just two such examples.

As one who has been a long-time supporter of exchanges, I believe that these games will play an important role in educating and sensitizing these young people, many of whom may be future leaders, to the problems and the aspirations of other countries and other peoples.

This money is an investment in international understanding and future stability. I believe it is a good investment and I urge my colleagues to support it.

Mr. CHAFEE. Mr. President, I am pleased to cosponsor the amendment offered by my friend, the distinguished senior Senator from Rhode Island.

The World Scholar-Athlete Games should be a marvelous event. The games will bring together an equal number of young men and women from more than 100 nations and all 50 States to promote international understanding and cross-cultural exchange. More than 2,000 individuals are expected to attend the event that will be held in Rhode Island from June 20 to July 1, 1993.

Unlike the Summer Olympic Games that are currently underway in Barcelona, Spain, the World Scholar Games will not pit one nation competing against another in pursuit of gold, silver, and bronze medals. Instead, individuals will be chosen at random to participate in just four team sports: volleyball, soccer, basketball, and tennis doubles. Therefore, a team may be composed of scholar-athletes from a variety of nations—perhaps a Cuban and an American on the same basketball team, or an Israeli and a Palestinian on the same soccer squad. The focus will be on teamwork and participation, as opposed to nationalism and the quest for gold medals.

The games will be more than just an athletic event. In addition to the sport competitions, there will be a cultural component for a separate group of young singers, artists, writers, and poets. Each participating nation and state will join to craft songs and artistic exhibits celebrating the themes of international peace.

Let me describe the goals of the games:

To promote understanding, acceptance, and friendship among the youth of the world through experiences in sports, music, art, writing, poetry, and seminar discussions;

To establish open, nonpolitical, longstanding relationships among tomorrow's world leaders;

To utilize sport and the arts as a means of communication for learning rather than competition among nations; and

To renew the concept of amateurism in a major international sporting event.

Mr. President, now that the cold war is over and old adversaries are now friends, it is especially important to foster events such as the World Scholar-Athlete Games. We hope the next decade and beyond will be a period of peace and deepening understanding between the world's rich and varied cultures. The games will certainly play an important role by bringing together talented young people from around the globe.

I am proud to serve—along with Senator PELL—on the Diplomatic Council at the Institute for International Sport, the parent organization that de-

veloped the idea for the World Scholar-Athlete Games. The Institute does a fine job, and I look forward to welcoming both our international guests and the stateside competitors to the events next summer. It will be a wonderful celebration, and a great opportunity for American young people to meet and learn from our foreign visitors.

Mr. President, I support the amendment offered by Senator PELL and urge its adoption.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

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

The amendment (No. 2757) was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the amendment again be temporarily laid aside so I can offer this amendment on behalf of Senator ADAMS.

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

AMENDMENT NO. 2758

(Purpose: To provide equitable relief to Joseph Karel Hasek to allow him to be compensated for his losses)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. ADAMS, for himself and Mr. PELL, proposed an amendment numbered 2758.

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

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

The amendment is as follows:

At the end of the bill add the following:

SEC. . (a) Pursuant to Private Law 98-54 and notwithstanding any other provisions of law, the Secretary of the Treasury is directed to pay from funds provided in this Act to the Department of State and identified by the Secretary of State to Joseph Karel Hasek, $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (b), not later than 30 days after enactment of this Act.

(b) The interest to be paid under subsection (a) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(c) No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection with such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding.

Mr. ADAMS. Mr. President, I offer this amendment today to correct a grave injustice that has been done to a citizen of the United States.

This individual became a U.S. citizen in the middle of his life. He is a person who knows the value of the freedoms that this Nation was based on.

I am referring to Dr. Joseph Karl Hasek. Dr. Hasek is well known to some Members of this body. The chairman of the Committee on Foreign Relations, the Senator from Rhode Island, came to know Dr. Hasek when Senator PELL was a Foreign Service officer stationed in Prague, Czechoslovakia, in the mid-1940's. I have come to know him more recently as a strong defender of freedom and a fierce anti-Communist who has never gotten the justified compensation he deserves for his sacrifices on behalf of the United States and Western interests.

Mr. President, I want to give the Senate a brief background on the need for this amendment. In 1947 then Secretary of Commerce asked Dr. Hasek, then the head of a prominent Czech banking family, having taken over the business upon the liberation of Czechoslovakia after World War II, during which his father was executed by the Nazis, to undertake a study of United States trading patterns in major industrial centers. While in the United States in February 1948 to deliver his report to Secretary Harriman, the Communists took over his native Czechoslovakia and he was placed on a list of individuals to be arrested upon arrival. Dr. Hasek decided to remain here and applied for U.S. citizenship which was quickly granted. Eventually Dr. Hasek's mother, wife and two children were able to join him in the West and his adopted country. Unlike other Czechs who escaped Communist rule in Czechoslovakia, Dr. Hasek has not been fairly compensated for his loses.

For the past 40 years he has worked to free Czechoslovakia from the grip of the oppressive Communist regime that enslaved Czechs and Slovaks, and exiled him. With the realization of that dream there is one piece of unfinished business that must be attended to.

When Dr. Hasek left Prague he left behind more than $5 million in assets that have never been recovered, despite the fact that other Czechs that fled their country after the Communist takeover have been able to recover 100 percent, or more, of their lost resources. This was done through the Czechoslovak Claims Settlement Act of 1981, which established the Czechoslovak Claims Fund which collected $80 million from the Government of Czechoslovakia. While others received adequate compensation from this fund, sometimes more than had actually been lost, Dr. Hasek was unable to establish to the satisfaction of the Foreign Claims Settlement Commission the nature and true value of his holdings.

Mr. President, it should not be surprising that Dr. Hasek could not prove these holdings were confiscated after he became an American. Dr. Hasek came from a very prominent, well-to-do Czech family. While others who had defected could hire Czech lawyers, produce documents that they had brought out with them, and even travel to Czechoslovakia themselves to obtain affidavits, Dr. Hasek could do none of this. The Communists wanted to arrest him, they were certainly not about to admit to expropriating such vast personnel wealth from a man who was attempting to discredit them in the eyes of the world. And of course he did not know when he left Prague in 1948, that he would not return. Add to this some bureaucratic bungling at the State Department over whether the law applied to citizens and/or nationals and Dr. Hasek's claim was denied in toto.

In 1984 the Congress attempted to correct this inequity by enacting Public Law 98-54, which required that the Commission reopen his case and consider the, and I quote, "unique circumstances pertaining to that claim" unquote. Again the Commission ignored the Congress legislation and denied his claim in toto. The Commission paid him $6,220 for his mother's house in Prague, which was valued at $50,000, and which was not part of his claim since she was still living in it when he left Czechoslovakia in 1948 for what became a journey to United States citizenship.

Mr. President, efforts since then to right this injustice have not, as yet been successful. Dr. Hasek, now in his eighties, lives in Washington, DC, is recently retired from the international economics and trade consulting firm he started in 1948 after his exile and is sorting through boxes containing documents of four-score years of fighting against Communist oppression. Once they took his livelihood and his country. The Czechs and Slovaks have taken back his country, we cannot give him back his livelihood of the last 40 years, but we can give him a fair shake.

Mr. President, the amendment I propose would pay, within funds provided, Dr. Hasek $250,000, which is less than 5 percent the 1948 value of the holdings he left behind, plus interest from August 1, 1955, to August 8, 1958, to be computed however the Secretary of Treasury sees fit. It is a small gesture to a man who has been a friend of the United States for more than two generations, and a friend to Czechs and Slovaks for more than 80 years.

Mr. PELL. Mr. President, I rise in support of the amendment to correct an injustice by providing partial compensation to Dr. Joseph Hasek for properties seized by the Communist government of Czechoslovakia. As a young diplomat in Prague in the late 1940's, I knew Dr. Hasek well. In fact, I played a part in the invitation extended by the then Secretary of Commerce, Averell Harriman, to Dr. Hasek to come to the United States in early 1948 as an adviser on Eastern European economic issues.

As others have already pointed out, it was while Dr. Hasek was in Washing-

ton on this mission that the Communist coup took place. Subsequently, several properties of his, worth several million dollars were seized by the Communists, and Dr. Hasek was put on notice that he would be arrested if he returned to Czechoslovakia.

When the Czechoslovak Claims Commission was set up to adjudicate claims in connection with the agreement to return Czechoslovak gold and other assets controlled by the United States, Dr. Hasek filed a claim. However, because of his presence in the United States and his inability to return to Czechoslovakia, Dr. Hasek was placed in a uniquely disadvantageous position in providing the documentation required to substantiate his claim.

Although Dr. Hasek gathered as much information as he could, including affidavits from people who were familiar with his properties and circumstances, his claim was denied. In effect, he was penalized for having served on the advisory panel set up by Secretary Harriman. That is unfair, and we now have an opportunity to rectify matters. And here I would point out that the pending amendment does not provide full compensation to Dr. Hasek. In fact, it compensates him for only 5 percent of his losses. That is a token amount, but it is nevertheless an important token of recognition and appreciation for all that Dr. Hasek did, both in Czechoslovakia and in the United States, in the struggle against communism and in support of the United States interests in Eastern Europe.

Mr. HOLLINGS. Mr. President, this is pursuant to Private Law No. 98-54. The Secretary of the Treasury is directed to pay certain funds to Joseph Karl Hasek, and it has been cleared on both sides to proceed with that particular provision of the law, 98-54.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2758) was agreed to.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Senator JOHNSTON be added as a cosponsor to the amendment No. 2749 offered earlier today by Senator BREAUX and myself establishing a loan vessel obligation guarantee program.

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

Mr. HOLLINGS. I thank the distinguished Senator from Ohio and the Senator from New Hampshire and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. 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. HOLLINGS. Mr. President, I ask unanimous consent that the amendment momentarily be set aside so we can present this amendment on behalf of myself, subject to the consent, of course, of the distinguished Senator from Missouri [Mr. DANFORTH].

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

AMENDMENT NO. 2759

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. INOUYE, and Mr. GORTON, proposes an amendment numbered 2759.

Mr. HOLLINGS. 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:

Amend section 611 to read as follows:

SEC. 611. (a) None of the funds appropriated under this Act may be used by the Commission to develop, issue, implement, or enforce a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9, or any successor proceeding, unless the Commission meets the requirements of subsection (b) and incorporates the requirements of subsection (c) into such rule or order.

(b) Such rule or order shall not take effect until 90 days after it has been issued by the Commission.

(c)(1)(A) The Commission shall not redesignate, from primary to secondary, any use of the frequencies between 1850 and 2200 MHz by a qualified private fixed microwave entity.

(B) The Commission may permit frequencies between 1850 and 2200 MHz that are allocated on a primary basis to qualified private fixed microwave entities to be used on a shared basis, except that any entity that shares the frequencies between 1850 and 2200 MHz with a qualified private fixed microwave entity shall bear the burden of eliminating any harmful interference to a primary system of a qualified private fixed microwave entity.

(C) Any newly licensed system, or any modification of or addition to an existing system, operated by a qualified private fixed microwave entity on frequencies between 1850 and 2200 MHz shall bear the burden of eliminating any harmful interference to any emerging telecommunications technology entity whose license was issued at an earlier date than the license for such newly licensed system or such modification or addition.

(D) Any grant of a license to a qualified private fixed microwave entity for a new system, or for modification of or addition to an existing system, to use frequencies between 1850 and 2200 MHz shall be on a primary basis, unless no other qualified private fixed microwave entity is operating on those frequencies on a primary basis.

(E) The Commission shall not, for the purpose of preserving the availability of frequencies for emerging telecommunications technologies or other uses, deny any application of a qualified private fixed microwave entity for a license for modification of or addition to an existing system, to operate on frequencies between 1850 and 2200 MHz.

(2) The Commission shall not impede or restrict the ability of qualified private fixed microwave entities operating on frequencies between 1850 and 2200 MHz, or of licensees or proponents of emerging telecommunications technologies, to enter into voluntary agreements for the purpose of optimizing efficient use of spectrum, including but not limited to migration of facilities to other frequencies or media.

(3)(A) At a date no earlier than 8 years following issuance of a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9—

(i) any emerging telecommunications technology entity operating on or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any qualified private fixed microwave entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media; and

(ii) any qualified private fixed microwave entity operating or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any emerging telecommunications technology entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media.

(B) Any migration proposal under subparagraph (A) (i) or (ii) shall demonstrate that—

(i) the party proposing such migration has a license to operate on the frequencies used by the party subject to the migration or otherwise has the qualifications to use those frequencies;

(ii) there is a need for the proposed migration, including the unavailability to the party proposing the migration of other equally reliable frequencies at costs comparable to those for a system operating on frequencies between 1850 and 2200 MHz;

(iii) the party proposing such migration has in writing notified the party subject to migration (within a reasonable time sufficient to enable the parties to discuss entering into a voluntary agreement as described in paragraph (2)) of its intent to submit a migration proposal;

(iv) an alternative communications system for the party subject to migration would be available and would be at least as reliable in all respects as the communications system such party is operating at the time of the proposal; and

(v) the party proposing such migration will pay all costs associated with such migration and necessary to ensure the reliability of the alternative communications system, as such costs are incurred.

(C)(i) The Commission shall approve the proposed migration if the Commission finds that the migration proposal makes the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v).

(ii) If the Commission does not make the findings described in clause (i), the Commission shall not approve the proposed migration.

(iii) If the Commission approves the proposed migration, the Commission shall provide that the party subject to migration shall be provided an adequate period of time in which to construct and test the proposed alternative communications system and to complete migration. The party subject to migration shall not be required to cease

using the frequencies between 1850 and 2200 MHz until the reliability of the alternative communications system has been established.

(iv) If the Commission approves the proposed migration, the Commission shall retain jurisdiction over the proposed migration to resolve all remaining disputes to ensure that the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v) are made.

(d) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which analyses the feasibility of allowing frequencies reserved for use by the Federal Government as of June 1, 1992, to be used by emerging telecommunications technology entities, or by any qualified private fixed microwave entity now operating on frequencies between 1850 and 2200 MHz.

(e) In this section, the following definitions apply:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "existing" means in operation on the date of enactment of this Act.

(3) The term "harmful interference" means any interference from any technology that exceeds the level of protection equivalent to that provided under section 94.63 of title 47, Code of Federal Regulations.

(4) The term "qualified private fixed microwave entity" means an entity licensed or permitted, or eligible to be licensed or permitted, under part 90 of title 47, Code of Federal Regulations, for Public Safety Radio Services, Special Emergency Radio Services, Power Radio Services, Petroleum Radio Services, and Railroad Radio Services.

Mr. HOLLINGS. Mr. President, we have been working with our distinguished ranking member of our Commerce Committee, the distinguished Senator from Missouri [Mr. DANFORTH] concerning the proposal of the Federal Communications Commission relative to assigning frequencies. As you well know, we have resisted over the years any interference from the Congress itself on assuming that kind of responsibility. It would envision all kinds of hearings and decisions that should be made by the administrative FCC and not by the Congress itself and, as chairman of the committee, I have always adhered to that particular principle and procedure.

However, earlier the Federal Communications Commission took up the matter of reassigning the current users of the 2 gigahertz band to make room for new technologies such as hand telephones and mobile phone services. The FCC held a hearing on this proposal that had some 22 witnesses from that particular new technology industry and only one representing the current users of the 2 gigahertz band. The users of the 2 gigahertz band encompass the public electric utilities, the private taxpayer-funded utilities as well as investor-owned utilities, the railroads, and oil, gas and water pipeline companies. You can go right on down the list of all of those that expressed tremendous concern about the reliability on the one hand, concern for safety on the other hand, and the expense, of course, of being forced to move to a different set of frequencies.

As a result, we included in the subcommittee markup what we thought was reasonable language that would protect these current users and at the same time allow new technologies to enter the market. We did not bar the FCC from going forward with its proceeding but we wanted to make sure that these concerns were noted here in this appropriations bill and it was reported by the full committee.

But now the distinguished Senator from Missouri, not agreeing by any matter or means to this particular amendment, has agreed to allow us to proceed with the following changes: That we change the 15-year protection to 8 years, that we remove the independent arbiter, giving the authority to the Federal Communications Commission, that we provide the utilities with notice before a proponent may file to move a utility, and that we require a proponent of a new technology to demonstrate that he needs those frequencies and no other frequencies are available before it can apply to move a utility.

It is a slightly complicated matter for those who are not familiar with the particular discipline assigning frequencies, but I think that generally sets out the understanding that we have in moving this particular amendment.

As I understand, the Senator from Missouri does not yield at all his rights to reconsider this provision on our authorization bill and the fact of the matter is if we can have a similar understanding on the authorization bill we would cut this out of the appropriations bill.

Mr. President, I would now like to explain this matter in more detail. In a proceeding numbered ET Docket 92-9, the Federal Communications Commission [FCC] has proposed to reallocate certain frequencies around 2 gigahertz [GHz] for new emerging technologies. In doing so, the FCC has proposed to downgrade the status of some of the existing users of these frequencies from primary to secondary after 10 to 15 years. This proposal could cause serious harm to the operations of electric power companies and rural electric cooperatives, railroads, and oil, gas, and water pipelines. These entities depend upon reliable microwave communications in the 2 GHz band to control the provision of their essential services to the public. While the FCC has proposed that these existing users could move their microwave facilities to other frequency bands, the FCC has not provided sufficient guarantee that the reliability of the communications services could be ensured in these new frequency bands.

For this reason, I added a new general provision to this appropriations bill in the subcommittee that ensures that the electric, railroad, oil, gas, and water pipeline companies that operate microwave communications systems in the 2 GHz band will continue to possess reliable communications systems. The provision ensures that utilities that currently use the 2 gigahertz band cannot be moved off that band for a certain period of time. Further, after this time period, the utility can only be required to move if it is established that other frequencies are available that provide equal reliability to the utility's current system. The provision also ensures that all costs associated with such a move will be paid for by the new technology that proposes the move. With these protections, a utility will not suffer any degradation of service and will not suffer any out-of-pocket costs.

This provision is supported by the National Rural Electric Cooperative Association, the American Public Power Association, the Large Public Power Council, the Association of American Railroads, the American Petroleum Institute, the Edison Electric Institute, and the Interstate Natural Gas Association of America.

Mr. President, I generally do not offer legislation concerning spectrum allocation matters at the FCC. I believe that these are matters that are often very technical in nature and should not be subject to the political process. In this case, however, the FCC has itself shown a lack of respect for the process involved in making frequency allocation decisions. The FCC has shown a blatant disregard for the legitimate concerns of the utilities who currently use this spectrum. For instance, the FCC held an en banc hearing last December at which only 1 of the 22 witnesses represented a utility, while the remaining witnesses represented advocates of new technology. In April of this year, I wrote a letter to the Chairman of the FCC indicating my strong concern about the FCC's proposal to move the existing users of this band. Several other Senators also wrote letters to me and to the Commission expressing their concern. In June, I held a hearing in the Commerce Committee specifically on this proposal. In each case, the FCC gave vague and noncommittal responses. In this situation, I believe that there is no choice but for Congress to offer legislation on this issue.

Contrary to some misrepresentations by proponents of new technologies, this provision does not stop new technologies from being deployed. This provision permits new technologies to use these frequencies on a shared basis with existing utilities. In other words, this provision allows new technologies to enter the market today as long as they do not interfere with the utilities who currently use those frequencies.

Let me clarify a couple of other points with regard to this provision.

First, this provision does not give the existing utilities a property right in the spectrum. The spectrum is a valuable public resource. This public resource must be administered by the Government on behalf of the general public; it cannot be handed out to or controlled by private entities. The provision I have crafted gives the FCC policy guidance on how to administer the spectrum with regard to its use by certain utilities that provide essential public services. This provision, for instance, does not give these utilities an absolute right to the renewal of their frequencies. A guaranteed renewal would be the equivalent of giving the utilities an ownership interest, or a property right, in the spectrum. I cannot support such a position. I do expect, however, that the FCC will continue to demonstrate great concern for the essential public service provided by these utilities in deciding license renewals. In most cases, utility license renewals have been granted on a routine, pro forma basis. I expect and encourage the FCC to continue to process renewal applications in this manner.

Mr. President, I would like to clarify one provision in section (c)(1)(E) regarding the meaning of the term "addition." It is my understanding that an "addition" refers to a new transmitter location that extends a fixed microwave system into a new geographic area in which the system has not previously operated.

Mr. GORTON. I want to lend my support to the efforts of Senators HOLLINGS, DANFORTH, and INOUYE to reach an agreement today on the issue dealing with a proposed FCC rulemaking involving the use of the 1.8 to 2.2 GHz bands.

This is an important issue to many of my constituents. I have heard from a number of present users of these bands in Washington State. These users include the very backbone of our State's infrastructure—electrical utilities, railroads, public safety officials, and others. I believe that it is absolutely imperative that any decision to require the relocation of these users must fully protect the present users both from cost impacts and equally importantly from any disruption or deterioration in the reliability of service.

Electrical utilities use microwave systems in Washington State throughout the generation, transmission, and distribution system. Some of the transmitters provide the means by which the central dispatch computers regulate the output of the plants to precisely match the demand for electricity. Others provide the data communication, or protective relaying by which power flows are instanteously rerouted when a power line is knocked out of service by a storm or other unforeseen event. Absent this protection, minor outages would become major blackouts.

The railroads in my State have also made heavy investments in microwave systems. These systems are used to communicate between crews, dispatchers, trackside signals, and other personnel and facilities necessary for the safe and reliable operation of the railroads.

Last, I have heard from a number of public safety officials in Washington State. They point out the need for quick and reliable emergency communications services. The 1.8 to 2.2 GHz band width is heavily used by public safety officials who believe that other band widths in Washington State will not meet their needs even if financial accommodations could be made to these users. In particular, western Washington, which is heavily populated, has severe physical restraints due to mountains and water which make the use of higher band widths far more difficult than on flat land.

I am also aware of the intentions of some companies to offer Personal Communications Services [PCS] and their desire to use the 1.8 to 2.2 GHz bandwidth. While we do not even know what all of these new services will be, they are sure to be exciting and on the cutting edge of technology. The amendment agreed to today will allow future private microwave users of PCS to share frequencies with existing microwave users if they do not cause interference. Existing users will retain primary status and not be forced to move. After 8 years, the amendment allows for the new user to seek arbitration at the FCC to force the existing user to move so long as compensation is provided and that a reliable new frequency is available. Voluntary efforts to encourage the incumbent user to move are allowed at any time.

Mr. President, this is not a perfect solution. It deals with a complex and technical issue and one that I had hoped would be worked out through negotiations at the FCC. Unfortunately, Mr. President, while discussions have taken place at the FCC, no acceptable agreement has been reached to date. I therefore wish to support the amendment before the Senate today.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I have long believed and frequently said that I think that the relationship that I am privileged to have with my chairman on the Commerce Committee is as good as any ranking member enjoys with any committee chairman in the U.S. Senate.

Senator HOLLINGS and I have been allies on a number of issues. We have been opponents on some. We have always enjoyed a remarkably cordial relationship and today is further proof of that fact.

I am frankly concerned about undue rigidity in locking in the status quo with respect to the assignment of specific frequencies by the Congress of the United States. I am sympathetic to the concerns of the railroads and the concerns of the utilities. They do not want uncertainty. I understand that. But it seems to me that in meeting those concerns we also have to build in a degree of flexibility so that new technologies can come on the scene, and to me this is a kind of issue that is better left for the Federal Communications Commission.

This particular issue was raised in connection with this appropriations bill at the appropriations markup last Thursday and it was represented at that time I supported the version of this that was in the markup at that time, and that really was not the case; I did not support it. And we have been working since to try to modify what has been in the bill, and we have met with a certain degree of success in doing that. But I want to indicate that while I appreciate the cordiality of my chairman, I am still not fully satisfied with the result and I want to make it clear that while I will agree to go along with the bill on the floor of the Senate, and while I would not object to a unanimous-consent request to incorporate this Senate appropriations bill into a House bill, at the same time I do want to reserve my options for the future, particularly in conference and on the conference report.

I also want to explore with my chairman the possibility of bringing this matter before the Commerce Committee. We have already had a hearing on the subject. We have never had a markup on the subject.

It would normally be the case, I think, that the authorizing committee would be the place to bring this legislation up.

So I take the floor merely to express my appreciation to the chairman and his staff for working over this past weekend, and also to serve notice of the fact that I am grudgingly going along, at least insofar as this bill is on the floor of the Senate. I am keeping my options open for the future.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am very grateful to the distinguished Senator from Missouri for his cooperation and assistance in this particular regard this evening. I understand his misgivings. We have some of our own.

So we will be working together. I do appreciate it very much.

Mr. KERREY addressed the Chair.

The PRESIDENT OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I also appreciate the work the floor manager, the chairman of the Appropriations Subcommittee and the chairman of the Commerce Committee, has done in this regard.

It was my intent, over the weekend, to come to the floor and offer an

amendment to strike this provision altogether. I will now not offer that amendment. I will yield to the agreement that has been worked out, because I have a great deal of respect for both the chairman of this subcommittee and the chairman of the Commerce Committee, and the ranking member.

I would point out to my colleagues that not only is this an effort to do authorizing language on an appropriations bill, but, further, I would point out that essentially what this is is a group of people who are not happy with action taken by a regulatory agency, and so we are making an effort to not just overturn the action, but actually to overturn potential actions.

The FCC has only indicated they might, in the next 6 months, take this action. And we are, with this effort, saying to the FCC, you cannot take the action.

I pointed out to many of the folks in Nebraska who are concerned about this, that it is not uncommon that we have citizens say: We do not like the action taken by the regulatory agency. Can you do something in Congress? And typically, we say, no, as the distinguished chairman has just said.

My own concern with this delay in this has to do with my strong belief that communications technology, properly applied, could change, in a very dramatic and positive way, the nature of our capacity to educate our people. I look forward to the opportunity to discuss and talk about that at a later time.

I understand the reservations based upon previous experience with direct broadcast and the action the FCC took in the early 1980's would not result in an allocation of a ban in this particular case. I believe it is compelling, when you examine the likely applications, that we might, in fact, be blocking the development of significant jobs here in America. And as I indicated, I believe that we are potentially blocking applications that would be enormously beneficial to our people as they struggle to try to learn and train themselves.

All that having been said, I concur with the compromise. I appreciate very much the chairman's willingness not only to compromise this language, but to indicate a willingness at a later date to take up the additional concerns that I have.

I have a great deal of respect for his knowledge and understanding of this particular issue.

Mr. HOLLINGS. Mr. President, I want to thank my colleague from Nebraska for his understanding and cooperation.

The amendment has been cleared on both sides. I ask that the amendment be agreed to.

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

The amendment (No. 2759) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I think we have to protect the quorum call here.

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

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota seeks recognition.

Mr. DURENBERGER. Mr. President, I had intended to offer an amendment which would have increased the funding of the EEOC.

I wish to speak briefly to the subject and, if necessary, I ask unanimous consent to further set aside the matter that is pending before us so that I might speak to the amendment which I do not intend to offer.

Mr. METZENBAUM. Will the Senator yield?

Mr. DURENBERGER. Yes.

Mr. METZENBAUM. Do I understand that the Senator from Minnesota has no intention of offering any legislative proposal, but merely intends to speak?

Mr. DURENBERGER. The Senator from Ohio is correct.

Mr. METZENBAUM. I thank the Senator.

INCREASED EEOC APPROPRIATION

Mr. DURENBURGER. Mr. President, as I indicated earlier to the chairman of the subcommittee and the ranking member of the subcommittee, and others who are interested in the subject, I had intended, for the better part of the day, to offer an amendment to increase the funding for the Equal Employment Opportunity Commission, but I have been persuaded, both by them and by others, including a letter that I was given by the chairman of the subcommittee from the Attorney General, not to do that.

But I must express my deep concern—and I think it is concern that has been shared by members of the subcommittee, as well—about the adequacy of the funds available for enforcing two of the most significant civil rights laws that have ever been passed by this Congress: The Civil Rights Act of 1991 and the Americans with Disabilities Act of 1990.

We have all delivered impassioned speeches on this floor at the time those laws were considered. We consider them to be landmark pieces of legislation. But we really are not providing the resources, the financial resources, necessary to enforce them.

So despite all of the speeches that we gave and all of the promises that we made to the American people, we really cannot stand here today and say we intend to make a reality of civil rights for women, or civil rights for people with disabilities, unless we can guarantee the funds for enforcement.

I must say that the EEOC is an impressive organization. It is the Nation's lead civil rights enforcement agency. It is responsible for enforcing much of the Civil Rights Act of 1991 and title I of the ADA. For more than 10 years, Congress has cut this small law enforcement agency's budget in real dollar terms and we are about to do it again at a most critical time.

EEOC receives more than 60,000 charges per year. The Civil Rights Act of 1991 and the ADA will add another 15,000 to 20,000 charges annually for the EEOC to investigate. Yet the House and Senate Appropriations Committees have effectively not given them one penny to enforce these new laws.

Mr. President, the EEOC is recognized as a model Federal agency and has won awards for it management initiatives.

And lest you think they are the kind of organization that sits on its duff and does nothing, the reality is it is probably the most productive of any other Federal agency. EEOC's investigators investigate an average of 88 cases per year, nearly three times as many as the next closest Federal agency with a similar responsibility.

But, Mr. President, EEOC has reached the breaking point. Without additional resources, it is going to be very difficult to enforce the Civil Rights Act and the ADA. Even the House Appropriations Committee report on Commerce, Justice, State, the Judiciary and related agencies fiscal year 1993 (Report 102–000) states that:

> The Committee recognizes that this amount may not be sufficient to allow the EEOC to carry out the provisions of the ADA and the Civil Rights Act of 1991 adequately and continue its ongoing workload under existing statutes.

And the House provided $6 million more than the Senate did.

The administration requested $245 million of the EEOC in 1993. The Senate Appropriations Committee last week approved $212 million. If this is EEOC's budget for next year, we have not just placed the final straw that broke the camel's back—we may well have killed the camel.

The reality is, though, they have found themselves in a bind.

I will let the chairman speak for himself, but the committee concluded that if the administration wants to try to help the implementation of that act and if the administration is willing to deal more appropriately with funds that are allocated for the Justice Department and funds that are allocated for EEOC, that it would be up to the people at the Department of Justice and in the administration to make those kinds of decisions.

In order to get the $32,359,000 that is necessary, rather than propose that

Justice transfer all that money to EEOC, I was going to propose they transfer half; that we appropriate half of it tonight and allow Justice the discretion to do it in the future.

I am left without this amendment. We are left in the position where we must rely on the Justice Department to make as much of that $32,359,000 transfer as we possibly can.

So I must stand here and remind my colleagues of the difficulty of being on the Appropriations Committee, I guess, but also remind my colleagues of the extreme difficulty we face in passing legislation on one hand, and not providing the resources to enforce it on the other. It is not only discouraging to the people involved, it is discouraging to the folks at the EEOC.

It is not only discouraging to the people involved, but it is discouraging to the folks at EEOC, the men and the women who have to take on the responsibility of responding to the enforcement authority in this law.

So, I will not offer the amendment, but I do urge the President and I urge the Attorney General of the United States to take this matter seriously, and I urge my colleagues to join in that request so that the appropriate funds to enforce these two very important laws, the Civil Rights Act and the ADA, will be available.

Mr. President, I will yield the floor.

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

AMENDMENT NO. 2752

Mr. METZENBAUM. Mr. President, it is time for us to take stock of where we are. The Senator from New Hampshire has offered an amendment. The Senator from Ohio feels very strongly about it, feels it impacts upon the legislative rights of the people of the District of Columbia. It does not belong on an appropriations bill, the Chair ruled. There was an appeal from the decision of the Chair, and this body indicated that they were willing to consider the amendment. That indicated it probably would have the votes to pass. The Senator from Ohio is strongly against it.

That amendment at this moment is subject to a second-degree amendment. The Senator from Ohio has a second-degree amendment to attach to this bill, a striker replacement law as a second-degree amendment. But I have been around here long enough to know that, if I were to do that, then many on the other side of the aisle would see fit to engage in a lengthy discussion. And I believe that this body too often finds itself engaged in useless effort and a waste of time. I am now satisfied that this amendment before us will not survive the conference committee, as it should not, because it is obviously not relevant to the appropriations bill. So, rather than play the games we play around here offering a striker replacement bill as a second-degree amendment, I think the more responsible thing is to permit it to go forward with the understanding that it will be dropped in the conference committee.

It is fair to say that no one can say that with absolute certainty. The conference committee consists of representatives from both sides of the aisle and representatives from both bodies. But I am satisfied it will not remain in the bill.

Under those circumstances, rather than offer an amendment to the amendment and tie up this body for a considerable length of time to no useful end, my concern is that the people of the District of Columbia have the right to enunciate their views, to make their decisions, and not to have the Congress of the United States tell them what to do.

So I will not offer the amendment unless I am misinformed as to what is contemplated in the conference committee.

Mr. BAUCUS. Mr. President, last year the District of Columbia passed a law which establishes the right of a victim of a criminal attack by a person using a so-called assault weapon to sue the manufacturer of the firearm for damages.

The net effect of this law is to hold manufacturers of semiautomatic firearms to a standard of absolute liability. Such a result sets a dangerous precedent. This logic holds that a firearm is capable of acting independently to commit an illegal and harmful act.

Traditional tort liability standards have long held that manufacturers may be held responsible for the uses to which their products are put when it can be shown that there is a manufacturing design or defect.

Absolute liability standards, on the other hand, are generally limited under tort law to activities or products which are deemed to be ultrahazardous. The use of explosives, for example, is one such activity to which absolute liability applies.

The reasoning behind an absolute liability standard is that regardless of the actions taken to minimize the hazards, the activity is so inherently dangerous that unforeseen consequential harm cannot be ruled out and thus must be accounted for by law.

Including firearms manufacturers in this category skews the criminal responsibility equation away from the user, in this case the criminal, and places it squarely on the manufacturer.

Any firearm can be dangerous if used in an improper or criminal manner. However, the vast majority of gunowners do not act in such a manner.

Moreover, suggesting that a firearms manufacturer should be held accountable for a criminal's actions is an absurd denial of centuries of American and English jurisprudence.

To those who believe that this is a home rule issue which should not be addressed by the Congress, I believe that nothing is farther from the truth. The applicability of such a standard could be expanded beyond firearms manufacturers.

As a precedent, it could apply equally to almost any product or service. For instance, automobiles, alcohol, and pharmaceutical drugs are products which come readily to mind which could potentially be affected.

Mr. President, the District law attempts to restrict the constitutional right to keep and bear arms. It narrows the choices which are available to an individual who wishes to own a firearm.

Manufacturers will look at the economics of semiautomatic manufacture given the implications of absolute liability and decide that it is no longer feasible to produce semiautomatics. Therefore, semiautomatic weapons will no longer be available to law-abiding citizens who wish to own them and use them for hunting, collecting, or target practice.

I sympathize with those who are attempting to deal with the violence that is becoming the norm in our Nation's Capital. I cannot, however, accept the convoluted logic that is behind a law which has no impact on crime but has the worst of impacts on American industry.

I support the Smith-Dole amendment to overturn this misplaced law, and urge my colleagues to do likewise.

Mr. HOLLINGS. Mr. President, momentarily, until we get this understood and finalized, I ask unanimous consent we set it aside so we can put a perfecting amendment to the Danforth and Hollings amendment.

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

AMENDMENT NO. 2760 TO AMENDMENT NO. 2759

Mr. HOLLINGS. Mr. President, for Mr. BUMPERS, 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 South Carolina [Mr. HOLLINGS], for Mr. BUMPERS, proposes an amendment numbered 2760.

On page 3, line 20, of the Hollings amendment, add at the end the following: "(except where such entity is a State or local government, or an agency thereof)".

Mr. HOLLINGS. Mr. President, that language right there is clear to the point, "except where such entity is a State or local government"—namely, the police departments use this frequency, and we wanted to protect them. That was just a perfecting amendment.

Mr. BUMPERS. Mr. President, I rise today to commend the managers of this bill for accepting my amendment regarding spectrum allocation in the 2 GHz band. As drafted by Senator HOLLINGS, section 611 of the appropriations

bill for the Departments of Commerce, State, and Justice and the Judiciary was a wise and necessary proposal. This amendment will improve upon section 611 in one important respect.

My amendment will preserve and codify the grandfathering of the right of State and local governments to retain the portions of the 2 GHz band of the radio spectrum which they now control for use by public safety agencies. This amendment will, in effect, write into law, the current proposed rule of the Federal Communications Commission, issued last January, that provides for indefinite grandfathering of the rights of public safety users of the 2 GHz band. The FCC proposed rule would respect the priority of public safety users of the spectrum, as provided for by law.

I welcome the advances in communications technologies which are making the 2 GHz band so desirable to the companies which are pioneering those innovative technologies. Yet, I believe that we must give public safety clear priority in spectrum allocation, just as provided for in the Communications Act.

This amendment will protect public safety agencies of the State and local governments from being subjected to the danger of forced relocation to less desirable bands of the spectrum. As a result, the safety of our citizens will not be subject to competition or pressure from powerful private interests, and the resulting forced migration to other bands of the spectrum that might cause diminution of the capabilities of police, fire, and other public safety agencies. At the same time, where the public interest would be served, public safety agencies will be free to negotiate with private interests who desire the portions of the 2 GHz band now held by those agencies.

The value of the 2 GHz band to public safety users cannot be measured merely in dollars. If public safety users of the spectrum were forced to yield to market forces in the competition for spectrum, the results could be disastrous. For example in my State of Arkansas, at a cost of over $30 million, the State police have recently completed a statewide state-of-the-art microwave mobile communications system, which operates on the 2 GHz band. If they were forced to migrate to a higher band on the spectrum, that new system would be rendered a wildly expensive white elephant.

Replacement of that system could cost the taxpayers of Arkansas $100 million or more. Furthermore, there's no telling what the cost in confusion, accidents, and lost lives would be if public safety communications throughout Arkansas were forced to migrate to a higher band. It's a loss from which the people of Arkansas could never really be made whole.

This amendment leaves us with the best possible outcome: Public safety is protected indefinitely, utilities are temporarily protected, and private interests are free to compete in the marketplace. Each of these users of the spectrum is left with an outcome appropriate to its power in the marketplace and its importance to the community. I thank the managers for accepting this amendment.

Mr. RUDMAN. Mr. President, I inquire, because there is the possibility on our side that there is a request for a rollcall vote on a Dole substitute, if I could give it a few moments to see if maybe that request could be dealt with? I am not sure it can be. In the meantime, the chairman could possibly proceed with the amendments of Senator SEYMOUR, who has three amendments which we have both agreed to.

Mr. HOLLINGS. Let us adopt this one and then proceed to the Seymour amendment.

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

The amendment (No. 2760) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2761

(Purpose: To require ongoing revisions on Border Patrol hot pursuit policy)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2761.

Mr. SEYMOUR. 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:

INS BORDER PATROL HOT PURSUIT POLICY

SEC. . CHANGES IN CURRENT BORDER PATROL HOT PURSUIT POLICY.

(a) IN GENERAL.—The Attorney General, after consideration with the Commissioner of the Immigration and Naturalization Service, shall revise and implement, by not later than January 1, 1993, U.S. Border Patrol Pursuit policies which shall improve safety and prevent future accidents such as that which occurred in Temecula, California, on June 2, 1992.

(b) IMMEDIATE ACTION.—The Attorney General, after consideration with the Commissioner of the Immigration and Naturalization Service, not later than 30 days after enactment of this Act shall—

(1) implement a schedule of stationing available helicopters at border checkpoints to assist in hot pursuit events;

(2) implement an effective communications system between INS, Border Patrol, and local and state law enforcement agencies, which effectively incorporates state and local law enforcement officials in the pursuit and apprehension of fleeing suspect vehicles.

Mr. SEYMOUR. Mr. President, last month, five innocent bystanders were tragically killed when a truckload of suspected illegal aliens, fleeing border patrol officers, ran a red light and crashed into a car and careened into two children walking to school in Temecula, CA.

The tragedy of this accident is that it could have been prevented.

Current Immigration and Naturalization Service vehicular pursuit policy allows U.S. border agents to pursue fleeing suspects at high speeds through residential neighborhoods.

This amendment I am offering today would simply require the Attorney General, in consultation with the Commissioner of INS, to implement a schedule of stationing helicopters at U.S. border check points to assist in the event of hot pursuits.

While serving as mayor of the city of Anaheim, CA, a similar untimely death occurred. After investigation, we found that use of helicopters in surveillance helped in these hot pursuits, that is helped to protect life and avoid the kind of tragedy that occurred at Temecula.

Additionally, this amendment would require INS to coordinate communications with State and local law enforcement officials to assist in the pursuit and apprehension of fleeing suspect vehicles. These changes would be implemented no later than 30 days after enactment of this act. Officials at INS have stated their intent to make changes in communication procedures, however, I have set a deadline to ensure these changes are made in a timely manner.

Finally, my amendment would require the Attorney General, in consultation with the Commissioner of the Immigration and Naturalization Service to revise existing border policies by January 1, 1993, to, additionally, improve safety to prevent future accidents such as the tragedy that occurred.

The amendment has been accepted on both sides. I urge its adoption.

Mr. HOLLINGS. The amendment has been cleared on both sides.

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

The amendment (No. 2761) was agreed to.

AMENDMENT NO. 2762

(Purpose: To require a report on the Prisoner Transfer Treaty Between the United States and Mexico)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 2762.

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

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

The amendment is as follows:

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

SEC. . REPORT ON PRISONER TRANSFER TREATY BETWEEN THE UNITED STATES AND MEXICO.

(a) FINDINGS.—Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) alien involvement in criminal activity nationwide has risen sharply during the past decade;

(4) the number of convicted criminal aliens in State prisons and local jails has risen sharply;

(5) in some jurisdictions, one out of every four prisoners in local jails is a criminal alien;

(6) the rise of criminal alien population has placed enormous costs on State and local governments and the taxpayers in the area;

(7) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed;

(8) one method to expedite the deportation of criminal aliens is to establish prison transfer programs where a convicted alien serves all or a portion of the sentence in his or her home country; and

(9) a determination of the methods and the costs to implement effective alien transfer programs in needed.

(b) IN GENERAL.—Not later than April 1, 1993, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress, a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(c) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(d) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommendation.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(e) IMPLEMENTATION.—The Attorney General and the Secretary of State shall implement no later than May 1, 1993, any administrative and regulatory recommendations as described in subparagraphs (d)(1).

Mr. SEYMOUR. Mr. President, each day it is estimated more than 8,000 aliens illegally cross our southern border. Only 2,700 of them, roughly one-third, are apprehended at the border itself. Certainly, many who cross the border are seeking opportunity, fleeing poverty and repression. However, more and more who cross our border come into the country seeking a different kind of opportunity—criminal opportunity. More and more aliens come into the country to traffic drugs, the foot soldiers of international Narcotraficante.

The evidence of the growing number of criminal aliens can be found in my State of California. Deportations at California's southern border surged to more than 500,000, the highest number since 1976.

In Los Angeles, one out of four inmates in county jails is a criminal alien. In the entire State of California, 1 out of 10 criminal aliens.

Mr. President, this amendment before us will make a real difference to that problem—to alleviate the burden on State and local governments by requiring the Attorney General and the Secretary of State to make changes in policy with respect to the 1977 Alien Transfer Treaty. Specifically, this treaty allows for the transfer of criminal aliens to their home country to serve all or a portion of the sentence they received for crimes committed in the United States. My amendment will require a thorough study of the effectiveness of this treaty, and the implementation of any changes needed to improve the effectiveness of the treaty.

We must pursue policies that get criminal aliens out of our country and out of our home and deported to their country of origin as quickly as possible. This amendment is designed to accomplish that important goal. This amendment has been agreed to by both sides. I ask for its adoption.

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

The amendment (No. 2762) was agreed to.

AMENDMENT NO. 2763

(Purpose: To make available funds for 20 additional immigration judges.

Mr. SEYMOUR. Mr. President, I have a third amendment which I send 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 California [Mr. SEYMOUR] proposes an amendment numbered 2763.

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

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

The amendment is as follows:

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

SEC. —. PAYMENT OF SALARIES OF ADDITIONAL IMMIGRATION JUDGES

(a) The Attorney General shall evaluate the ability of the existing level of immigration judges to the Executive Office of Immigration Reform to meet its current and anticipated workload for fiscal year 1993 and the possibility of reprogramming of immigration examination fees to support additional immigration judges and personnel.

Mr. SEYMOUR. Mr. President, I rise to offer an amendment that will be of great assistance to the Federal Government's efforts to meet one of its major immigration responsibilities: to effectively and expeditiously deport convicted alien felons.

For many regions of the Nation, especially along the Southwest border, the growing presence of alien felons in our county jails and State prisons is a severe and costly problem. The State of California alone spends more than $250 million each year to identify, prosecute, incarcerate and deport alien felons. As my colleagues know, the deportation of convicted aliens the minute they are released from prison was identified by Congress as a top priority when they enacted the Immigration Act of 1990. We must not retreat from this goal.

But simply identifying this problem is not enough. We must make the necessary funding decisions to attack the problem and meet the priority. Modest but important steps have been taken by the Senate that reaffirm our commitment to this issue. Last year, the Senate adopted an amendment that I offered to the comprehensive crime bill which would create a new civil fine imposed on any individual who induces or coerces an alien to commit an aggravated felony. The money collected

from this fine is to be deposited in the criminal alien identification and removal fund and used to assist the INS and the States to identify and deport alien felons and to fund any of the 20 additional immigration judge positions created under last year's immigration bill.

The amendment that we have before us right now, Mr. President, also represents an important step. This amendment will authorize the Attorney General to investigate its current personnel and work levels and hire, if needed, any additional immigration judges and support personnel that were called for in last year's Immigration Act. It is my expectation that this additional support is needed if we are to move closer to reaching our goal, one that will result in alien felons taking their first step outside a prison into a waiting vehicle, its destination beyond the borders of our Nation. This amendment will be of great importance to our efforts toward assisting the INS and the States in their efforts to identify and deport alien felons.

Mr. President, this amendment has been reviewed and accepted by both sides. I ask for its immediate adoption.

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

The amendment (No. 2763) was agreed to.

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

The PRESIDING OFFICER. The Senator from New Hampshire.

INDICATION OF VOTE

Mr. SMITH. Mr. President, Senator KASTEN, who was unavoidably detained on rollcall vote 152 on the Smith amendment, asked me to indicate that had he been present, he would have voted no, which would have been a vote in favor of the Smith amendment. Also, Senator KASTEN favors the Dole substitute as well.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS. 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. RUDMAN. 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. RUDMAN. Mr. President, I just want to inform the chairman of the subcommittee that a vote which I thought might be required on the Dole substitute is now not required.

I understand that Senator SMITH has a brief statement that he would like to make, very brief, about another colleague of ours who was not here on the last vote, at which time I believe we will then voice vote if that is satisfactory with everyone.

Mr. HOLLINGS. That is satisfactory with the Senator from Ohio.

Mr. RUDMAN. I yield the floor.

The PRESIDING OFFICER. The junior Senator from New Hampshire.

Mr. SMITH. Mr. President, I will just say to my colleague, while he was conversing, I gave the statement and I do not wish a rollcall vote. I am prepared to proceed whenever the managers are.

Mr. RUDMAN. Mr. President, I then urge the adoption of the amendment.

AMENDMENT NO. 2753 TO AMENDMENT NO. 2752

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

The amendment (No. 2753) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The Chair informs the Senator that we still have the first-degree amendment, as amended, to be acted upon.

The question is on agreeing to the amendment, as amended.

The amendment (No. 2752), as amended, was agreed to.

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

Mr. HOLLINGS. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

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

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

Ms. MIKULSKI. Mr. President, I rise today in support of the Commerce, Justice, State appropriations bill. This bill has an important provision to significantly expand community policing programs in Maryland.

Mr. President, this bill includes $500,000 that will be split between Prince Georges County and Baltimore City to expand their efforts to take back the streets from criminals and drug dealers.

When you hear the words community policing, you may not think of gun battles and high-speed chases. But community policing is strong, effective crime control.

Let me tell you about something that's taking place not too far from here in Prince Georges County.

In Prince Georges County police have taken to the streets in some of the highest crime areas. They know the neighborhood, and they walk the beat.

In Prince Georges County, the community has also gotten involved. Interfaith Action Communities has worked closely with the police department to educate the community and provide the assistance the police officers need.

The policeman is the vision of officer friendly that we all remember. He plugs himself into the neighborhood and finds out where the hot spots are.

More importantly, his presence and the intelligence he gathers help him disarm the criminals before the violence even starts.

Results, you bet. Crime in community policing areas in Prince Georges County has decreased dramatically. Drug-related calls in one area have dropped 45 percent. The number of crack houses in another area have dropped from 42 to 11 sites.

Mr. President, I say that's being tough on crime. With this program the policemen win, the residents win, and the criminals lose.

By training a community policing force, we are taking a new and innovative approach to fighting crime.

Community policing takes the best of the traditional approach of the officer walking the beat and combines it with the best in new technology.

It's making our neighborhoods safe again for residents to sit out on their porch and for kids to play ball on the street.

Capt. Terry Evans of the Prince Georges County Police Department recently said, "It's the only thing I've seen in 23 years of law enforcement that's had an impact, actually turned it around."

Community policing is also being developed in Baltimore City. Officers are being trained to work closely with the neighborhood in dealing with possible violent crime problems in the future.

Right now there are pilot programs being developed in east and west Baltimore. Police are building the neighborhood support. This grant will bolster those efforts.

Mr. President, this grant is a step toward recognizing that community policing has arrived and it's a needed tool for taking back our streets.

It's a proven method that we need to expand and make a major weapon in fighting crime in our neighborhoods.

DEFENSE ADJUSTMENT FUNDS

Mr. PELL. Mr. President, I am delighted to note that the fiscal year 1993 appropriations bill for Commerce, Justice, and State and related agencies provides $80,000,000 for economic adjustment grants by the Economic Development Administration of the Commerce Department to assist communities impacted by defense contract reductions and by closures of defense installations.

This authorization will augment the $50 million we provided in the context of the fiscal year 1991 Defense Authorization and Appropriation Acts for pass-through funding of EDA for defense adjustment purposes.

This augmented funding should breathe new life into the Economic Development Administration, which has been a candidate for closure under administration budgets for the past decade. But the survival of EDA is now clearly justified by the present need for creative intervention in the wake of post-cold war defense reductions.

Already several communities from my State of Rhode Island are applicants for economic adjustment grants from EDA as they face the burden of adjusting to cancellation of the *Seawolf* program at a time when the State's unemployment has soared to 9.7 percent.

I commend the Senator from South Carolina [Mr. HOLLINGS] and the members of the committee who have brought this bill to the floor for their attention to the recommendations of the Task Force on Defense/Economic Conversion, which was chaired so ably by the Senator from Arkansas [Mr. PRYOR]. They have done a responsible job in giving form and substance to the several recommendations of the task force, and the Nation will be better for it.

Mr. KOHL. Mr. President, I commend the work of the Appropriations Committee in meeting the Nation's need for fiscal restraint. It is a difficult job with many conflicting priorities to sort out, and Senator HOLLINGS had provided the leadership to resolve those issues. I would like to speak today about the funding for the Bureau of the Census and the Bureau of Economic Analysis. Let me first address the Census Bureau.

I have followed closely the activities of the Census Bureau, and am one of their biggest supporters. However, as we move away from the 1990 census and toward the 2000 census it is reasonable to expect some decline in their budget. The activities of one are coming to a close, and work on the next census is just beginning.

At a recent hearing by the Subcommittee on Government Information and Regulation, I indicated that efficiency is one of the challenges that faces the Census Bureau during this decade. The Census Bureau must find ways of doing its job more efficiently, and Congress must stop initiating new statistical programs without funding them.

I will continue to oversee the Census Bureau's activities and urge them to increase productivity.

I am concerned that increased productivity will not substitute for the proposed cut—a 1-year cut of 15 percent—from the agency's request. The implication of the Senate Appropriations bill is that there will be no new statistical initiatives, some programs will have to be cut, and the necessary research to improve productivity will be attenuated.

I am not going to offer an amendment tonight to reverse these cuts. However, I hope that in conference the committee will reconsider this funding level. I am concerned that if the Senate funding levels are maintained we could lose valuable ongoing programs such as:

County Business Patterns, the only comprehensive information for States and communities;

The Pollution Abatement Survey, which is critical for environmental policy and planning;

The Quarterly Plant and Expenditure Survey, which provides current information and future expectations of investment by industry.

In addition, this funding level could weaken the quality of the agricultural and economic censuses, and some of the information collected in the 1990 census will not reach the public which paid for it.

The failure to fund any new initiatives continues Congress' unwillingness to invest in the statistical infrastructure. I hope my colleagues will remember this the next time the inaccuracy of one of our economic indicators leads to misguided economic policy.

Finally, this funding level could endanger the fundamental reform the Congress has pushed the Census Bureau to undertake. It is folly to ask for fundamental reform and then fail to fund the research to provide that reform.

Many of the arguments about the Census Bureau also apply to the Bureau of Economic Analysis. The funding level proposed by the Appropriations Subcommittee could result in some programs being terminated, others weakened, and necessary research neglected.

The Census Bureau and the BEA are integral parts of the foundation of our statistical system. As we neglect repairs in that foundation we risk the integrity of the entire structure.

GENE PATENTING ISSUES

Mr. HATFIELD. Mr. President, one of the Federal agencies that receives funding under this legislation is the U.S. Patent and Trademark Office. As we proceed through this bill, I believe it is appropriate to highlight some of the grave concerns that are shared among several of my colleagues regarding an issue that rests squarely at the doorstep of the Patent Office.

The issue I refer to relates to the patenting of life. Since 1987, I have sponsored legislation to place a 5-year moratorium on the patenting of genetically altered animals, and succeeded in enacting a 1-year moratorium in 1987. One mouse, developed by researchers at Harvard University, was nevertheless patented in February 1988 following the expiration of this moratorium. Over 150 animal patents are currently pending.

Last year, the NIH caused a firestorm of controversy when it announced that it planned to seek patents on 340 sequences of genes from the human brain. A few months later, the NIH applied for patents on over 2,000 more human gene sequences, further complicating a very difficult policy question. The Patent Office has yet to rule on whether these gene sequences are patentable.

I am troubled that such monumental policy decisions have fallen solely on the shoulders of the U.S. Patent Office. The underlying ethical decision transcends our national borders, environmental policy, the profit motives of the marketplace, and our century-old patent laws.

It is my belief that this body must take a more active role in policy development in this area. In the past, Congress has attempted to initiate such a policy process. We established the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research in the 1970's and the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the 1980's. A Biomedical Ethics Advisory Committee was established in 1985.

Unfortunately, none of these efforts remains in place today to aid this body, government agencies, or the scientific community in developing a rational biomedical ethics policy. No congressional review board or advisory committee currently exists to make reports and recommendations to the legislative branch. In recent years, the ethical, economic, and environmental concerns about this technology have become more acute. Recent actions by researchers at the National Institutes of Health [NIH] underscore the urgent need for congressional oversight of this field.

Earlier this year I raised this issue in connection with the National Institutes of Health reauthorization bill and received commitments from Senators KENNEDY and DECONCINI to hold hearings in both the Labor and the Judiciary Committees pertaining to this issue. I am pleased to inform my colleagues that a hearing on gene patenting will be held before the Senate Judiciary Committee on September 22, 1992.

In addition, I am also working with interested colleagues to request a study in this area from the Office of Technology Assessment. I am aware of the ongoing work of the Committee on Life Sciences and Health, Federal Coordinating Council for Science, Engineering and Technology's [FCCSET] Genome Working Group in this area and look forward to reviewing its report.

It is my firm hope that these various avenues of inquiry will result in a more carefully defined Federal approach to policy in gene patenting. Congress has

a responsibility to carefully consider the broad ramifications of the technologies it encourages through patenting.

I raise this in connection with the pending legislation because I want the Patent Office to be aware of the substantial ongoing efforts in this area. It is my hope that these efforts will be considered carefully in connection with any action the Patent Office proposes to take with respect to the thousands of relevant patent requests that it is currently reviewing.

SECTION 502

Mr. KERRY. Mr. President, I wanted to clarify one point with my colleague from South Carolina, and that relates to section 502 of the bill. This section permits the Department of State to transfer not more than 5 percent of an appropriations account to another appropriations account within the State Department. I applaud this effort to give the Department necessary budget flexibility. At the same time, however, I want to clarify that this provision will not allow the Department to transfer funds into an account in excess of authorized levels.

Mr. HOLLINGS. The Senator is correct. We did not intend this provision to allow transfers into an account in excess of levels contained in authorizing legislation.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to compliment the chairman and the ranking member on the fiscal year 1993 Commerce, Justice, State appropriations.

This bill provides important increases for Justice programs, the National Institute of Standards and Technology, and Mitchell Act salmon hatcheries on the Columbia River.

In addition to these program increases, the bill provides $2 billion for the U.S. Information Agency. This represents a $111.7 million increase over the fiscal year 1992 level.

This USIA increase will provide new programs in the republics of the former Soviet Union, including the establishment of America Houses; will provide an enhancement for the Fulbright Program within the educational and cultural exchanges account; expand the East-West Center; and to establish a new center of technical assistance for the Russian Far East.

Overall, given the difficult allocation for this subcommittee, I think this is a well-balanced and well-crafted bill. A bill that provides additional resources for our war on drugs and responds to the challenges of the emerging democracy of Eastern Europe and the former Soviet Union.

Mr. KOHL. Mr. President, as chairman of the Senate Subcommittee on Juvenile Justice, I wish to commend my distinguished colleague from South Carolina for his leadership on juvenile justice appropriations.

We all agree that the juvenile justice system is in serious trouble. Some 700,000 juveniles enter the justice system each year. Every year we spend close to two billion in State and local dollars confining too many of these young people in facilities with recidivism rates that make them schools for crime. And in recent years we have seen an upsurge in arrests of adolescents for murder, assault, and weapon use.

Given these facts, some critics assert that the juvenile justice system—designed in earlier decades to handle so-called nicer kids—is virtually incapable of handling violent teens and protecting our communities. They conclude we should transfer all such juveniles to adult court and place them in adult prisons.

We all agree there is a problem. But my view of the juvenile justice system—shaped by visiting juvenile courts and detention centers, and presiding over subcommittee hearings—suggests we do not have to transfer all juveniles to adult court. We need to reform the juvenile system—not throw it all away.

In his appropriations bill, Senator HOLLINGS has increased funding for juvenile justice programs several million dollars above fiscal year 1992 appropriations levels. Although he and I would like to see further substantial increases, our current deficit precludes the Senate from so acting at this time. Given this budget climate, I commend Senator HOLLINGS for his leadership in refusing to cut funding for juvenile justice. The administration recommended a 90-percent budget cut, which the subcommittee resoundingly rejected. I urge my colleagues in the Senate to follow suit.

TRANSFER OF ASSETS FORFEITURE FUNDS FOR OPERATION CADENCE

Mr. McCONNELL. As my colleagues know, I am a strong advocate of programs related to juvenile justice and missing children, and appreciate the funding commitments they made in this bill.

I would also like to compliment my colleagues on the strength of the overall bill. In this highly charged political year, it is a welcome relief to act on legislation so crucial to the implementation of our international trade, law enforcement, and diplomatic efforts.

With regard to this broader, intentional agenda, I would like to take a moment to ask the chairman and ranking member of the subcommittee a few questions about their understanding of the foreign activities which the Department of Justice may support with resources available in the assets forfeiture fund. I am particularly concerned about use of this fund to expand or enhance DEA programs and personnel in Guatemala.

It is my understanding that the bill allows the Attorney General to transfer to other agencies roughly $50 million in unobligated 1992 balances.

Mr. HOLLINGS. My colleague is correct. The committee recommended that these funds be made available to procure vehicles and equipment and other capital investment for law enforcement, prosecution, and correctional activities. The $49,990,000 available in unobligated balances is expected to support nonrecurring expenses including $2.5 million for DEA's Operation Snowcap and Operation Cadence in Central and South America.

Mr. McCONNELL. As my colleague knows, there has been considerable discussion and effort by DEA to arrange the transfer of Blackhawk helicopters from the Defense Department to DEA and then use the forfeiture fund to retrofit the aircraft for deployment to Guatemala. I have read the chairman's letter to the Attorney General and was very impressed by the arguments he made opposing the use of the fund for these purposes.

There is absolutely no doubt about our mutual commitment to support drug interdiction efforts and the officers who wage this war. However, as the chairman and ranking member well know, we face tighter and tighter budget restraints which compel us to carefully assess spending priorities. When I was briefed on the expansion of Operation Cadence in Guatemala, I was troubled by DEA's apparent failure to coordinate with other agencies in defining both the threat which required this expansion and the resources available to combat the problem.

It struck me that this expansion was about competition between agencies not coordination. Customs and Coast Guard have been extremely successful in carrying out drug interdiction efforts in the Caribbean, and the State Department's International Narcotics Bureau has maintained a small, but effective air wing in Guatemala carrying out eradication missions and supporting DEA programs. I simply do not understand the logic of starting up a brandnew air wing on top of existing Customs, Coast Guard, and INM capabilities. Why are we thinking about duplicating existing resources which are not only in place but successfully carrying out their designated missions?

Now, if the job cannot get done—if our priorities have changed or there are new requirements—we should take a look at how we can improve our existing air wing before we finance and launch DEA in the international aviation business with new, very expensive, high technology aircraft. We cannot afford independent, competitive air wings when every agency, every program is competing for scarce resources.

With these reservations, and knowing of the chairman's concerns about this program, I seek his assurances that no money available in the assets forfeiture fund, nor any other account appropriated in this bill, will be used to deploy Blackhawk helicopters along with

DEA personnel to Guatemala. In particular, I want to know whether it was the committee's intention that report language referring to procurement and retrofitting of equipment and designating $2.5 million for Operation Cadence was intended to permit or include an independent DEA air wing in Guatemala.

Mr. HOLLINGS. I appreciate the Senator from Kentucky's raising these issues. I was and am concerned that the air operations which DEA plans to conduct in Guatemala present a risk to DEA personnel and equipment which outweighs the potential benefits. So, I do share the Senator's misgivings and I can assure him that it is not the committee's intention to permit the assets forfeiture fund, nor any funds appropriated in this bill to be used to expand DEA's air activities in Guatemala.

I am not closing the door completely. If DEA and the administration can put together a program to interdict aerial traffickers in Guatemala that responds to the concerns that have been expressed regarding security, effectiveness, and duplication of effort, this committee will be open to considering it. But no such initiative is funded in this bill.

Mr. RUDMAN. Let me also offer the Senator from Kentucky my commitment that his reservations will be addressed before any funding is approved for this program.

Mr. MCCONNELL. I appreciate the chairman and ranking member taking the time to engage in this exchange. With their assurances, I am confident we will find and fund the most reasonable, well thought out, and successful counternarcotics programs for the region.

Mr. BIDEN. Mr. President, I rise today in strong support for this bill, in particular the provisions providing appropriations for the Federal effort against the epidemic of crime and violence. As every American knows, a rising tide of unprecedented violence continues to sweep our Nation. Murders, rapes, muggings, and criminal assaults each soared to the greatest—and most horrible—toll in America's history in 1990. And, the murderous violent crime toll grew even worse in 1991.

Combating this violence must be among our Nation's highest priorities. And, the bill before the Senate today, makes great strides in that direction. Let me be clear, the credit for this effort must go to the Appropriations Committee, in particular, Chairman BYRD, Subcommittee Chairman HOLLINGS and Senator RUDMAN.

Because of their efforts, the Senate has the chance to boost funding to the FBI by more than $145 million; to boost funding to the DEA by more than $35 million; to boost funding for organized crime drug enforcement task forces; to add 261 more assistant U.S. attorneys to the fight against violent crime; and to add $70 million to the President's request for prison construction funds. The Appropriations Committee has found the dollars to fully fund the President's request, and every Senator should vote in support of this effort.

I would also like to recognize Chairman HOLLINGS' efforts in a few key areas—crime fighting initiatives which will make a real difference on the front lines of the national fight against violent crime.

Chairman HOLLINGS and the Appropriations Committee have reversed what I believe is the single-most destructive decision called for by the President's crime budget—his proposal to slash more than $80 million from the Justice Department's effort to support State and local law enforcement.

As every Senator knows, I have long believed that the Federal Government must do much more for the Nation's State and local law enforcement officials—the police officers who do most of the fighting, and most of the dying, in the war against violent criminals. Because of Chairman HOLLINGS' efforts, the Senate—by passing this bill—has the chance to restore the more than $80 million cut by the President.

In another high-priority area—the Weed and Seed Program—Chairman HOLLINGS and the Appropriations Committee have boosted funding to $23 million. This will ensure the second-year funding for every weed and seed demonstration site—to $1.5 million—as well as allow more sites to join this program.

Earlier this year I introduced legislation to combat one of the most destructive areas of white collar crime—the scourge of health care fraud that is estimated to be robbing the American consumer of more than $70 billion every year.

This bill will boost the effort to combat health care fraud by about 30 percent—adding $13 million to the FBI effort to fight those who would rob America's health care system at a time when a lean, efficient system is a national imperative.

This bill will do all this and much more, Chairman BYRD, Subcommittee Chairman HOLLINGS, Senator RUDMAN, and every member of the Appropriations Committee have offered the Senate a strong, effective, efficient bill and I urge every Senator to support this bill.

(At the request of Mr. MITCHELL, the following colloquy was ordered to be printed in the RECORD:)

• Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator HOLLINGS, in a colloquy on the availability of funds for an estuarine resources center in the town of Washington in eastern North Carolina, and two other matters of importance to coastal North Carolina.

Mr. HOLLINGS. I would be happy to discuss these matters with the Senator from North Carolina.

Mr. SANFORD. In the eastern end of my State, the Pamlico-Tar River Foundation, a nonprofit group of over 2,000 members, and the town of Washington, NC, are seeking to establish the North Carolina Estuarine Resources Center. The major function of this center would be to educate the residents and visitors of northeastern North Carolina of the important concerns of watershed protection. The complex integrity of watersheds, wetlands, and estuarine systems are only now beginning to be understood, and it is imperative that new information is shared to provide insight into the vast resources in the Albemarle-Pamlico region. Decisions governing the management of these natural resources will carry significant implications, economic, ethical, and ecological, for each and every citizen in northeastern North Carolina. Therefore, public education on these issues is imperative, and a permanent educational facility located on the western side of the Albemarle-Pamlico Sounds is a necessary element.

The proposed center is designed as an estuarine education center for schoolchildren in the area as well as the many tourists to North Carolina. The center would also work with Federal and State agencies on environmental research projects such as coastal water quality and ecosystem management.

The people in Washington, NC, have already funded a feasibility study for the center, and they are eager to get this project on the ground. The town of Washington is expected to provide land for the facility. They are also working to fund the construction of the center using private sources and foundation support.

They do have one small request for Federal funding. They are seeking a one-time Federal appropriation of $40,000 to be used to pay for startup expenses for the center, to retain an employee to work with the town, local leaders, and State and Federal Government to construct the center, and to begin its operation.

I do hope we will be able to provide this small amount to the North Carolina Estuarine Resources Center. The community is committed to this project which will greatly enhance Federal efforts in environmental education, environmental research, and the protection of the Albemarle-Pamlico Estuary, a designated estuary of national significance under section 320 of the Clean Water Act.

I am aware from the Senate Commerce Appropriations Subcommittee report that an increase of $360,000 has been included for the National Coastal Resources Research and Development Institute [NCRI]. I am also aware that NCRI's mission includes efforts to encourage a stable and sustainable coastal economy, and the proposed estuarine center has a similar goal. By using education and research and bringing all in-

terested groups together, the center will play a strong role in sustainable development of land resources and in improving water quality in order to improve commercial fishing and other water-based economic enterprises. For these reasons, I think that NCRI would be the right group to provide the seed money necessary to make the proposed estuarine center a reality.

Given the importance of our estuarines, the need for environmental education, and the great opportunity that an estuarine resources center would provide for coastal North Carolina, I would like to know if the Senator from South Carolina would be willing to allow $40,000 of the increased funding for NCRI be used to help with the efforts for the estuarine center in Washington, NC.

Mr. HOLLINGS. I thank the Senator from North Carolina for his comments in support of the estuarine resources center. I am very impressed by this proposal, and, as we go to conference with the House, I will certainly support specifying $40,000 of NCRI's fiscal year 1993 funding toward this effort.

Mr. SANFORD. There are two other matters that I would like to discuss briefly. The first matter deals with Buxton Woods, a maritime forest on the Outer Banks of North Carolina. Several years ago, Federal funds were provided to help purchase Buxton Woods. Due to some unexpected difficulties, however, additional time is needed to complete the purchase of this land.

It is my understanding that the House Commerce Appropriations Subcommittee has included in its report language to allow the money that has already been appropriated for the Buxton Woods acquisition to remain available for an additional year so that this rare habitat might be preserved. The House has also included language to allow up to $50,000 of this money to be available for the development of a special area management plan for Buxton Woods. It is my hope that the Senate conferees will accept the House language on this matter.

Mr. HOLLINGS. I believe we can accept the House language with regard to Buxton Woods, and I will work toward that end during our conference committee negotiations.

Mr. SANFORD. There is one last matter I would like to bring before the Senator from South Carolina, and that is funding for the fisheries laboratory in Beaufort, NC. This lab conducts valuable research in fisheries and coastal habitat protection. The House has included $182,000 to be used to upgrade and maintain the Beaufort facility, and to improve the laboratory's operational and scientific ability. I would ask that the Senate conferees do what they can to agree with the House's funding level.

Mr. HOLLINGS. As I and the other Senate conferees move to conference, I will certainly give careful consideration to accepting the House's funding level for the Beaufort Laboratory.

Mr. SANFORD. I thank the Senator from South Carolina for his time and for his consideration of these matters.●

ST. XAVIER UNIVERSITY'S INTERNATIONAL BUSINESS DEVELOPMENT CENTER

Mr. DIXON. Mr. President, I rise today in support of an exciting proposal from Chicago's St. Xavier University.

St. Xavier proposes to bring residents of the newly free Eastern European nations to the United States, and provide these individuals with hands-on experience in the workings of American small business procedures.

St. Xavier has already had proven results in Western Europe, where it has programs in France and Italy. Now, with Eastern Europe finally opening its borders to the west, St. Xavier promises to bring its resources to the nations that truly need American business knowledge—the nations of the former Soviet bloc.

Most of Chicago's businesses are of a relatively small size. As Eastern Europe attempts to move itself toward a free-market system, it needs guidance from the West. St. Xavier will provide Eastern European managers with a firsthand look at the operations of Chicago's small business industry.

Europe's new democracies will benefit from this innovative plan by gaining valuable experience within the United States. In addition, American businesses will gain valuable contacts within nations that just recently kept their borders closed to western innovations.

I urge my dear friend and colleague to support the St. Xavier proposal, and recommend that the U.S. Small Business Administration provide available funds for this program.

Mr. HOLLINGS. I understand the concern of the Senator from Illinois about this program. I would note that the committee has recommended against including any earmark appropriations for any university project. But, the Senator from Illinois makes some good points, and I request the Small Business Administration to review this project.

Mr. DIXON. I thank my colleague from South Carolina.

ECONOMIC CONVERSION INITIATIVE

Mr. WELLSTONE. Mr. President, I rise to express my support for the economic conversion initiative contained in the Committee on Appropriations report of S. 3026. I commend the committee and its chairman for supporting allocation of defense funds for critical economic conversion and adjustment programs. The Department of Defense not only has a moral responsibility to the members of the Armed Forces whose careers will be cut short, but also to the workers, defense contractors, and communities that have played a vital role in our defense effort for almost 50 years. To require them to fend for themselves during a time of recession would be the height of irresponsibility.

Both in its funding approach and in the conversion-related programs it supports, the committee initiative is fully consistent with the amendment to the budget resolution that I proposed and the Senate passed on April 10. My amendment stipulated that no less than $1 billion in budget authority provided for defense function 050 should be made available for defense conversion-related activities. It also called for funding the conversion and adjustment programs of the National Institute of Standards and Technology [NIST], the Economic Development Administration, and the Small Business Administration. The committee's astute decision to support these programs not only will facilitate economic conversion, but also help restore American competitiveness, revive our manufacturing base, and spur economic growth.

Mr. President, the bulk of the NIST funding in this bill, $100 million, is to be used for NIST external research grant programs intended to promote technological innovation and facilitate the conversion of U.S. industry to nondefense manufacturing. The NIST programs are designed to speed the commercialization of new technologies and ensure that American firms gain the benefits of American inventions, to aid small- and medium-sized manufacturers to modernize, increase productivity, and retain jobs, and to help State governments improve the effectiveness of vital technology and manufacturing extension programs. I commend the committee both for supporting these programs which will play a pivotal role in our economic recovery and for urging that priority for grants be given to defense firms proposing projects that show a potential to assist the defense industry in converting to nonmilitary production. Sustained congressional support of programs such as those of NIST are essential if America is to recapture and retain its technological edge in key nondefense sectors.

I particularly welcome the strong backing the committee has given to EDA efforts to assist defense-distressed communities. As we all know, EDA resources are used to improve economic opportunities in needy communities, and they include funding for basic planning, infrastructure development, and credit enhancement. Unfortunately, this administration, like the Reagan administration before it, has tried to kill EDA. EDA has not been included in a Presidential budget request since fiscal year 1981 and has been kept alive by congressional appropriations. Moreover, as the committee report notes, the $50 million provided EDA under the fiscal year 1991 DOD Appropriations Act, was held up for over a

year. So far, only $100,000 of these funds has reached communities in need.

Despite chronic funding shortfalls, EDA remains the only Federal agency capable of providing communities with economic devastation assistance. In providing vitally needed backing for EDA, the committee has given new hope to defense-dependent American communities ravaged by recession and facing an insecure and uncertain future.

CENTER FOR INTER-AMERICAN FREE TRADE

Mr. DECONCINI. Would the distinguished chairman yield to this Senator for a question?

Mr. HOLLINGS. I would be pleased to yield to my friend from Arizona.

Mr. DECONCINI. I thank my friend. As the Senator knows, there is language in the report accompanying his bill which discusses the national law Center for Inter-American Free Trade [CIFT]. Is the chairman aware that the CIFT is a not-for-profit organization, located in Tucson, AZ, which has recently been established to facilitate the exchange of information, research materials, and experts on treaties, conventions, legislation, and case law pertaining to legal institutions involved in the exchange of goods and services among Canada, Mexico, and the United States?

Mr. HOLLINGS. I have been made aware of the existence of the CIFT, and of its accomplishments to date, by the distinguished senior Senator from Arizona.

Mr. DECONCINI. I thank the distinguished chairman for his remarks. If my friend would yield further, would he agree that it is important—for the furtherance of trade and commerce between and among nations—that information about national laws and regulations be exchanged?

Mr. HOLLINGS. I would agree that any information exchanges which assist in enhancing the understanding of these regulations can be beneficial.

Mr. DECONCINI. Would the distinguished chairman also agree that, if the State Department views the work of the CIFT worthy of allocating funding to assist in providing these services to U.S. businesses and institutions engaged in North American trade, the Department should encourage the CIFT to provide matching funds up to a level of $400,000?

Mr. HOLLINGS. I would say to my friend from Arizona that I would encourage the State Department to support matching funds for services of this type at an appropriate level.

Mr. DECONCINI. I thank my friend, the distinguished manager of the bill, and I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 3026, the Commerce, State, and Justice appropriations bill at 10 a.m. tomorrow, that the only amendments to be in order to the bill be three amendments by Senator GRAHAM freezing the overhead expenses for the Department of Commerce, Justice, and State; that Senator GRAHAM be recognized to offer these three amendments en bloc at that time; that there be 1 hour for debate on the amendments equally divided in the usual form; that at the conclusion or yielding back of the time, the Senate proceed to vote in seriatim on each of Senator GRAHAM's amendments with no further intervening action or debate; and, upon the disposition of Senator GRAHAM's amendments, the Senate proceed to the third reading of the bill, and that the preceding all occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that once S. 3026 has been read a third time, the bill be returned to the calendar; that upon receipt from the House of Representatives of the companion measure, the text of S. 3026 as of third reading be incorporated into the House bill, H.R. 5678, as Senate-passed amendments; that the House bill, as amended, be deemed read a third time and passed, and that the motion to reconsider be laid upon the table; provided, further, that the Senate insist on its amendments, and request a conference with the House; and that the Chair be authorized to appoint conferees; that all of the above actions occur without intervening action or debate; and, that S. 3026 then be indefinitely postponed.

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

The text of the agreements follow:

Ordered, That at 10:00 a.m. on Tuesday, July 28, 1992, the Senate resume consideration of S. 3026, the State/Justice/Commerce Appropriation Bill, and that the only amendments remaining in order to the bill be three Graham amendments, freezing the overhead expenses for the Departments of Commerce, Justice, and State.

Ordered further, That the Senator from Florida (Mr. Graham) be recognized to offer these three amendments en bloc at that time and that there be 1 hour debate, to be equally divided and controlled in the usual form.

Ordered further, That upon the conclusion or yielding back of time, the Senate proceed to vote ad seriatim on each of the Graham amendments, with no intervening action or debate.

Ordered further, That upon the disposition of Senator Graham's amendments, the Senate proceed to third reading of the bill and that the preceding all occur without any intervening action or debate.

Ordered further, That once S. 3026 has been read a third time, the bill be returned to the Calendar, that upon receipt from the House of Representatives of the companion measure, the text of S. 3026 as of third reading be incorporated into the House bill, H.R. 5678, as Senate passed amendments.

Ordered further, That the House bill, as amended, be deemed read a third time and passed and the motion to reconsider laid upon the table.

Ordered further, That the Senate insist on its amendments, request a conference with the House, and that the Chair be authorized to appoint conferees.

Ordered further, That all of the above actions occur without intervening action or debate and S. 3026 then be indefinitely postponed.

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

Mr. HOLLINGS. 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. HOLLINGS. 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. HOLLINGS. Mr. President, let me thank our distinguished majority leader, and the minority leader, particularly my colleague, the Senator from New Hampshire, and the staff for all their work, and particularly our Commerce Committee staff who worked all over the weekend on unsnarling that SEC provision.

I think we have done a good day's work here and we should be completed under the unanimous-consent agreement on the bill here on the Senate side by midday tomorrow.

So let me thank the majority leader for his leadership and cooperation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

IMPROVED ENERGY EFFICIENCY CLOTURE MOTION

Mr. MITCHELL. Mr. President, I move to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency, and I send a cloture motion on the motion to proceed to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, Joe Biden, Frank R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

Mr. MITCHELL. Mr. President, I withdraw the motion to proceed to the energy bill, and I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to H.R. 776 occur at 2:15 p.m. on Tuesday, July 28, and that notwithstanding the invoking of cloture on the motion, the Senate remain on the Agriculture appropriations bill until it has been disposed of.

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

PROGRAM

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

I thank my colleagues for their cooperation. I especially thank the managers for their diligence in handling the pending bill.

To summarize, for the benefit of Senators and their schedules, we will complete action on the pending State, Commerce, and Justice appropriations bill tomorrow. There will be a final series of amendments offered at 10 a.m. Votes on one or more of those amendments will occur at 11 a.m.

Following that, the Senate will, by previous agreement, proceed to the Agriculture appropriations bill at 2:15, following party caucuses.

We will vote on the cloture motion on the motion to proceed to the energy bill. If we have not by then completed action on the energy bill or the Agriculture appropriations bill, notwithstanding the result of the cloture vote, we will continue to remain on the Agriculture appropriations bill until it has been completed.

Then, if cloture has been invoked on energy, we will take up that bill following disposition of the Agriculture appropriations bill.

I thank my colleagues for their cooperation, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

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

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

DESALINIZATION RESEARCH AND DEVELOPMENT ACT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 519, S. 2902, authorizing research into the desalinization of water; that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table and that any statements relative to passage of this item appear at the appropriate place in the RECORD.

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

So the bill (S. 2902) was deemed read a third time, and passed, as follows:

S. 2902

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 "Desalinization Research and Development Act of 1992".

SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in many parts of the United States and the world, it is the policy of the United States to perform research to develop low-cost alternatives in the desalinization and reuse of saline or biologically impaired water to provide water of a quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses, and to provide, through cooperative activities with local sponsors, desalinization and water reuse processes or facilities which provide proof-of-concept demonstrations of advanced technologies for the purpose of developing and conserving the water resources of this Nation and the world.

SEC. 3 DEFINITIONS.

As used in this Act—

(1) the term "desalinization" means the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes;

(2) the term "saline water" means sea water, brackish water and other mineralized or chemically impaired water;

(3) the term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(4) the term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive use; and

(5) the term "sponsor" means any local, State, or interstate agency responsible for the sale and delivery of "usable" water that has the legal and financial authority and capability to provide the financial and real property requirements needed for a desalinization facility.

SEC. 4. RESPONSIBILITY FOR THE PROGRAM.

(a) The Secretary of the Interior shall have primary program management and oversight for conduct of the research and development and the Desalinization Development Program and shall coordinate these activities with the Secretary of the Army.

(b) The Secretary of the Interior shall jointly execute the Desalinization Development Program with the Secretary of the Army.

SEC. 5. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—In order to gain basic knowledge concerning the most efficient means by which usable water can be produced from saline water, the Secretary of the Interior and the Secretary of the Army shall conduct a basic research and development program as established by this Act.

(b) For the basic research and development program the Secretary of the Interior and the Secretary of the Army shall—

(1) conduct, encourage, and promote fundamental scientific research and basic studies to develop the best and most economical processes and methods for converting saline water into "usable" water through research grants and contracts—

(A) to conduct research and technical development work,

(B) to make studies in order to ascertain the optimum mix of investment and operating costs,

(C) to determine the best designs for different conditions of operation, and

(D) to investigate increasing the economic efficiency of desalinization processes by using them as dual-purpose "co-facilities" with other processes involving the use of water;

(2) engage by competitive or noncompetitive contract or any other means, necessary personnel, industrial or engineering firms, Federal laboratories and other facilities, and educational institutions suitable to conduct research or other work;

(3) study methods for the recovery of byproducts resulting from the desalinization of water to offset the costs of treatment and to reduce the environmental impact from those byproducts; and

(4) prepare a management plan for conduct of the "Research and Development Program".

SEC 6. DESALINIZATION DEVELOPMENT PROGRAM.

(a) The Secretary of the Interior will have program responsibility.

(b) The Secretary of the Army and the Secretary of the Interior both shall have authority to design and construct facilities under the provision of the Desalinization Development Program.

(c) SELECTION OF DESALINIZATION DEVELOPMENT FACILITIES.—Candidate facilities must be submitted by the sponsor directly to the Secretary of the Army or the Secretary of the Interior. Sponsors will submit their application for the design and construction of a facility and certification that they can provide the required cost sharing. Facilities will be selected subject to availability of Federal funds.

(d) COST SHARING.—

(1) The "initial cost" of a facility shall include—

(A) design cost,

(B) construction cost,

(C) lands, easements, and rights-of-way costs, and

(D) relocation costs.

(2) GENERAL RULE.—The sponsor for a facility under the Desalinization Development Program shall—

(A) pay, during construction, 5 percent of the "initial cost" of the facility, and

(B) provide all lands, easements, and rights-of-way and perform all related necessary relocations.

(3) 25-PERCENT MINIMUM CONTRIBUTION.—If the value of the contributions required under paragraph (2) of this subsection is less than 25 percent of the "initial cost" of the facil-

ity, the sponsor shall pay during construction of the facility such additional amounts as are necessary so that the total contribution of the sponsor is equal to 25 percent of the "initial cost" of the facility.

(4) 50-PERCENT MAXIMUM.—The sponsor share under paragraph (2) shall not exceed 50 percent of the "initial cost" of the facility.

(e) the "initial cost" of a facility may not exceed $10,000,000.

(f) Operation, maintenance, repair, and rehabilitation of facilities shall be the responsibility of the sponsor.

(g) REVENUE.—All revenue generated from the sale of "usable water" from the facilities shall be retained by the sponsors.

SEC. 7. PARTICIPATION BY INTERESTED AGENCIES AND OTHER PERSONS.

(a) COORDINATION WITH OTHER AGENCIES.—

(1) Research and development activities undertaken by the Secretary of the Interior under this Act shall be coordinated or conducted jointly, as appropriate, with—

(A) The Department of Commerce, specifically with respect to marketing and international competition,

(B) as appropriate—

(i) the Department of Defense, Agriculture, State, Health and Human Resources, and Energy,

(ii) the Environmental Protection Agency,

(iii) the Agency for International Development, and

(iv) other concerned Government and private entities.

(2) Other interested agencies may furnish appropriate resources to the Secretary of the Interior to further the activities in which they are interested.

(b) AVAILABILITY OF RESEARCH.—All research sponsored or funded under authority of this Act shall be provided in such manner that information, products, processes, and other developments resulting from Federal expenditures or authorities will (with exceptions necessary for national defense and the protection of patent rights) be available to the general public consistent with this Act.

(c) PATENTS AND INVENTIONS.—

(1) Subject to paragraph (2), section 9 (a) through (k) and (m) of the Federal Nonnuclear Energy, Research and Development Act of 1974 (43 U.S.C. 5908 (a) through (k) and (n)) shall apply to any invention made or conceived in the course of or under any contract of the Secretary of the Interior pursuant to this Act, except that for the purposes of this Act, the words "Administrator" and "Administration" in that section shall be deemed to refer to the Secretary and Department of the Interior, respectively.

(2) Paragraph (1) shall not be construed to affect the application of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) to research under this Act that is performed at a Federal laboratory.

(d) RELATIONSHIP TO ANTITRUST LAWS.—Section 10 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5909) shall apply to the activities of individuals, corporations, and other business organizations in connection with grants and contracts made by the Secretary of the Interior pursuant to this Act.

SEC. 8. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary of the Interior is authorized to accept technical and administrative assistance from a State, public or private agency in connection with research and development activities relating to desalinization of water and may enter into contracts or agreements stating the purpose for which the assistance is contributed and, in appropriate circumstances, providing for the sharing of costs between the Secretary of the Interior and such agency.

SEC. 9. MISCELLANEOUS AUTHORITIES.

In carrying out this Act, the Secretary of the Interior or the Secretary of the Army, as appropriate, may—

(1) make grants to educational and scientific institutions;

(2) contract with educational and scientific institutions and engineering and industrial firms;

(3) engage, by competition or noncompetitive contract or any other means, necessary personnel, industrial and engineering firms and educational institutions;

(4) use the facilities and personnel of Federal, State, municipal, and private scientific laboratories;

(5) contract for or establish and operate facilities and tests to conduct research, testing, and development necessary for the purposes of this Act;

(6) acquire processes, data, inventions, patent applications, patents, licenses, lands, interests in lands and water, facilities, and other property by purchase, license, lease, or donation;

(7) assemble and maintain domestic and foreign scientific literature and issue pertinent bibliographical data;

(8) conduct inspections and evaluations of domestic and foreign facilities and cooperate and participate in their development;

(9) conduct and participate in regional, national, and international conferences relating to the desalinization of water;

(10) coordinate, correlate, and publish information which will advance the development of the desalinization of water; and

(11) cooperate with Federal, State, and municipal departments, agencies and instrumentalities, and with private persons, firms, educational institutions, and other organizations, including foreign governments, departments, agencies, companies, and instrumentalities, in effectuating the purposes of this Act.

SEC. 10. DESALINIZATION CONFERENCE.

(a) ESTABLISHMENT.—The President shall instruct the Agency for International Development to sponsor an international desalinization conference within twelve months following the date of the enactment of this Act. Participants in such conference should include scientists, private industry experts, desalinization experts and operators, government officials from the nations that use and conduct research on desalinization, and those from nations that could benefit from low-cost desalinization technology, particularly in the developing world, and international financial institutions.

(b) PURPOSE.—The conference established in subsection (a) shall explore promising new technologies and methods to make affordable desalinization a reality in the near term, and shall further propose a research agenda and a plan of action to guide longer-term development of practical desalinization applications.

(c) FUNDING.—Funding for the international desalinization conference may come from operating or program funds of the Agency for International Development, and the Agency for International Development shall encourage financial and other support from other nations, including those that have desalinization technology and those that might benefit from it.

SEC. 11. REPORTS.

Prior to the expiration of the twelve-month period following the date of enactment of this Act, and each twelve-month period thereafter, the Secretary of the Interior, in consultation with the Secretary of the Army, shall prepare a report to the President and Congress concerning the administration of this Act. Such report shall include the actions taken by the Secretary of the Interior and the Secretary of the Army during the calendar year preceding the calendar year in which such report is filed, and shall include actions planned for the next following calendar year.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated $5,000,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, and for each of the fiscal years 1995, 1996, and 1997, such sums as may be necessary for the purposes of carrying out section 5 of this Act.

(b) There is authorized to be appropriated $50,000,000 over a five-year period for the purposes of section 6 of this Act. Any of the funds appropriated will be made available equally to the Department of the Interior or the Army Corps of Engineers civil works program.

DISCLOSURE OF RECORDS ON THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 552, S. 3006, a bill to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3006) to provide for the expeditious disclosure of records relative to the assassination of President John F. Kennedy.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments to the bill?

AMENDMENT NO. 2764

Mr. HOLLINGS. Mr. President, I send a technical amendment on behalf of Mr. GLENN to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] (for Mr. GLENN) proposes an amendment numbered 2764.

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

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

The amendment is as follows:

On page 13, strike lines 9 through 14 and insert the following:

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postpone-

ment set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

On age 15, line 7, after "make" insert "immediately".

On page 15, lines 8 and 9, strike "not later than 300 days after the date of enactment of this Act".

On page 17, line 3, after "operations," insert "law enforcement,".

On page 22, line 15, strike "after receiving the report from" and insert "after reported by".

On page 25, line 7, strike "create" and insert "complete".

On page 26, line 1, after "(iii)" insert "request the Attorney General to".

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

The amendment (No. 2764) was agreed to.

Mr. GLENN. Mr. President, as the Senate considers passage of S. 3006, the President John F. Kennedy Assassination Records Collection Act, I wish to express my appreciation to Senator DAVID BOREN and Senator ARLEN SPECTER who introduced the initial legislation in the Senate earlier this year. Senators BOREN and SPECTER deserve enormous credit for their commitment to requiring the public disclosure of the records related to the assassination of President John F. Kennedy. They have both been extremely helpful throughout the consideration of the legislation by the Committee on Governmental Affairs. Similarly, I would like to personally acknowledge the significant role of my colleague from the House of Representatives, Congressman LOUIS STOKES. Congressman STOKES seized the initiative to require the release of the records and has taken a special interest in ensuring that the American public is given prompt and wide-ranging access to the information about the assassination.

I must acknowledge the full support and approval of all the members of the Committee on Governmental Affairs for the legislation. In addition, several specific members who came forward in support of this legislation deserve recognition. These include Senator BOREN, Senator SPECTER, Senator MITCHELL, Senator METZENBAUM, Senator LEVIN, Senator PRYOR, Senator LIEBERMAN, Senator AKAKA, Senator STEVENS, Senator COHEN, Senator DECONCINI, Senator WOFFORD, Senator MURKOWSKI, Senator GRASSLEY, and Senator LEAHY.

BACKGROUND AND NEED FOR THE LEGISLATION

On November 22, 1963, President John F. Kennedy was assassinated. It was a tragic and defining moment in American history. The desire by the American public to understand who assassinated President Kennedy, and why, has resulted in several official investigations and a broad spectrum of private inquiries and scholarship. Unfortunately, in the eyes of the public, each investigation and inquiry served to raise additional questions, and did so while increasing the volume of secret Government records about the assassination. In 1992, the public demand, fostered by increased media attention, the opening of secret files by changing governments around the world, and other factors, culminated in the recognition by the Congress and the executive branch that the records related to the assassination of President Kennedy should be fully disclosed.

In addition to the legislation considered by the committee, and its counterpart considered by the House Committee on Government Operations, four other related, though more limited, measures were introduced in the House of Representatives in 1992. Two bills mandating the release of all Kennedy assassination investigation records were H.R. 4090, introduced January 3, 1992, and H.R. 4108, introduced January 24, 1992. Two House resolutions directing the unsealing of the records of the Select Committee on Assassinations were House Resolution 325, introduced January 22, 1992, and House Resolution 326, introduced on January 24, 1992.

I share the belief in the importance of disclosing the records. I believe that all Government records related to the assassination of President Kennedy should be preserved for historical and governmental purposes; that all such records should carry a presumption of immediate disclosure; and, that all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The Committee on Governmental Affairs also closely examined the issue of whether legislation was necessary and concluded that it was. While disclosure of the records could be achieved through a nonstatutory approach—by each House of the Congress passing a resolution pertaining to its records, and the President issuing an Executive order to the same effect—a statute is necessary to ensure an independent and enforceable mechanism for disclosure under uniform standards for review.

In addition, the committee found that legislation is necessary because congressional records related to the assassination would not otherwise be subject to public disclosure until at least the year 2029—with uncertain disclosure of related classified executive branch records; because the Freedom of Information Act, as implemented by the executive branch, has impeded the timely public disclosure of the assassination records; because Executive Order 12356, National Security Information, has eliminated the government-wide schedules for declassification and downgrading of classified information and has prevented the timely public disclosure of assassination records; and because most of the records related to the assassination of President Kennedy are at least 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

The release of records and materials in the possession of the Federal Government pursuant to the legislation will significantly expedite public access to this information. Although certain records related to the assassination of President Kennedy have been made available over time to the public, the legislation will create opportunities for the public to review records which might otherwise not be possible for several decades. Importantly, the public will be enabled to make their own observations and judgments based on firsthand access to previously undisclosed records. S. 3006 creates a process to publicly disclose all records related to the assassination of President John F. Kennedy. The underlying principles guiding the legislation are independence, public confidence, efficiency and cost effectiveness, speed of records disclosure, and enforceability. In order to achieve these objectives, the act creates a presumption of disclosure upon the Government, and it establishes an expeditious process for the review and disclosure of the records. The act creates numerous requirements to ensure that the public will be enabled to make its own observations, judgments, and determinations with regard to the history of the assassination and related matters. In order to provide for the most comprehensive disclosure of records related to the assassination of President Kennedy, the act empowers an independent review board with the authority to request any additional information or records from relevant Government agencies and congressional committees. Finally, the determinations of the review board are reviewable and enforceable in a court of law.

These purposes and objectives were carefully addressed during the development of the new legislation. The President John F. Kennedy Assassination Records Collection Act—the act—reflects the many recommendations and ideas developed from the hearings, meetings with affected Government agencies, and views expressed by members of the public experienced in efforts to access records from relevant agencies in general, and with particular emphasis upon the assassination of President Kennedy. The bill also reflects the considerable research and expertise of the committee staff with regard to the law and policy of public access to Government information.

PURPOSE AND SUMMARY OF THE LEGISLATION

The legislation establishes the President John F. Kennedy Assassination Records Collection at the National Archives. The collection will be made known and accessible to the public by the creation of a subject guidebook and index to the records created by the National Archives. The collection will include all public assassination records

at the National Archives at the time of enactment; for example, public records of the Warren Commission; all assassination records released by Government offices pursuant to this act; all postponed records as part of the protected collection; and all postponed records as they become publicly disclosed in the future. The public will also be able to request reproduction of records from originating Government agencies.

Government offices holding assassination records are required to begin organizing and reviewing such records upon enactment and have this work completed within 10 months of enactment. During this time, the Government offices will determine whether records qualify as assassination records and then whether they recommend to the review board that public disclosure of certain records be postponed for reasons of national security, confidentiality, and privacy, as established in the act. All assassination records which are not recommended for postponement must be made immediately available to the public through the Government office and by transmission to the National Archives. Records recommended for postponement are required to be reviewed by an independent assassination records review board, which makes determinations for release or postponement.

In the case of executive branch records and information, the President has the authority to override the review board's determinations with regard to release or postponement. For congressional records, in the event that the Congress disagrees with a determination by the review board, each House would be required to adopt a resolution to change or create a rule governing the disposition of its records at issue. Such rulemaking authority is preserved by the act. Finally, all postponed records undergo periodic review and must be disclosed in full no later than 25 years after the date of enactment unless, in the case of executive branch records, the President demonstrates that pubic disclosure will result in an identifiable harm to the national security, intelligence operations, or foreign relations of the United States.

The assassination records review board is an independent agency within the executive branch. The five-member review board will be appointed by the President with the advice and consent of the U.S. Senate. The confirmation hearings will be conducted by the Committee on Governmental Affairs. The act requires that the review board include at least one historian and one attorney, and that each member is a nationally recognized professional in his or her field. The legislation requires that prior to making the appointments, the President is required to consider recommendations from the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the review board has the authority to direct any Government office to produce additional information and records which it believes are related to the assassination. It has the authority to subpoena private persons and to enforce the subpoenas through the courts.

The review board is authorized for a 2-year period and it may be extended by a majority of the review board for up to an additional year. The review board could decided to extend its existence to less than 1 year if that is the time determined as necessary to complete its work. Annual financial reports and other periodic reports are required to be provided to the Congress. The reports must include statements of progress, the level of cooperation of Government offices and agencies, and the possible need for additional time or authority from Congress.

Last, I wish to correct part of the language of the committee's report with regard to the autopsy records of President Kennedy. Certain words were mistakenly omitted from the last sentence on page 21 continuing on page 22. The sentence should read: "The Committee believes that there is a compelling justification for protecting the privacy of the Kennedy family from the unwarranted intrusion that would be raised by public disclosure of the records conveyed by the deed."

Mr. PRYOR. Mr. President, as a member of the Senate Governmental Affairs Committee which developed and approved S. 3006, the President John F. Kennedy Assassination Records Collection Act, I wish to assure the American public that this act will result in the widest and broadest possible disclosure of records related to the tragic assassination of President John F. Kennedy.

The American public wants to understand the history surrounding the assassination of President Kennedy, and I hope that this act will help answer many questions and possibly quell the spiraling speculation about the subject. As set forth in the act all records as related to the assassination of President Kennedy should be preserved for historical and governmental purposes; all such records should carry a presumption of immediate disclosure; and, all such records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination.

The legislation takes important steps to establish a process of records review which will maintain, perhaps for the first time, the public confidence in such a process related to the Kennedy assassination records. An independent review board will make final determinations, and their conclusions will be reviewable and enforceable in a court of law.

To ensure a comprehensive search and disclosure of assassination records, particularly to enable the public to obtain information and records beyond the scope of previous official inquiries, the Review Board has the authority to direct any Government office to produce additional information and records which it believes are related to the assassination. It has the authority to request that the Attorney General subpoena private persons and to enforce the subpoenas through the courts.

DONATED RECORDS AND THE COST OF RECORDS REPRODUCTION

Finally, I wish to discuss two issues which have become controversial in the consideration of similar legislation before the House of Representatives. The first is whether records which have been donated to the Government through deeds of gift or donation should be treated as assassination records. The second is the cost that the public will be charged when it seeks to obtain copies of certain of the assassination records once they are released. In each case, the Archivist of the United States, Dr. Don Wilson, has unfortunately chosen to advocate and lobby the Congress to narrow public access to the assassination records. To the subsequent chagrin of certain Members of the House of Representatives who the Archivist persuaded to sponsor his provisions before the House Judiciary Committee, they have now learned that such proposals will hinder public access to the Kennedy assassination records. The Archivist's actions will have this effect because he wants all records which have been donated or gifted to the Government to be exempt from the definition of "assassination records"; and, he does not want the National Archives to be subject to the Freedom of Information Act fee waiver provisions for the Kennedy assassination records or any other records. As a result, important segments of the records related to the assassination of President Kennedy will not be covered by the new law, and the National Archives will make it too expensive for the public to obtain copies of the records.

With regard to the issue of deeds of gifts and donations, it is important to explain how records of past Presidents would be subject to such controls. Prior to the enactment of the Presidential Records Act, which first took effect during the Reagan administration, Presidential records were the personal property of each President. In recent decades, when any such records were returned to the Government, it

was the custom to do so through a deed of gift or donation, and in some cases such deeds contained terms restricting access, or making such access consistent with official access requirements such as an Executive order on classified information. Such is the case for the papers, for example, of both President Johnson and President Ford. I mention these two examples because they illustrate how significant segments of official records possibly related to the assassination of President Kennedy would be excluded from public access under the new law. Indeed, we are talking about nothing less than the complete record collection of the Rockefeller Commission, created by President Ford which examined, in part, any possible ties between the CIA and the assassination of President Kennedy, as well as countless records donated by President Johnson, including literally thousands of personal tape-recorded telephone conversations of President Johnson.

The key issue is that of preserving the terms of deeds of donations and gifts, without preventing the official review and possible public disclosure of any records under the standards for review and other requirements of S. 3006. Unlike the action by Congress taken in the aftermath of Watergate to override the restrictions which President Nixon sought to place on his records and tapes, Congress has no such intent with records related to the assassination of President Kennedy. S. 3006 carefully balances these needs with provisions which do not override the terms of deeds, but which requires that the records, where appropriate, are treated as assassination records under the act. It is hoped that this approach will continue to be applied, and that the public will not be denied access to such important components of the Kennedy assassination files as sought by the Archivist.

Second, is the issue of the cost of records reproduction to the public, and the Archivist's insistence that the National Archives does not have to apply the fee schedule of fee waiver provisions of the Freedom of Information Act. Again, unfortunately, the Archivist is taking a position which directly undercuts the public's rights and means of access to the Kennedy files.

In developing the legislation, our committee carefully considered the cost of reproduction of the assassination records charged to the public and the application of the Freedom of Information Act fee waiver requirements to the National Archives and other Government offices which possess assassination records. Just as the definition of the term "assassination records" is the threshold test for public confidence in the scope of disclosure resulting from the act, public access itself is the single most important purpose of the act.

For example, it has been the experience of certain researchers including the Assassination Archives and Records Center, that it is more expensive to obtain copies of records related to the assassination of President Kennedy from the National Archives than from the originating agencies such as the Central Intelligence Agency [CIA] and the Federal Bureau of Investigation [FBI]. The committee specifically sought to determine the cost of reproduction of records which are on the shelf and for which no search is required.

The committee confirmed that it is more expensive for the public to obtain on-the-shelf records at the National Archives than at originating agencies. This is the result of two factors: Pricing policy and application of the fee waiver provisions of the Freedom of Information Act [FOIA]. The National Archives charges the public a higher price for reproduction and does not honor the fee waiver provisions of the FOIA in the belief that it is exempt from such provisions.

The committee investigated the fees at the agencies where the greatest public demand for Kennedy assassination records have been—the CIA and the FBI, and compared it to the National Archives. The committee found the pricing policy of the CIA and the FBI are identical. Where no search is required, the first 100 pages are free, and additional copies cost 10 cents per page—regardless of whether the public takes delivery in person at the agency or by mail. In comparison, the National Archives charges the public 10 cents per page for copies of records which are requested in person, and 25 cents per page for copies of records requiring mailing. The result has been that the National Archives has created an unnecessary and unreasonable burden on the public to shop around Government for the least expensive means of obtaining copies of records. As a result of these findings, and the National Archives determination to continue to charge more for records reproduction than agencies who comply with the Freedom of Information Act fee schedule requirements and guidelines, the act provides in section 5(h) that the public may also seek copies of assassination records from the originating agencies.

The committee next determined that it is less expensive for the public to obtain copies of records at originating agencies than at the National Archives because the agencies are faithful to the fee waiver provisions of the FOIA, whereas the National Archives is not. Again, the committee was especially concerned with the history of access to on the shelf records related to the assassination of President Kennedy. The Committee examined the National Archives claim that it is exempt from such provisions of the FOIA, the influence that this interpretation has had on the cost of records to the public, and the impact of such a policy on uniform and reasonable access and public disclosure costs under this Act.

Application of the FOIA fee waiver provisions are particularly essential with regard to the records related to the assassination of President John F. Kennedy. First, the National Archives is covered by the Freedom of Information Act, there is no exception to this requirement in law, and to create such an exception would undermine the application of the Nation's foremost means of public access and government accountability at the nation's foremost repository of government records. Second, without applying the FOIA fee waiver provision to the Kennedy assassination records the National Archives would be acting in a manner which undermines that law. Simply put, the public would lose its rights under the Freedom of Information Act as soon as any record record is transferred to the National Archives. Third, as with its pricing policy, its policy with regard to the FOIA fee waiver would create an unnecessary and unreasonable burden upon the public by requiring that it shop around the government for the least expensive means of records reproduction.

It is necessary to require the application of the FOIA fee waiver provisions to public requests for records contained in the President John F. Kennedy Assassination Records Collection because to do otherwise would seriously conflict with the purposes and intent of public access and disclosure under the Act. While the Congress cannot specify the exact cost of record reproduction under the Act, it is clearly intended that the costs be reasonable and that the FOIA fee waiver provisions apply at all executive agencies including the National Archives.

No one should obstruct access to the Kennedy assassination records, least of all the Archivist of the United States.

Mr. BOREN. Mr. President, I urge all of my colleagues to join in supporting passage of S. 3006, a bill calling for release of all Government records related to the assassination of President John F. Kennedy.

On March 26, 1992, Senator SPECTER and I introduced Senate Joint Resolution 282, a bill providing for a comprehensive process leading to the release of all Kennedy assassination records. The joint resolution, an identical version of which was introduced in the House of Representatives, represented a collaborative effort between our offices and the office of Representative LOUIS STOKES, the distinguished former chairman of the House Assassinations Committee.

Among the original cosponsors of our joint resolution was Senator GLENN, whose Governmental Affairs Committee has skillfully guided, the legisla-

tion to the floor. In a single hearing, the committee carefully examined all of the key issues concerning the legislation. I was pleased to testify at the hearing and explain the purpose and structure of the legislation. The Governmental Affairs Committee made a conscientious and comprehensive effort to refine the legislation, taking into account various interests and realities that came into play. The committee staff worked closely with the staff of the Senate Intelligence Committee, which I chair, as well as other offices in the legislative, executive, and judicial branches and many outside Government.

The version of the legislation now before us, S. 3006, is faithful to the tenets of the joint resolution we originally introduced. Input from various interested parties has reshaped some aspects of the release procedures, but the ultimate goal—full release of all the J.F.K. assassination files—remains the same. S. 3006 has chosen Presidential appointment of the Review Board, with Senate advice and consent, over our choice of judicial appointment, but as I testified at the hearing, this is an acceptable choice. I urged Senator GLENN'S committee to remove from the legislation an exemption for the Review Board from certain open Government laws, and I am pleased that the committee has done so.

As I said in introducing the legislation, the public, and particularly our young people, need to have confidence in the integrity and fairness of their Government. So long as key Kennedy assassination materials remained locked away, there will be those who will believe the Government has something to hide with respect to this heinous crime. We need to open the files. I don't know what is inside them. I don't know if there is any new information that could alter the findings of previous investigation. But the time has come to let the files speak for themselves. Let historians and journalists and the people read them and draw the appropriate conclusions.

It is time to review the records, not in terms of the old assumptions, but rather in light of the need for openness and to encourage confidence in the Government.

As a general principle, the intelligence community should make available its records after the passage of a reasonable amount of time when current sources and methods would no longer be compromised. The American people have a right to assure themselves to the greatest degree possible of the accuracy of the historical record of our Government. The timely release of all documents of historic value and importance helps to assure that even the most secret programs of our Government will be operated in accordance with basic American values. Current intelligence operations will be even more carefully conducted when it is recognized that they will be scrutinized by the public during the lifetime of many of those who administered the programs.

I feel confident that the great majority of the Kennedy assassination material can be promptly released with no adverse effect on the national security of our country, the law enforcement efforts of our Government, or the privacy rights of our people. We can take account of those interests in compelling cases, but the strong presumption in all cases should be in favor of disclosure. As with the original version of the legislation, S. 3006 properly requires that anything not released immediately must be marked with a recommendation of a specified time at which or a specified occurrence following which the material must be disclosed to the public. The public must also be promptly informed about each record withheld from immediate release.

With a few important exceptions—in particular, I would much prefer to ensure prompt disclosure of official records donated pursuant to deeds of gift—other than the autopsy materials—in the manner required by our original joint resolution and the House Government Operations version of the bill, and I don't see the need for a general exemption for tax returns—the differences between S. 3006 and the two versions of the legislation now under consideration in the House come down to minor points of implementation. I urge my colleagues in both Houses to come together promptly to reach a final version.

S. 3006

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 "President John F. Kennedy Assassination Records Collection Act of 1992".

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

(2) all government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

(5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

(6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

SEC. 3. DEFINITIONS.

In this Act:

(1) "Archivist" means the Archivist of the United States.

(2) "Assassination record" means a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

(A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission");

(B) the Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission");

(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee");

(D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives;

(E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives;

(F) the Library of Congress;

(G) the National Archives and Records Administration;

(H) any Presidential library;

(I) any Executive agency;

(J) any independent agency;

(K) any other office of the Federal Government; and

(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

(3) "Collection" means the President John F. Kennedy Assassination Records Collection established under section 4.

(4) "Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

(5) "Government office" means any office of the Federal Government that has possession or control of assassination records, including—

(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities and other assassination records;

(C) the Library of Congress;

(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

(E) any other executive branch office or agency, and any independent agency.

(6) "Identification aid" means the written description prepared for each record as required in section 4.

(7) "National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

(8) "Official investigation" means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

(9) "Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

(10) "Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

(11) "Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

(12) "Review Board" means the Assassination Records Review Board established by section 7.

(13) "Third agency" means a Government agency that originated an assassination record that is in the possession of another agency.

SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

(a) IN GENERAL.—(1) Not later than 60 days after the date of enactment of this Act, the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the collection.

(2) The Collection shall include—

(A) all assassination records—

(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

(ii) that are required to be transmitted to the National Archives; or

(iii) the disclosure of which is postponed under this Act;

(B) a central directory comprised of identification aids created for each record transmitted to the Archivist the under section 5; and

(C) all Review Board records as required by this Act.

(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

(c) FEES FOR COPYING.—The Archivist shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

(e) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the Collection.

SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.

(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

(2) No assassination record shall be destroyed, altered, or mutilated in any way.

(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

(4) No assassination record created by a person or entity outside government (excluding names or identities consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

(2) transfer is necessary for an administrative hearing or other Review Board function; or

(3) it is a third agency record described in subsection (c)(2)(C).

(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act, each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

(2) In carrying out paragraph (1), a Government office shall—

(A) determine which of its records are assassination records;

(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

(ii) transmit to a third agency or other government office those records, or particular information contained in those records, or complete and accurate copies thereof;

(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act, the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

(2) Upon completion of an identification aid, a Government office shall—

(A) attach a printed copy to the record it describes;

(B) transmit to the Review Board a printed copy; and

(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—Each Government office shall—

(1) transmit to the Archivist, and make immediately available to the public, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

(f) CUSTODY OF POSTPONED ASSASSINATION RECORDS.—An assassination record the public disclosure of which has been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives as required in section 4(e)(2).

(g) PERIODIC REVIEW OF POSTPONED ASSASSINATION RECORDS.—(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be provided to the Archivist and published in the Federal Register upon determination.

(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act, unless the President certifies, as required by this Act, that—

(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and

(ii) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

(h) FEES FOR COPYING.—Executive branch agencies shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS.

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD.

(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassinations Records Review Board.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint, without regard to political affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of government records related to the assassination of President John F. Kennedy.

(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act.

(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

(B) If an organization described in subparagraph (A) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

(5) Persons nominated to the Review Board—

(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

(C) shall include at least 1 professional historian and 1 attorney.

(c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

(d) CONFIRMATION HEARINGS.—(1) The Committee on Governmental Affairs of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is in session after reported by the Committee on Governmental Affairs.

(e) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

(f) CHAIRPERSON.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

(g) REMOVAL OF REVIEW BOARD MEMBER.—(1) No member of the Review Board shall be removed from office, other than—

(A) by impeachment and conviction; or

(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations of

the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) The member may be reinstated or granted other appropriate relief by order of the court.

(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(i) DUTIES OF THE REVIEW BOARD.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

(A) whether a record constitutes an assassination record; and

(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.

(j) POWERS.—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

(A) direct Government offices to complete identification aids and organize assassination records;

(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

(iii) request the Attorney General to subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

(E) receive information from the public regarding the identification and public disclosure of assassination records; and

(F) hold hearings, administer oaths, and subpoena witnesses and documents.

(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

(k) WITNESS IMMUNITY.—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

(l) OVERSIGHT.—(1) The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(m) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

(n) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

(o) TERMINATION AND WINDING UP.—(1) The Review Board and the terms of its members shall terminate not later than 2 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period.

(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

(a) EXECUTIVE DIRECTOR.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

(4) The Executive Director shall—

(A) serve as principal liaison to Government offices;

(B) be responsible for the administration and coordination of the Review Board's review of records;

(C) be responsible for the administration of all official activities conducted by the Review Board; and

(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

(b) STAFF.—(1) The Review Board may, in accordance with the civil service laws but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform its duties.

(2) A person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate for the staff shall qualify for the necessary security clearance prior to being approved by the Review Board.

(c) COMPENSATION.—The Review Board shall fix the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) ADVISORY COMMITTEES.—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.

(a) CUSTODY OF RECORDS REVIEWED BY BOARD.—Pending the outcome of the Review Board's review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

(2) such transfer is necessary for an administrative hearing or other official Review Board function.

(b) STARTUP REQUIREMENTS.—The Review Board shall—

(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

(2) not later than 180 days after the date of enactment of this Act, begin its review of assassination records under this Act.

(c) DETERMINATIONS OF THE REVIEW BOARD.—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

(A) a Government record is not an assassination record; or

(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

(i) Any reasonably segregable particular information in an assassination record.

(ii) A substitute record for that information which is postponed.

(iii) A summary of an assassination record.

(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings conducted by the Review Board with regard to specific assassination records; and

(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made.

(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

(2) PERIODIC REVIEW.—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4.

(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records.

(e) NOTICE TO PUBLIC.—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

(f) REPORTS BY THE REVIEW BOARD.—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act, and subsequent reports every 12 months thereafter until termination of the Review Board.

(3) A report under paragraph (1) shall include the following information:

(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

(D) Any special problems, including requests and the level of cooperation of government offices, with regard to the ability of the Review Board to operate as required by this Act.

(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

(F) Suggestions and requests to Congress for additional legislative authority needs.

(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

(a) MATERIALS UNDER SEAL OF COURT.—

(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glaynoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any Executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the

rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 12. TERMINATION OF EFFECT OF ACT.

(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

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

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

The motion to lay on the table was agreed to.

EXTENDING BOUNDARIES OF GROUNDS OF THE NATIONAL GALLERY OF ART

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5059, a bill to extend the boundaries of the National Gallery of Art to include the National Sculpture Garden, just received from the House, and that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 5059) was deemed read a third time, and passed.

REVISED EDITION OF STANDING RULES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be directed to prepare a revised edition of the Standing Rules of the Senate, and that such standing rules be printed as a Senate document.

I further ask unanimous consent that 2,500 additional copies of this document be printed for the use of the Committee on Rules and Administration.

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

MESSAGES FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 264

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was reported to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with 42 U.S.C. 1863(j)(1), I transmit herewith the annual report of the National Science Foundation for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *July 27, 1992.*

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-3687. A communication from the Assistant Secretary of Energy (Environmental Restoration and Waste Management), transmitting, pursuant to law, a report detailing the expenditure of Fiscal Year 1991 Environmental Restoration and Waste Management funds for defense and non-defense activities and the accomplishments to date compared to the milestone for each task; to the Committee on Armed Services.

EC-3688. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on improvements in the National Technical Information Service; to the Committee on Commerce, Science and Transportation.

EC-3689. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act in order to increase the authorization for appropriations for Fiscal Year 1993; to the Committee on Foreign Relations.

EC-3690. A communication from the Administrator of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Miller Act to increase the statutory threshold; to the Committee on Governmental Affairs.

EC-3691. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a report on the implementation of the Indian Self-Determination and Education Assistance Act, as amended, for fiscal year 1991; to the Select Committee on Indian Affairs.

EC-3692. A communication from the Chairman of the National Commission for Employment Policy, transmitting, a report entitled "Using Unemployment Insurance Wage-Record Data for JTPA Performance Management"; to the Committee on Labor and Human Resources.

EC-3693. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a notice on leasing systems for the Western Gulf of Mexico scheduled for August 1992; to the Committee on Energy and Natural Resources.

EC-3694. A communication from the Acting Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a report entitled "Potential Impacts of Aircraft Overflights of National Forest System Wildernesses"; to the Committee on Energy and Natural Resources.

EC-3695. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Fort McDowell Indian Community loan application; to the Committee on Energy and Natural Resources.

EC-3696. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the receipt of project proposals; to the Committee on Energy and Natural Resources.

EC-3697. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the annual report of the Inspector General for calendar year 1991; to the Committee on Environment and Public Works.

EC-3698. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the annual audit report of the Inspector General for calendar year 1991; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-430. A resolution adopted by the General Assembly of the State of New Jersey favoring the maintenance of the policy utilizing homeport based contractors to repair ships assigned to the New Jersey/New York homeport; to the Committee on Armed Services.

"ASSEMBLY RESOLUTION NO. 69

"Whereas, the current national recession has hit the New Jersey/New York region inordinately hard, resulting in a loss of 500,000 jobs since 1990, with 200,000 additional jobs projected to be lost in 1992; and

"Whereas, the United States Navy's policy of having ships assigned to a homeport repaired by homeport based contractors helps boost the industry and economy of the homeport area by utilizing the ship repair, technical, and management skills of homeport based contractors; and

"Whereas, the United States Navy's initial plan for the repair and maintenance of its

ships that are assigned to homeports in the New Jersey/New York harbor called for the continuation of this policy of utilizing homeport based contractors to maintain and repair its ships; and

"Whereas, the United States Navy is currently taking steps to change this policy to allow East Coast contractors to bid on repair and maintenance contracts for ships assigned to homeports in the New Jersey/New York harbor; and

"Whereas, such outside based contractors, if awarded repair and maintenance contracts of Navy ships that are assigned to homeports in the New Jersey/New York harbor, would utilize their own employees and staffs; and

"Whereas, such a result would minimize the number of new job opportunities in the New Jersey/New York port region and would thus fail to provide the needed economic boost to the region that a homeport based ship repair and maintenance contract would provide; now, therefore be it

Resolved by the General Assembly of the State of New Jersey:

"1. Congress of the United States and the Secretary of the Navy are respectfully memorialized to maintain the policy of utilizing homeport based contractors to repair ships assigned to homeports in the New Jersey/New York harbor.

"2. Duly authenticated copies of this resolution shall be transmitted to the presiding officers of the United States Senate and House of Representatives and to every member of Congress elected from the State of New Jersey and the Secretary of the Navy.

STATEMENT

"This resolution calls on the United States Congress and the Secretary of Navy to maintain its policy of utilizing homeport based contractors to repair Navy ships operating out of the New Jersey/New York homeport. The Navy is currently accepting proposals for a five year maintenance and repair contract for its ships assigned to the New Jersey/New York harbor, and has, contrary to its past practices, advertised for bids form contractors outside the homeport based area. Such a policy would be harmful to the New Jersey/New York region as it would minimize the number of new job opportunities for homeport based industries and would thus fail to give the region a needed economic boost.

"Memorializes the United States Congress and Secretary of Navy to maintain the policy of utilizing homeport based contractors to repair ships based in the New Jersey/New York homeport."

POM-431. A resolution adopted by the Office of the Selectment, Assessors and Overseers of the Poor, favoring the operation, development, and diversification of the U.S. Naval Shipyard at Kittery, ME; to the Committee on Armed Services.

POM-432. A joint resolution adopted by the Legislature of the State of California, favoring the continuation of the essential components of the dual banking system; to the Committee on Banking, Housing and Urban Affairs.

"SENATE JOINT RESOLUTION NO. 24

"Whereas, this country maintains a dual banking system whereby banks in California may elect whether to be state chartered banks subject to regulation by the State banking Department or federally chartered banks subject to regulation by the Comptroller of the Currency; and

"Whereas, the State Banking Department is authorized to approve all applications for state chartered banks to engage in the business of banking in this state; and

"Whereas, State chartered banks in California are allowed to provide certain products and services under California law that federally chartered banks are not allowed to provide under current federal law; and

"Whereas, California banking laws promote capital availability, strengthen economic development,and encourage community reinvestment in this state; and

"Whereas, it is of great importance that the State of California retain the ability to equitably tax both state and federally chartered banks; and

"Whereas, the United States Treasury recently proposed a plan to reform and restructure this country's financial system by reducing or eliminating state regulation of banks in favor of increased regulation by the Federal Reserve; and

"Whereas, the Legislature of the State of California, reaffirms and restates its support for the continuation of the dual banking system in California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Treasury Department to retain and continue the essential components of the dual banking system and ensure that any reforms to the federal deposit insurance system apply equally to all depositors in financial institutions of any size; and recognize that it is imperative that any changes in federal banking laws not impair the ability of the State of California to tax banks in this state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the president and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of the Treasury."

POM-433. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation to improve air safety at major United States airports; to the Committee on Commerce, Science and Transportation.

"SENATE JOINT RESOLUTION NO. 9

"Whereas, a recent ground collision between a USAir jetliner and a commuter plane, which has so far left 34 people dead, has been attributed to air controller error and malfunctioning radar; and

"Whereas, those conditions might have been prevented had the Aviation Trust Fund spent some of the $10 billion it has set aside for modernization of the nation's air traffic control system; and

"Whereas, air traffic controllers, trained and hired by the Federal Aviation Administration (FAA), are short an estimated 3,000 controllers nationwide, according to the National Air Traffic Controllers Association, and some of these, according to Los Angeles Times research, appear to receive inadequate training at smaller airports before being stationed at major airports such as Los Angeles International Airport (LAX); Now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to improve air safety at major United States airports, including provisions for a review of the number of air traffic controllers hired and trained since the 1981 strike, a determination of the additional number of controllers needed and the percentage of current controllers rated at full-performance level, and an investigation of the need for measures to facilitate emergency operations in the event of massive casualties in airport crashes; and be it further

"Resolved, That the Legislature of the State of California supports the implementation by the Federal Aviation Administration of internationally recognized standards of safety relative to uniform runway and taxiway operational parameters; and be it further

"Resolved, That the Legislature of the State of California requests an investigation by the Federal Aviation Administration into the interior safety of airplanes in regard to the flammability of, and the potential to produce toxic smoke, in materials used; and be it further

"Resolved, That the Legislature of the State of California requests the federal government to assist in the expeditious building, staffing, and operation of a new replacement air traffic control tower at Los Angeles International Airport (LAX); and be it further

"Resolved, That the Legislature of the State of California supports the expeditious release and appropriation by the Congress of moneys in the Airport and Airways Trust Fund; and be it further

"Resolved, That the Legislature of the State of California supports the expeditious implementation of the National Airspace System Plan and the procurement of Improved Airport Surface Detection Equipment (ASDE-3 radar) by the Federal Aviation Administration at all California commercial airports; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-434. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation requiring the Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance, and for other purposes; to the Committee on Commerce, Science and Transportation.

"SENATE JOINT RESOLUTION NO. 28

"Whereas, on July 14, 1991, a major derailment in Shasta County, California between Dunsmuir and Mount Shasta involving a Southern Pacific Transportation Company freight train caused a single-wall tank car to spill its contents of the chemical metam sodium into the Sacramento River, fouling the river, killing fish and wildlife, and sickening some nearby residents; and

"Whereas, between 1976 and 1990, 43 derailments or other accidents have occurred on this 20-mile section of track, and the metam sodium spill is the 20th rail accident in the past 15 years on the same three miles of track; and

"Whereas, single-wall rail tank cars experience punctures, and resultant dangerous leaks, in accidents twice as often as double-wall rail tank cars; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly That the California Legislature respectfully memorializes the President and Congress of the United States to do all of the following:

"(1) Require the United States Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance so that it may be transported only in double-wall rail tank cars appropriately placarded and then adopt a regulation through the regular process with the same effect;

"(2) Require the United States Department of Transportation to investigate and review other chemical compounds not presently considered to be hazardous or toxic for possible reclassification as hazardous substances; and

"(3) Require the Federal Railroad Administration to increase the enforcement of rail speed limitations and the National Transportation Safety Board to investigate conditions on the 20-mile section of track between Dunsmuir and Mount Shasta; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Transportation, to the Federal Railroad Administration, and to the National Transportation Safety Board."

POM-435. A resolution adopted by the General Assembly of the State of New Jersey favoring federal action to ensure that the incident involving the loss of arsenic drums from the 'Santa Clara I' is not repeated; to the Committee on Commerce, Science and Transportation.

"ASSEMBLY RESOLUTION NO. 56

"Whereas, on the evening of January 3, 1992, the 492-foot Panamanian-registered cargo vessel 'Santa Clara I' departed the port of Newark-Elizabeth, enroute to Baltimore, Maryland by way of the Ambrose Light, Cape Henolopen and the Chesapeake and Delaware Canal, carrying, among other items, intermodal containers of arsenic trioxide containing individual drums weighing approximately 374 pounds, which were lashed to her decks; and

"Whereas, during the passage the vessel encountered heavy weather resulting from the January 3rd and 4th storm that affected coastal Delaware, Maryland, and New Jersey, as the result of which a number of these containers were lost overboard, including four intermodal containers each loaded with 108 drums of arsenic trioxide, and nine drums from damaged containers that did not fall overboard, resulting in a total loss of approximately 441 drums of the total substance; and

"Whereas, the arsenic trioxide which was lost from the 'Santa Clara I' is a hazardous substance, which if discharged or released, can cause injury to humans through direct physical contact, inhalation or ingestion, and may also have an adverse effect upon marine animals and plants, which potential adverse effects have resulted in the closure of the waters in question to fishing by the United States Food and Drug Administration; and

"Whereas, the drums of arsenic trioxide were lost in an area of the Atlantic Ocean which is regularly used by commercial, sport, and recreational fishermen from New Jersey and Delaware, and that the presence of the arsenic trioxide in these waters could become a threat to the waters of southern New Jersey and the Delaware Bay, which support right, humpback and fin whales, bottlenose dolphins, loggerhead and ridley turtles, surf clams, ocean quahog, mackerel, summer flounder, striped bass, bluefish, scup, tuna and other species targeted by fishing vessels; and

"Whereas, it is altogether fitting and proper for the Legislature to express its concern over the presence of the arsenic trioxide drums in waters appertaining to those of this State, and to make known its sentiment that the appropriate committees of the Congress of the United States should undertake a thorough review, and, if necessary, revision of those laws and administrative regulations, respectively, which pertain to the transport of hazardous materials at sea, particularly relating to the question of allowing the transport of hazardous substances above, rather than below deck, and the procedures for inspections of vessels carrying this type of cargo, so that incidents of this nature can be prevented or minimized in the future; now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

"1. The Members of the Congress of the United States, particularly those members elected from this State, are respectfully memorialized to use their good offices to ensure that the federal government takes action to ensure that the incident involving the loss of arsenic drums from the 'Santa Clara I' is not repeated, and that the appropriate committees of the Congress review existing statutory laws and administrative regulations pertaining to the transport of hazardous material at sea, and to revise those laws or regulations in order to prevent such incidents from occurring in the future.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the Senate Committee on Commerce, Science, and Transportation, the Chairman of the House Committee on Merchant Marine and Fisheries, and every member of Congress elected from this State.

STATEMENT

"This resolution memorializes the Congress of the United States to take certain actions regarding the loss of approximately 441 drums of arsenic trioxide from the freighter 'Santa Clara I,' in the waters approximately 30 miles east of Cape May.

"Specifically, the resolution memorializes the appropriate committees of Congress to review, and if necessary, revise by corrective legislation, those laws or administrative regulations governing the safe transport of hazardous materials at sea. At the time of the discharge incident, the intermodal containers which held the individual drums of arsenic trioxide were lashed above deck, rather than stored below.

"Memorializes U.S. Congress to take certain actions regarding lost arsenic drums in ocean waters off Cape May."

POM-436. A concurrent resolution adopted by the Legislature of the State of California favoring that a portion of Interstate 210 be officially designated the 'Foothill Freeway'; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 29

"*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the portion of Interstate 210 from its junction with Interstate Route 5 in Los Angeles, together with those portions of State Highway Route 30 which are constructed to freeway standards, to its junction with Interstate Route 10 in Redlands, be officially designated the 'Foothill Freeway'; and be it further

"*Resolved*, That the Department of Transportation is requested to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the official designation and, upon receiving contributions from nonstate sources to cover that cost, to erect those plaques and markers; and be it further

"*Resolved*, "That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation, to the city clerks of the cities of Los Angeles, San Fernando, Glendale, La Canada-Flintridge, Pasadena, Arcadia, Monrovia, Duarte, Irwindale, Azuza, Glendora, San Dimas, Highland, Redlands, La Verne, Claremont, Upland, Rancho Cucamonga, Fontana, Rialto, and San Bernardino, and to the county clerks of the Counties of Los Angeles and San Bernardino."

POM-437. A joint resolution adopted by the Legislature of the State of California favoring the prohibition against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 15

"Whereas, the President of the United States has proposed a surface transportation reauthorization bill, which calls for tolls on interstate highways and federal subsidies for private toll roads; and

"Whereas, the California Department of Transportation has suggested that toll roads built under the President's proposal be modeled after the four toll road projects authorized in California by Section 143 of the Streets and Highways Code; and

"Whereas, the department has also suggested that Congress authorize the use of federal funds for the four demonstration projects authorized by Section 143; and

"Whereas, the language of Section 143 and the legislative history of the bill that added that section clearly indicate that only private funds were to be used to build the demonstration projects; and

"Whereas, the private developers selected for those projects have been given contracts containing the following provisions;

"(1) Large "franchise zones" within which competing projects, including improvements to many public roads, are prohibited.

"(2) The right of the developer to lease miles of airspace along toll roads for a nominal fee, on which the developers can build gas stations, restaurants, shopping centers, and other buildings.

"(3) No limit on the amount of tolls that the developer can charge.

"(4) Developers are allowed profits in excess of 20 percent from the tolls.

"(5) No limit on the profit developers can realize from airspace revenues.

"(6) Developers, through the Department of Transportation, may condemn land for the projects; and

"Whereas, the Legislature of the State of California finds that it is inappropriate to provide federal subsidies to private toll road investors; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to retain the prohibi-

tion against the use of federal funds for toll roads, except for demonstration projects currently authorized by Congress, toll bridges, and toll roads financed with interest bearing loans, and not to enact any surface transportation reauthorization act that includes the imposition of tolls on interstate highways; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-438. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring the authorization and directing of the United States Army Corps of Engineers to renegotiate the terms of their contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures for the structure to achieve the greatest potential from the project; to the Committee on Environment and Public Works.

"Whereas, the Caernarvon Fresh Water Diversion project was in the planning stage almost twenty years ago; and

"Whereas, the United States Army Corps of Engineers designed the project based on a model to represent the effect of actual operations; and

"Whereas, when the diversion structure was finally completed the corps discovered that their operations model was defective; and

"Whereas, Plaquemines Parish has a great deal of physical experience with the operation of other fresh water diversion structures which the parish operates in the area; and

"Whereas, the legislature believes that the local governing authority is better suited to make the daily operating decisions to achieve the greatest potential from the structure; and

"Whereas, if the day to day operations of the structure is turned over to the local governing authority, the oversight, monitoring, and annual decisions regarding operations would still be reviewed by the interagency advisory council; and

"Whereas, the terms of contract between the Department of the Army and the State of Louisiana, dated November 18, 1985, December 1986, and June 10, 1987, pertaining to the United States Army Corps of Engineers furnishing the operations guidelines for the project should be renegotiated to allow the operations to be determined by Plaquemines Parish with oversight by the corps and the Department of Natural Resources of Louisiana.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to renegotiate the terms of their contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures for the structure to achieve the greatest potential from the project.

"Be it further resolved that all other terms of the contract shall remain the same with oversight of the operations by the Louisiana Department of Natural Resources and the United States Army Corps of Engineers through the interagency advisory council.

"Be it further resolved that a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives, to each member of the Louisiana congressional delegation, the District Engineer, United States Army Corps of Engineers, Attention: CELMN-RE, P.O. Box 60267, New Orleans, Louisiana, 70160-0267, to the Secretary, Department of Natural Resources, P.O. Box 94396, Baton Rouge, Louisiana, 70804, and to the Parish President, Plaquemines Parish Government, Parish Administration Building, Port Sulphur, Louisiana, 70083."

POM-439. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring the authorization and directing of the United States Army Corps of Engineers to evaluate the federal interest in continuing to operate and maintain the Mississippi River Gulf Outlet, and that such an evaluation shall include consideration of the social, economic, and environmental benefits and costs associated with continued Operation and maintenance of the Mississippi River Gulf Outlet; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 207

"Whereas, Louisiana is losing its valuable coastal wetlands at an alarming rate; and

"Whereas, Louisiana has initiated an aggressive Program to reduce the rate of wetlands loss; and

"Whereas, the Mississippi River Gulf Outlet was 500 feet wide when it first opened for operation in 1968, but now exceeds 1,500 feet in width in some areas due to severe bankline erosion; and

"Whereas, the Mississippi River Gulf Outlet has caused enormous wetland losses since its construction, including the loss of over 5,000 acres of wetlands since 1968; and

"Whereas, during the next fifty years the wetland losses caused by the Mississippi River Gulf Outlet are expected to be approximately 5,000 acres; and

"Whereas, only a small portion of the cargo handled by the Port of New Orleans is shipped via the Mississippi River Gulf Outlet; and

"Whereas, approximately four deep-draft vessels utilize the Mississippi River Gulf Outlet per day; and

"Whereas, annual dredging of the Mississippi River Gulf Outlet costs the state and federal governments millions of dollars each year: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to evaluate the federal interest in continuing to operate and maintain the Mississippi River Gulf Outlet, and that such an evaluation shall include consideration of the social, economic, and environmental benefits and costs associated with continued operation and maintenance of the Mississippi River Gulf Outlet, including but not limited to consideration of the costs to the Nation and to Louisiana of the continued wetland losses resulting from bankline erosion and saltwater intrusion associated with the Mississippi River Gulf Outlet: Be it Further

"*Resolved*, That in the event that such evaluation demonstrates that no clear and overriding federal interest exists for continuing to operate and maintain the Mississippi River Gulf Outlet, the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to develop and implement a plan to discontinue all operation and maintenance of the Mississippi River Gulf Outlet to deep-draft vessel traffic: Be it further

"*Resolved*, That in the event that such evaluation demonstrates a clear and overriding federal interest exists for continuing to operate and maintain the Mississippi River Gulf Outlet, the Legislature of Louisiana does hereby memorialize the Congress of the United States to authorize and direct the United States Army Corps of Engineers to develop and implement a plan to mitigate the adverse social, economic, and environmental impacts of the continued operation of the Mississippi River Gulf Outlet, as well as any adjacency lands, including but not limited to consideration of the construction of continuous sheet-pile bankline stabilization on both banks of the Mississippi River Gulf Outlet, and the construction of saltwater entrustion prevention structures in the vicinity of Bayou La Loutre and in other appropriate locations: Be it further

"*Resolved*, That a copy of this Resolution be transmitted to the United States Congress, and to the members of the Louisiana congressional delegation, the House Committee on Public Works and Transportation, and the Senate Committee on Environment and Public Works."

POM-440. A joint resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation or regulations approving medicaid eligibility or otherwise eligible inmates in a county-operated detention or correctional facility; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 22

"Whereas, California is experiencing steady growth in its incarcerated population; and

"Whereas, pregnant women, women with children, and minors comprise a significant portion of the incarcerated population; and

"Whereas, inmate health care costs are skyrocketing due to increased incidences of AIDS, substance abuse, and mental illness; and

"Whereas, in 1985, the federal government had a policy of providing medicaid for the first and last month of an inmate's incarceration; and

"Whereas, in 1985, the federal government reversed its policy and discontinued federal medicaid financial participation; and

"Whereas, currently, otherwise eligible persons are denied medicaid eligibility upon entering a county detention or correctional facility; and

"Whereas, counties must now fund inmate health care through county general fund moneys; and

"Whereas, these county general fund moneys could be used more effectively to provide other services, such as health care to the indigent; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation, or adopt regulations, approving medicaid eligibility for otherwise eligible inmates in a county-operated detention or correctional facility, or a county-operated juvenile facility; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Health and Human Services."

POM-441. A joint resolution adopted by the Legislature of the State of California favor-

ing the enactment of federal legislation or regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 4

"Whereas, California has been experiencing a brutal crisis in the access of indigent people to health care; and

"Whereas, preventive prenatal health care programs have been proven to be overwhelmingly cost-effective; and

"Whereas, low-income women often begin prenatal care late in their pregnancies or have too few visits, because of a lack of money, transportation, or child care, or because clinics are often not open at convenient times; and

"Whereas, at least one other state has addressed this problem by successfully implementing a prenatal health care program using mobile outreach units; and

"Whereas, at least one California hospital has proposed a similar program, which would utilize a mobile health van to provide prenatal care to the target population in an effective and efficient manner; and

"Whereas, since patients reached by such a program are usually Medi-Cal eligible, it is necessary that the program be approved for federal medicaid reimbursement by the Health Care Financing Administration; and

"Whereas, although the administration allows satellite clinics to be certified for medicaid reimbursement and although at least one mobile health care program has been approved for reimbursement, the federal government lacks clear statutory authority to certify those programs for medicaid reimbursement; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectively memorializes the President and Congress of the United States to enact legislation or require the Health Care Financing Administration to adopt regulations permitting the certification of mobile prenatal health care van programs for reimbursement under the medicaid program; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the Health Care Financing Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-442. A concurrent resolution adopted by the Legislature of the State of California favoring the enactment of federal legislation authorizing states and local governments to collect sales taxes on interstate sales transactions; to the Committee on Finance.

"SENATE CONCURRENT RESOLUTION NO. 71

"Whereas, approximately $600 million in local sales taxes and $2.4 billion in state sales taxes go uncollected each year as a result of the United States Supreme Court's decision in *Bellas Hess vs. Illinois Department of Revenue*; and

"Whereas, the recent United States Supreme Court's decision in *North Dakota vs. Quill Corporation* held that the Congress of the United States has the authority to authorize state and local governments to collect sales taxes from interstate sales transactions; and

"Whereas, if federal legislation authorizes state and local governments to collect sales taxes from interstate sales transactions is enacted, the estimated tax revenues for the state of Louisiana are $30.7 million for the state and $24.9 million for local governments within the state; and

"Whereas, passage of such legislation is of vital concern to local governments in Louisiana due to the loss of federal revenue sharing and budget cuts at the state level; and

"Whereas, Louisiana retailers are at a distinct competitive disadvantage regarding the out-of-state retailers' exemption from the payment of state and local taxes. Therefore, be it

"*Resolved*, That the Legislature of Louisiana hereby memorializes the Congress of the United States to enact legislation authorizing states and local governments to collect sales taxes on interstate sales transactions. Be it further

"*Resolved*, That a copy of this Resolution be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-443. A joint resolution adopted by the Legislature of the State of California favoring the right of the State of Alaska in participating in any boundary negotiations involving its boundaries with the Soviet Union; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 20

"Whereas, every state has a compelling constitutional interest in determining its own boundaries with other states and foreign countries; and

"Whereas, the State of Alaska's boundary with the Soviet Union has been the subject of negotiations between the United States government and the Soviet government since 1981; and

"Whereas, the State of Alaska has never been permitted to participate in the negotiations carried on by the Department of State; and

"Whereas, the Alaska Legislature has vigorously protested this exclusion in the form of Senate Joint Resolution 12, which was passed unanimously by both houses and signed by Governor Steve Cowper in May 1988; and

"Whereas, the Department of State ignored these protests, and its negotiations have resulted in a proposed treaty titled 'Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary,' which is now before the United States Senate for ratification; and

"Whereas, the California Legislature previously expressed its support for the State of Alaska for its right to participate in any negotiations affecting its boundaries in the form of Resolution Chapter 122 of the Statutes of 1987; and

"Whereas, it is settled procedure with respect to negotiations of state boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the terms of the proposed boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine in 1842); now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the California Legislature renews its support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union; and be it further

"*Resolved*, That the California Legislature (1) respectfully memorializes the President of the United States to withdraw the proposed treaty from consideration by the United States Senate and (2) requests the California United States Senators to decline to consider the proposed treaty, until such time as the State of Alaska has been able to participate fully in negotiations and has been guaranteed that its consent will be required for any agreement affecting its boundaries; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of Alaska, to the President of the Alaska Senate, and to the Speaker of the Alaska House of Representatives."

POM-444. A joint resolution adopted by the Legislature of the State of California favoring investigations into the conditions affecting the Assyrian/Chaldean people and to report their findings; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 35

"Whereas, the Assyrian/Chaldean people have a long and distinguished history, going back more than two millennia; and

"Whereas, the Assyrian/Chaldean people originated in the area of the Middle East generally considered the cradle of civilization, between the Tigris and Euphrates Rivers; and

"Whereas, many Assyrian/Chaldean are now living as ethnic minorities scattered throughout the Middle East and in refugee camps in northern Iraq and surrounding countries; and

"Whereas, there are as many as 70,000 Californians of Assyrian/Chaldean extraction, with approximately half of this number living in the San Francisco Bay area, 15,000 in the central valley, and a significant number in San Diego and Los Angeles; and

"Whereas, there has been until recently no central organization that has as its sole purpose the provision of relief, assistance, and aid to the Assyrian/Chaldean people; and

"Whereas, the Assyrian/Chaldean Life Line has been formed by patriotic Americans of Assyrian/Chaldean descent to provide urgently needed relief, assistance, and aid to the Assyrian/Chaldean people; and

"Whereas, the Assyrian/Chaldean Life Line is a totally volunteer organization that accepts only private nongovernmental support; and

"Whereas, the efforts of the Assyrian/Chaldean Life Line are in the finest tradition of human endeavor; and

"Whereas, the California Legislature applauds and commends the efforts of the Assyrian/Chaldean Life Line in providing relief, assistance, and aid to the Assyrian/Chaldean people: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to use their best efforts through the United Nations and other international agencies to look into the conditions affecting the Assyrian/Chaldean people and to report their findings so that the appropriate relief and aid might be organized to assist this ancient people whose history, arts, and sciences have literally filled the museums of the world: and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United

States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-445. A joint resolution adopted by the Legislature of the State of California urging the Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to grant immediate access to the POW's to the International Red Cross and to provide the POW's with all conditions required by the Geneva Convention; to the Committee on Foreign Relations.

"SENATE JOINT RESOLUTION NO. 19

"Whereas, seven soldiers of the Israel Defense Forces have been missing in action for several years in Lebanon: Yehuda Katz, Zechariah Baumel, and Tevi Feldman have been missing since 1982; Samir Assad has been missing since 1983; and Ron Arad, Yosef Pink, and Rachamim Levi-Alsheech have been missing since 1986; and

"Whereas, all evidence points to their being held in territory controlled by the Syrians by organizations linked with Syria and Iran; and

"Whereas, these Israeli POW's are being held incommunicado, and are deprived of all basic rights, such as contacts with their families and meetings with the International Red Cross—and this treatment constitutes a blatant violation of the Geneva Convention and a cruel disregard for the ordeal of their families and loved ones; and

"Whereas, Syria, Iran, and the organizations holding the Israeli POW's have refused to acknowledge responsibility for the fate of the POW's and have further refused to divulge any information as to the location or welfare of these individuals; and

"Whereas, POW's are now being exchanged following the Persian Gulf War, and it is important that the Israeli POW's not be forgotten; and

"Whereas, discussions have resumed regarding the exchange of prisoners and western hostages; and

"Whereas, recent developments indicate that the region is moving toward peace talks on the Israeli-Arab conflict: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California hereby urges the United States Department of State to seek the cooperation of Syria and Iran in compelling the organizations holding the seven Israeli POW's referred to in this resolution to do both of the following as a first step towards a prisoner exchange in the very near future:

"(1) To grant immediate access to the seven Israeli POW's to the International Red Cross.

"(2) To provide the seven Israeli POW's with all conditions required by the Geneva Convention; and be it further

"*Resolved*, That the Legislature also urges the Department of State to work with other western nations, and with middle eastern nations desirous of stability in the region, to support all efforts to secure the rights of the seven Israeli POW's referred to in this resolution—efforts which should include a full disclosure of all information relating to their welfare and to the conditions of their imprisonment and the ultimate release of the Israeli POW's as part of a general prisoner exchange; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President, the Vice President, and the Secretary of State of the United States, to the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-446. A concurrent resolution adopted by the Legislature of the State of Louisiana favoring adequate fire protection in the form of fire sprinkler systems be a part of all high-rise buildings owned or used by the United States government; to the Committee on Governmental Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 22

"Whereas, Congress and the President of the United States have taken a leadership role in supporting fire protection in high-rise hotels and motels through the passage of H.R. 94, the Hotel and Motel Fire Safety Act of 1990; and

"Whereas, fighting fires in high-rise buildings is extremely dangerous and extinguishing them is often impossible with conventional fire-fighting apparatus and personnel; and

"Whereas, in addition to the hundreds of millions of dollars in property lost, these recent incidents vividly demonstrate the tragic results of high-rise fires:

"Philadelphia—Office Building—three firefighters died; and

"Los Angeles—Interstate Bank Building—one occupant died, 35 occupants and 14 firefighters injured; and

"Atlanta—Peachtree 25th Building—six occupants died; and

"San Juan—Dupont Plaza—96 occupants died; and

"Las Vegas—MGM Grand—85 occupants died; and

"Whereas, the technology exists to safely, efficiently and effectively control and extinguish fires with fire sprinkler systems in place; and

"Whereas, in addition to the direct loss of property and lives, the cost to communities in terms of lost jobs, business interruption, and tax revenue loss can be significant: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana congressional delegation to ensure that adequate fire protection in the form of fire sprinkler systems be a part of all high-rise buildings owned or used by the United States Government: Be it further

"*Resolved*, That certified copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-447. A joint resolution adopted by the Legislature of the State of California favoring equal treatment of all Americans, regardless of race, ethnicity, or religion and opposing any form of physical or emotional harassment of Arab American and other groups; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 13

"Whereas, the United States, in conjunction with Arab and European allies, unleashed a massive bombing attack on Iraqi armed forces in Iraq and occupied Kuwait on January 16, 1991; and

"Whereas, thousands of Americans of Arab descent live in the United States as American citizens; and

"Whereas, many Iraqi Americans now residing in the United States fled the brutality and persecution instigated by the Hussein regime; and

"Whereas, many Americans of Arab descent have fought in the United States armed forces against Iraq; and

"Whereas, hate crimes and other forms of physical harassment of Arab Americans have increased at an alarming rate since the beginning of the Iraq-Kuwait Crisis; and

"Whereas, in response to increased concerns about terrorism in the United States, the Federal Bureau of Investigation has reportedly conducted "interviews" and investigations in the Arab-American community based on the ethnicity or national origin of Arab Americans and without reasonable cause; and

"Whereas, the activities of the Federal Bureau of Investigation have unfairly aroused suspicion of Arab Americans and encouraged hate crimes against Arab Americans; and

"Whereas, the Congress of the United States is considering passage of House Concurrent Resolution 56, which expresses the sense of Congress that federal agencies should not engage in discrimination that threatens the civil liberties of Arab Americans and should assist in protecting Arab Americans from hate crimes and related discrimination.

"*Resolved by the Senate and the Assembly of the State of California, jointly*, That the Legislature of the State of California supports equal treatment of all Americans, regardless of race, ethnicity, or religion; and be it further

"*Resolved*, That this Legislature condemns any form of physical or emotional harassment of Arab Americans and other groups; and be it further

"*Resolved*, That federal agencies should assist in protecting Arab Americans from hate crimes and related discrimination; and be it further

"*Resolved*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to pass House Concurrent Resolution 56; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-448. A resolution adopted by the General Assembly of the State of New Jersey favoring the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating; to the Committee on the Judiciary.

"ASSEMBLY RESOLUTION NO. 70

"Whereas, the recent jury verdict to acquit four Los Angeles police officers in the beating of Rodney G. King has generated intense public outcry and frustration, which tragically manifested itself in civil unrest in Los Angeles, California and in other parts of the country; and

"Whereas, in a recent Newsweek poll conducted by the Gallup Organization, a large majority of Americans disagree with the acquittal of the police officers; and

"Whereas, this questionable verdict may seriously undermine the sense of faith and respect many Americans have in the system of justice in the United States; and

"Whereas, the United States Attorney General and the federal grand jury should

pursue vigorously their responsibility to determine whether civil rights laws were violated in the beating of Rodney G. King; and

"Whereas, such steps will hopefully reinforce for the nation and for the people of Los Angeles our society's commitment to civil rights and its intolerance for any type of violence which violates those civil rights; and

"Whereas, such efforts would strengthen the faith Americans have in the system of justice in the United States, which has been undermined by the proceedings of this case; and

"Whereas, New Jersey should feel pride that while its citizens were equally outraged by the decision in the Rodney G. King case, the public's reaction, while freely expressed, has been measured and focused; and

"Whereas, in many respects, this peaceful protest can be traced to the sense of communication and cooperation that exists between New Jersey's civic, religious, and community leaders and the people of our great State: Now therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. This House respectfully memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and calls upon the United States Attorney General to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating.

"2. This House urges the citizens and residents of this State and Nation to show restraint in these difficult times and urges all Americans to recommit themselves to eliminating poverty, racism, ignorance, injustice, and all other barriers between people.

"3. Duly authenticated copies of this resolution shall be transmitted to the President of the United States, the presiding officers of the United States Senate and House of Representatives, to every Member of Congress elected from the State of New Jersey, and to the United States Attorney General.

"STATEMENT

"This resolution memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles and calls upon the United States Attorney General to investigate any possible irregularities in the jury deliberations that resulted in a not guilty verdict for the police officers accused of his beating. Such an action will reinforce for the Nation and for the people of Los Angeles our society's commitment to civil rights and its intolerance for any type of violence which violates those civil rights. It will also strengthen the faith Americans have for the system of justice in the United States, which has been undermined by the proceedings of this case. The resolution also singles out the cooperation and communication that exists between New Jersey's civic, religious, and community leaders and the citizens of the State as a major factor in the measured, focused and freely expressed protests in New Jersey.

"Memorializes the President of the United States, the Congress, and the United States Attorney General to vigorously pursue possible civil rights violations in the beating of Rodney G. King in Los Angeles."

"SENATE JOINT RESOLUTION NO. 25

"Whereas, it is the intent of the Legislature to support and enhance the opportunity and ability of all persons with disabilities who reside within California to lead productive, independent, personally empowered, and contributing lives; and

"Whereas, the Department of Rehabilitation provides a specialized constellation of case management, counseling, and the purchase of goods and services and provides a variety of assistance to persons with disabilities who have independent living, employment, and employability needs; and

"Whereas, this vocational rehabilitation system was originated and defined in 1920 by federal law whose current form and funding is embodied in the federal Rehabilitation Act of 1973, the intent of which is to promote more independent and productive lives for persons with disabilities; and

"Whereas, efforts to review and reform this original purpose have only led to minor changes in the service approach, philosophy, and funding patterns, despite evidence which indicates not only that persons with severe disabilities continue to experience 74 to 86 percent unemployment, major underemployment due to segregation and low expectations, and increasing waiting lists for services, but also that disabled youth and older persons are extremely underserved; and

"Whereas, with passage of the Americans with Disabilities Act of 1990, which sets forth a sweeping new and systematic declaration of human and civil rights for people with disabilities based on contemporary congressional findings and the assertion of cultural and societal values, dramatic increases in full participation and economic integration of all persons with disabilities will occur in America; and

"Whereas, No substantial effort has been exerted to look at the many areas of potential system improvements and economies that coexist between the public rehabilitation system, unemployment insurance, and workers' compensation in California that would lead to major benefits to the California economy; and

"Whereas, A revolution in technology, science, and support services exists that offers to expand the benefits to consumers of services and the public and private employer sector in California; and

"Whereas, Research from the last decade and the summing up of the best clinical and program practices has not been applied to the service delivery system in order to improve quality and economies to the consumer and tax paying public; and

"Whereas, The federal Rehabilitation Act of 1973, will be reauthorized by Congress by September 1991; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California urges the California Congressional Delegation to support a two-year reauthorization process of the federal Rehabilitation Act of 1973 that will provide widespread local hearings to ensure maximum public input to focus on establishing a paradigm shift in the rehabilitation system service design in keeping with the spirit and letter of the Americans with Disabilities Act; and be it further

"*Resolved*, That the Legislature commission a study to be completed not later than September 1, 1993, and to be coordinated by the Senate Office of Research in consultation with the Department of Rehabilitation, which parallels the congressional reauthorization timetable that will provide the Legislature with recommendations on the administrative, programmatic, and fiscal reorganization of the Department of Rehabilitation that will do all of the following:

"(a) Research and analyze cost-benefit data that currently exists.

"(b) Define performance standards and outcome measures for services to persons with disabilities.

"(c) Compare state-of-the-art service models and approaches to maximize the benefits and utilization of these best practices in serving people with disabilities.

"(d) Recommend appropriate levels of funding needed to meet the needs of disabled persons in service modes that are congruent with the modern mission of the department.

"(e) Install patterns of spending and utilization of federal funds that promote maximum success in achieving personal empowerment and productive independent living, including voucher systems and the creative mixing and matching of public and private funds.

"(f) Install service models that maximize economies consistent with the values, goals, and objectives of career-oriented support services and assessment approaches; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-450. A joint resolution adopted by the Legislature of the State of California opposing the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and for other purposes; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION NO. 27

"Whereas, family planning clinics provide important access to health services for California's economically disadvantaged women; and

"Whereas, Federal Title X funds provide $12.2 million to California, financial assistance critical to over 200 family planning facilities statewide; and

"Whereas, the majority of women served by family planning clinics receiving Title X funding have no other alternatives for health care; and

"Whereas, California's family planning clinics are already experiencing significant financial stress as the result of below average reimbursement rates for services provided; and

"Whereas, California's law on "informed consent" requires physicians to advise their patients of all risks, benefits, and alternatives on any medical procedure, and any limits on informed consent would represent a violation of California law; and

"Whereas, California's physicians have a professional obligation to inform their patients of all their treatment alternatives, and any limits on this obligation would jeopardize the patient-physician relationship; and

"Whereas, the United States Supreme Court ruling of May 23, 1991, in the case of Rust v. Sullivan, upholds regulations adopted by the Secretary of Health and Human Services which prohibit family planning programs that receive Title X funds from providing abortion counseling or referral services to women; and

"Whereas, the people of California believe that the regulations adopted by the Secretary of Health and Human Services violate the fundamental rights to privacy and free speech, despite the United States Supreme Court's holding; and

"Whereas, family planning providers might be forced out of moral obligation, the exercise of their right to free speech, and their adherence to California's law on informed consent, to turn down federal Title X funding, thereby reducing the number of women served or closing family planning facilities; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California expresses its deep concern over the United States Supreme Court ruling in the case of Rust v. Sullivan upholding the regulations prohibiting health care professionals from counseling their patients on, or providing referrals for, abortion, and strongly supports federal legislation clarifying original congressional intent that Title X funding be used to provide unbiased and accurate information on reproductive health care for economically disadvantaged women; and be it further

"*Resolved*, That the Legislature of the State of California strongly urges that the United States Congress enact clarifying legislation and the President of the United States sign the legislation into law; and be it further

"*Resolved*, That the Legislature of the State of California registers its alarm that the United States Supreme Court ruling undermines a woman's fundamental right to privacy, including her right to choose an abortion; and be it further

"*Resolved*, That the Legislature of the State of California reaffirms its support for protection of these rights for all women, including economically disadvantaged women; and be it further

"*Resolved*, That the Legislature of the State of California expresses its serious concern that the United States Supreme Court ruling limits the First Amendment rights of free speech of health care professionals; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the President pro tempore of the United States Senate, to each Senator and Representative from California in the Congress of the United States, to the Chief Clerk of the United States House of Representatives, to the Secretary of the United States Senate, and to the presiding officer of each house of the legislature of each of the other states in the Union".

POM-451. A concurrent resolution adopted by the Legislature of the State of Michigan favoring the enactment of federal legislation establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION NO. 541

"Whereas, over 2.5 million reports of child abuse and neglect are made each year in the United States. Law enforcement officials suspect an indeterminate number of other incidents go unreported; and

"Whereas, it has been established that one in every three girls and one of every six boys will have been sexually abused before the age of eighteen. Moreover, over half of sexually abused children are victimized before they reach the age of seven; and

"Whereas, from 1989 to 1990, arrests for offenses against children grew faster than any other crime nationally. In addition, most child molesters are repeat offenders. According to the National Institute of Mental Health, the typical attacker of young boys molests an average of 281 youngsters; and

"Whereas, the time for establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks on individuals applying for jobs dealing with children has come. States that have established their own individual reporting systems have discovered over 6,000 individuals who had been convicted of serious criminal child abuse offenses; now, therefore, be it

"*Resolved by the House of Representatives (the Senate concurring)*, That we hereby memorialize the United States Congress to enact legislation establishing a national registry of persons convicted of child abuse crimes for the purpose of making background checks; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the Michigan congressional delegation."

POM-452. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania favoring the restoration of funds for State grants; to the Committee on Labor and Human Resources.

"S. CON. RES. NO. 142

"Whereas, section 2 of the Federal Mine Safety and Health Act of 1977 states "the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner"; and

"Whereas, section 2 of the act states one of the purposes of the act is "to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal or other mine health and safety programs"; and

"Whereas, there has been a reduction in accidents, suffering and loss of life since the passage of the act; and

"Whereas, Pennsylvania has had no mining fatalities in 1991; and

"Whereas, the President's 1992-1993 fiscal year budget for the Mine Safety and Health Administration was submitted to Congress without a request for State grants under the act; and

"Whereas, the requirements under the act remain; and

"Whereas, lack of funding will weaken the purposes of the act; and

"Whereas, the progress made over the past 15 years will come to a halt, the accident rate will climb, miners will die from accidents or suffer long-term illness from the effects of black lung, silicosis and other diseases; Therefore be it

"*Resolved (the House concurring)*, That the General Assembly of the Commonwealth of Pennsylvania memorialize Congress to restore funds for State grants under the Federal Mine Safety and Health Act of 1977; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-453. A resolution adopted by the General Assembly of the State of New Jersey favoring certain private interests be permitted to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building; to the Committee on Rules and Administration.

"ASSEMBLY RESOLUTION NO. 66

"Whereas, the great American patriot Thomas Paine emigrated from his native England at the urging of Benjamin Franklin and lived in Pennsylvania and New York; and

"Whereas, Thomas Paine authored the American Crisis Pamphlets and the work called Common Sense, which was published in 1776 and called for American independence and limits on a government's authority, received wide public distribution at the time and helped to galvanize colonial discontent into action against Great Britain; and

"Whereas, the ideas expressed by Paine in these and other works were incorporated in the Declaration of Independence, and subsequently, the United States Constitution; and

"Whereas, Paine made the first published call for a written constitution to protect the rights of property owners and for the free exercise of religious beliefs; and

"Whereas, Paine donated his services and finances to the cause of American Independence and put his life in jeopardy for this cause; and

"Whereas, Paine is rightly honored in New Jersey, France and England for his advocacy of the causes of personal liberty, limited government and industry; and

"Whereas, it is fitting and proper that a permanent national monument be constructed in Thomas Paine's honor near the seat of the government he helped to create: Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. This House calls on the Congress of the United States to allow certain private interests to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be sent to the presiding officers of each House of Congress and each member of Congress from New Jersey."

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. 1569. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes (Rept. No. 102-342).

By Mr. MITCHELL (for Mr. INOUYE), from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2044. A bill to assist Native Americans in assuring the survival and continuing vitality of their languages (Rept. No. 102-343).

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 5373. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-344).

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. BENTSEN:

S. 3078. A bill to promote the conduct of biomedical research in space; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD:

S. 3079. A bill to require that an annual Federal financial report be submitted to American citizens; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself, Mr. BOREN, and Mr. PACKWOOD):

S. 3080. A bill to amend the Internal Revenue Code of 1986 to restore the exclusion from gross income for income from discharge of qualified real property business indebtness; to the Committee on Finance.

By Mr. RIEGLE:

S. 3081. A bill to change the tariff classification for light trucks; to the Committee on Finance.

By Mr. SIMPSON:

S. 3082. A bill to amend the Internal Revenue Code of 1986 to allow a waiver of the 3-year limitation on claiming a credit or refund; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 3083. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN (for himself, Mr. BOND, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. HOLLINGS, Mr. MCCAIN, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROTH, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 328. A joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 3078. A bill to promote the conduct of biomedical research in space; to the Committee on Commerce, Science, and Transportation.

BIOMEDICAL RESEARCH IN SPACE ACT

• Mr. BENTSEN. The purpose of this bill is to enhance cooperation on biomedical research between NASA and NIH, with a specific emphasis on expanding space-based research pertinent to solving medical challenges here on Earth. The bill is identical to H.R. 3922, introduced by Representative RALPH HALL, chairman of the House Subcommittee on Space. The bill is supported by both NASA and NIH as well as the broader aerospace medical community.

Since the beginning of the American space program, most biomedical research in space has focused on understanding the biological responses of astronauts to weightlessness and other conditions of spaceflight. Additionally, opportunities to conduct space-based biomedical research have been constrained by the limited availability in space of the space shuttle and the shuttle-based spacelab.

Biomedical research in space can and ought to be helping terrestrials as well as astronauts. Such research contains great potential to increase understanding of the cardiovascular system, cellular behavior, the behavior of the immune system, and such conditions as osteoporosis and arthritis. Nowhere but in space can the weightlessness essential to this research be found, and not until we have constructed a permanent station in space can such research achieve its full potential.

An excellent example of that potential is skin cancer research. The rapid depletion of the ozone layer has led to a dramatic increase in the rate of skin cancer, including the more deadly melanomas. From space, however, we can not only monitor the ozone layer in a manner we cannot here on Earth, we can also conduct experiments predictive of the amount of ultra-violent radiation that will be reaching the Earth in the future. Such experiments are simply too complicated to duplicate in a laboratory. In short, space offers us the twin opportunity to monitor the principal cause of skin cancer and to develop better ways of treating it.

In 1988 NASA and NIH signed a memorandum of understanding to foster a cooperative program between the two agencies aimed at enhancing the biomedical research capabilities of both. An interagency working group was set up, and conferences have been held among experts from both agencies. Nevertheless, NASA's understandable focus on spaceflight-related biomedical research continues to predominate over NIH's equally understandable focus on terrestrial medical problems.

I am convinced that medical research in space may hold the key to overcoming some important medical problems here on Earth. This bill is designed to further progress toward that end. Specifically, the bill would authorize the establishment of a joint NASA–NIH working group that will focus on the terrestrial applications of space-based biomedical research. The bill also would establish a program of joint, peer-reviewed biomedical research grants to be administered by NASA and NIH. The bill would further direct the NASA Administrator to establish and submit to Congress a plan for the conduct of joint space-based biomedical research with the republics of the former Soviet Union, including use of the Mir space station. The biomedical research capabilities on Mir are a far cry from those planned for space station *Freedom*, but they nonetheless could enhance near-term biomedical research progress.

Other features of the bill include establishment of an electronic data archive for biomedical research data obtained from space-based experiments and the establishment of an emergency medical service telemedicine capability. The latter involves creation of an international telemedicine consultation capability to support the provision of medical services in disaster-stricken areas—very much like the one temporarily set up after the Armenian earthquake of 1989.

Mr. President, in addition to enhancing space-based biomedical research's contribution to countering medical ills here on Earth, this bill has another very attractive feature: its modest price tag of $26,250,000 through the end of fiscal year 1994 is to be financed entirely out of money already authorized for NASA and NIH. No new money is needed or requested. Moreover, I know of no opposition to the bill. It is supported by NASA and NIH, as well as by such physicians and scientific organizations as Dr. Michael E. DeBakey, Dr. Charles A. LeMaistre, Dr. Richard E. Wainerdi, Dr. J. Alan Herd, the Aerospace Medical Association, and the American Astronautical Society.

The bill, in short, is a good buy for both American medicine and the American people.•

By Mr. CONRAD:

S. 3079. A bill to require that an annual Federal financial report be submitted to American citizens; to the Committee on Governmental.

ACT FOR AN ANNUAL REPORT FOR THE AMERICAN CITIZEN

Mr. CONRAD. Mr. President, I rise today to introduce the Act For an Annual Report for the American Citizens, which would require that an annual report of the financial condition of the Government be made available to all Americans.

Mr. President, this country is in trouble. We are deep in debt. We keep adding to that debt every year. Yet, we do not take the basic step of providing information on the financial condition of the country directly to the taxpayers of this country, directly to the people who vote in our elections to determine the future course and direction of our Nation.

Mr. President, this legislation would make Government more accountable to the people by making Government more businesslike. We often hear those words from our constituents, that Government should be more businesslike. Well, this legislation addresses a basic area where Government does not compare to business.

If you are a shareholder in a corporation in this country, Mr. President, you are considered a part owner and are afforded certain rights and privileges. As one of those rights, you are provided with an annual financial report on the performance of the company. Provision of that annual report to the stockholders is considered fundamental to the participation of the shareholders in the company's operation.

In a democratic society, all of our citizens are considered part owners of our Government. Our citizens are our

shareholders in this Government. Yet, our citizens are not provided with an annual report on the actual performance of the Federal Government. True, there is no shortage of media reports on budget battles and summit deals between Congress and the administration, but the news stories very frequently do not tell the full story.

For 5 years, starting in 1987, budgets have been submitted under Gramm-Rudman deficit targets. The President would submit his budget and Congress would pass a budget resolution that would be in line with the annual target. But every year, the actual deficit for the year has turned out to be worse than the target set at the beginning of the year in the budgets.

In fact, over the past 5 years, from fiscal year 1987 to fiscal year 1991, the cumulative difference between the deficit estimate in the annual budget and the actual annual deficit totals over $410 billion; a $410 billion difference between what Congress was told was going to happen and what actually occurred.

Mr. President, in fact, for the most recent year alone, fiscal year 1991, the difference between the budgeted deficit and the actual deficit was a staggering $205 billion. Now the Office of Management and Budget tells us in its mid-session estimate that the cumulative deficit for the current fiscal year through 1996 will be a shocking $1.38 trillion, missing the mark set in the original fiscal year 1992 budget by a staggering 160 percent. But adding to the concern of the public is the fact that the latest budget contains not one shred of evidence that the Federal budget will be in balance at any time in the future.

Washington has thrown in the towel in balancing the Federal budget. Mr. President, to be precise, this administration that presents the budget to Congress has thrown in the towel on doing anything about the growth in the Federal debt and doing everything about these ongoing Federal budget deficits. We hear the administration say they have a plan up here, a 5-year plan to do something about the Federal budget deficit, and indeed they do. They have a plan that will increase the national debt by this staggering sum of well over $1 trillion.

If the track record in recent years is any guide, the actual deficits in the coming years will be much worse than these current estimates. There is no question that the public is dissatisfied with the job the administration and Congress are doing in dealing with the deficit problem. In addition, the public continues to perceive that a significant amount of Government money is simply wasted through fraud and abuse. The continuing inability to deal with these problems is pushing us closer and closer to a crisis of confidence.

The public does not know how much its Government actually spends, or on what.

Mr. President, when I go back to my constituency and hold community forums, over and over people ask me for the basic information about how the Federal Government is spending its money. How big is the deficit? What is the outlook for the coming year? How is the money being spent? Where is it going? How much is going for defense? How much is going for welfare? How much is going for agriculture? How much is going for foreign assistance?

These are basic questions, and the taxpayers of this country deserve answers. They are not going to get it from the daily news media. There is no way that television is going to provide the kind of report that is needed by the American people to understand what is happening and why with respect to our national economic condition.

The people deserve to have some way of understanding precisely what is occurring and what are its implications. What difference does it make if we run up a $4 trillion national debt, which is where we are as we meet here today?

What difference does it make? What are the implications? What does it mean for the future strength of our economy? What does it mean for the future size of our economy? What does it mean for the incomes of American families?

Those are the important issues that need to be addressed, and one wonders how are they going to be addressed if the people that have to make the decisions in this democratic society do not have the basic information necessary upon which to make those decisions.

They are not going to get it on television. Rarely are they going to get it in the newspapers. Oh, yes; they will see reports that the deficit this year is going to be approximately $400 billion, and perhaps if they read carefully and closely, they will find out that the debt is now $4 trillion. And if we are not careful, it will be added to by approximately 50 percent over the next 5 years. But, Mr. President, that information is not presented in a way that is clear and concise and available to all the decisionmakers in this society, the voters of our country.

That is why the legislation that I introduce today moves to change that. The bill is straightforward and concise. It directs the Chief Financial Officer and the staff of the Treasury Department to prepare an annual report at the close of each fiscal year. The report would be readily available to all households through a request designation box on the individual income tax forms.

If the people do not want this information, there is no reason to send it to them. But if they are interested in the financial condition of their country, it should be available to them.

The report is to contain the basic information that any financial report would contain: An income statement, a balance sheet, information on special funds, a review of trends in revenues and expenditures, and a comparison of actual results to the forecasted amount for the most recent fiscal year.

Let us hold up the Office of Management and Budget to accountability. Let us hold the administration up to accountability. Let us let the American people see what was predicted and what is actually occurring.

The report would also contain short statements from the President, Senate and House leaders, as well as summary statements from the Chief Financial Officer and the Comptroller General.

Outside of these core requirements, Mr. President, the legislation would call on the Chief Financial Officer to oversee the preparation of the report. In addition, the legislation provides authority for the establishment of a citizens advisory group to ensure that the design of the report is most informative for the citizen users.

The cost of providing the annual report would be relatively small. The Department of Treasury Financial Management Service already has the staff and budget in place to prepare the Government's financial reports. But additional funds would be required for printing and mailing copies to the households requesting the report. The total cost, if all households were to receive the annual report, would not be over $30 million, a small price to pay for an informed citizenry.

To help defray the printing and distribution costs, the legislation establishes the authority for the receipt of contributions from corporations, foundations, and other private entities that would be willing to support this effort.

An objective of this bill is to bring clarity to a fiscal situation that to most people must appear very murky. Yet, it is widely recognized that the Government's accounting systems are a mess, and are only slowly getting better. It is now costing the Federal Government over $2 billion a year to make necessary improvements to its financial systems.

Last year, the Office of Management and Budget reported that in the early 1980's, "The Government had over 500 financial systems, many of them antiquated, incompatible, or redundant, and many not in compliance with applicable accounting standards."

Mr. President, likewise, the General Accounting Office has been very critical that there is not enough coordination and focus between the agencies on Federal accounting efforts.

The 1990 Chief Financial Officers Act took a very positive step toward bringing coordination to Federal accounting. But it does fall short. It does not require a governmentwide, consolidated financial statement by a date

certain. This legislation would complement the Chief Financial Officers Act. The legislation that I introduced today provides the crucial incentive to the agencies and the chief financial officer to get the job done right, and get it done now. It sends the bureaucracy the message that the public deserves and will get good financial information on the fiscal conditions facing this Nation.

In the face of declining participation of the public in the electoral process, providing something so basic as an annual report would be a very positive action.

While the bureaucracy is given the message that it is past time to get its financial house in order, the report would serve as a reminder to the public that this Government exists for them; that we all share a part in finding solutions to these fiscal problems that our Government lives under.

Our great Nation was built by our Founding Fathers on a basis of democracy and public participation. Publication and broad distribution of an annual report on the finances of our Government are in keeping with those high ideals.

Mr. President, we face some very difficult challenges in the days ahead. We have now had a Presidential candidate remove himself from the race. But also, as he removed himself, he came out with a financial plan to get this Nation's fiscal house in order. The magnitude of that plan tells us something about how deep our financial problems are.

The plan that was advanced by Mr. Perot requires a reduction in the deficit of some $700 billion over the next 5 years. At the same time, we have seen the unveiling of a plan by the chairman of the House Budget Committee, Mr. PANETTA. His plan, too, calls for a reduction in the deficit over 5 years of some $700 billion.

Mr. President, that is not going to be easy to accomplish. It is going to require shared sacrifice. If the American people are going to be persuaded that shared sacrifice is really necessary, they are going to have to have available to them the basic information that leads a person to that conclusion.

Mr. President, they do not have that information today. I would say to my colleagues that if the American people had that basic information, if they saw what it means if we stay on the current course, that they would be more willing to change that course.

For those reasons, Mr. President, I believe this legislation is important.

I now ask unanimous consent, Mr. President, that the text of the bill be printed in the RECORD following these remarks.

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

S. 3079

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 "Act for an Annual Report for the American Citizens".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Through our system of democracy and public funding of the Government, all citizens share an interest in the financial well-being of our Federal Government. Accurate, consistent, and broadly distributed reporting on the Nation's finances are central to the conduct of democracy.

(2) Recent Federal budget deficits have resulted in more than a tripling of the Federal debt. With prospects for enormous Federal budget deficits for the next several years, the debt is a burden that affects the present and future generations of Americans.

(3) The actual financial performance of the Federal Government often differs from the budget by tens, even hundreds, of billions of dollars. For example, the fiscal year 1991 budget was to result in a deficit of $63,000,000,000. Instead, the actual deficit for the year was $268,700,000,000.

(4) Billions of dollars are currently being spent to make changes in existing accounting systems in Federal agencies, but without adequate coordination and direction.

(5) The Federal Government continues to lose billions of dollars each year through fraud, waste, abuse, and mismanagement. Standardized reporting to the public is essential to the improvement of accountability of public programs.

(6) The growing Federal debt is hindering economic growth and competitiveness, and ultimately, reduces the standard of living of all Americans.

(b) PURPOSE.—The purpose of this Act is to—

(1) increase the participation and awareness of the public in finding solutions to the Federal Government's budget problems;

(2) require the President, Congressional leaders, and the chief financial officers of the Government to report to the public on the well-being of the Federal Government's finances as a part of their fiduciary responsibilities; and

(3) bring a focus to efforts already underway that seek to develop and improve financial standards, annual reporting, and systems in the agencies of the Federal Government.

SEC. 3. ANNUAL REPORT.

Section 3513 of title 31, United States Code, is amended by adding at the end thereof the following:

"(d)(1) The Secretary of the Treasury shall prepare and distribute to all taxpayers described in paragraph (5) an annual report containing, at a minimum—

"(A) the most recent 5-year actual trends in Federal receipts, expenditures, fund balances, assets and liabilities, and debts by major category or source;

"(B) a comparison of the actual budget totals for the most recent fiscal year to the budget projections;

"(C) statements from the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives regarding significant aspects of the Government's financial performance; and

"(D) any other relevant information on the Government's performance and contributions to economic growth, productivity, and investment in infrastructure.

"(2)(A) Preparation of the report shall be supervised and directed by the Deputy Director for Management of the Office of Management and Budget.

"(B) There is established an advisory committee to provide the Deputy Director for Management of the Office of Management and Budget with comments and suggestions on the design and content of the annual report. The advisory committee shall consist of 11 members as follows:

"(i) 5 members to be appointed by the President.

"(ii) 2 members to be appointed by the Majority Leader of the Senate.

"(iii) 1 member to be appointed by the Minority Leader of the Senate.

"(iv) 2 members to be appointed by the Speaker of the House of Representatives.

"(v) 1 member to be appointed by the Minority Leader of the House of Representatives.

"(3) The report shall contain statements by the Deputy Director for Management of the Office of Management and Budget and the Comptroller General attesting to the accuracy of the information contained in the report.

"(4) The report shall be prepared annually in a timely fashion after the close of each fiscal year.

"(5)(A) A taxpayer is described in this paragraph if such taxpayer designates on the form for the return of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year that such taxpayer desires a copy of the report described in this subsection.

"(B) Space shall be made available for the designation referred to in subparagraph (A) on the first page of the tax return forms for such tax.

"(6) Nothwithstanding any other provision of law, the costs of preparing and distributing the report may be paid by contributions from corporations, foundations, and other private entities.".

SEC. 4. AUTHORIZATION.

For carrying out this act, there are authorized to be appropriated to the Secretary of the Treasury $10,000,000 for fiscal year 1993, and such sums as be necessary for fiscal years 1994 1995, 1996, and 1997. These amounts shall include any funds raised through the authority established in Section 3(6) of this Act.

By Mr. PRYOR (for himself and Mr. BOREN):

S. 3080. A bill to amend the Internal Revenue Code of 1986 to restore the exclusion from gross income for income from discharge of qualified real property business indebtedness; to the Committee on Finance.

DISCHARGE OF INDEBTEDNESS REFORM ACT

• Mr. PRYOR. Mr. President, many regions of this country are experiencing a decline in real estate values unprecedented since the Great Depression. This drop in real property values has meant ruin for many individual investors, and has endangered financial institutions around the country. As a result of this crisis, real estate financing and liquidity are virtually nonexistent.

More and more owners of rental real estate are struggling to come to grips with the inability of their properties to support the debt tied to those properties. These individuals are faced with

the choice of foreclosure, deeding the property back to the lender, or, if they are more fortunate, restructuring the debt on the property to more accurately reflect the properties' ability to service the debt.

Unfortunately, for solvent property owners restructuring real property debt produces taxable income, but not the cash to cover the taxes. Because there is no cash on hand to pay the taxes, property owners often must sell other properties at distressed prices in order to cover their tax bill for the restructured property. These distressed sales only exacerbate the crisis in real estate values, and increase the pressure on financial institutions by making loan workouts more difficult to achieve.

Before the Tax Reform Act of 1986, the Tax Code better reflected the economic realities of restructuring arrangements. Since discharge of real property indebtedness produces only phantom income for solvent owners, pre-1986 law allowed owners to lower the basis in real property to the extent of the discharge of indebtedness. This allowed owners to defer the payment of tax until there was cash to pay the taxes from the sale of the property. The Tax Reform Act of 1986 repealed this treatment for all taxpayers except for bankrupt or insolvent taxpayers and farm property.

Committee report language indicates that Congress exempted farm property because of the existence of a serious credit and liquidity crisis for farm owners. A similar crisis now exists in our national real estate market. I, therefore, believe that it is time that we reinstate the election to reduce the basis of depreciable property in lieu of immediate tax liability in cases involving the discharge of real property. My bill would reinstate this treatment for individual taxpayers.

For example, an individual taxpayer owns an office building and an apartment building. The office building has a tax basis of $30,000 and the apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value and the rental income from the property now services a debt of only $75,000. The lender, facing a foreclosing situation, reduces the mortgage to $75,000. Instead of forcing the taxpayer to find the necessary cash to satisfy tax on $25,000, usually through the distress sale of other property, my legislation would allow the taxpayer to defer the tax liability by reducing the office building's basis to $5,000.

I urge my colleagues to join with me in sponsoring this important legislation. Mr. President, I ask unanimous consent that a copy 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. 3080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This act may be cited as the "Discharge of Indebtedness Reform Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever, in this Act an amendment or repeal is expressed in terms or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. RESTORATION OF EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) of the Internal Revenue Code of 1986 (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(D) the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 of such Code is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs (determined after any reductions under subsections (b) and (g)).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Indebtedness of the taxpayer shall be treated as qualified real property business indebtedness if (and only if)—

"(A) the indebtedness was incurred or assumed by an individual in connection with real property used in his trade or business, and

"(B) such taxpayer makes an election under this paragraph with respect to such indebtedness.

Such term shall not include qualified farm indebtedness."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) of such Code is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) of such Code is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraph (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 of such Code is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings paragraphs (6) and (7) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) of such Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) of such Code is amended by inserting "or under paragraph (3) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) of such Code is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) of such Code is amended by inserting "or (c)(1)" after "subsection (b)(5)".

SEC. 3. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply to discharge after December 31, 1992, in taxable years ending after such date.•

• Mr. BOREN. Mr. President, I am pleased to join my colleague from Arkansas, Senator PRYOR, in introducing the Discharge of Indebtedness Reform Act of 1992.

Although the press coverage of the real estate crisis in the Southwest has declined dramatically, the crisis itself continues unabated. Real property values are depressed, and as a result, real estate financing and liquidity are often unavailable.

Financial institutions in Oklahoma and elsewhere in the Southwest are finding the path to recovery to be a long and difficult one. One of the biggest obstacles to recovery is the number of properties in this region that cannot support their debt load. Financially-strapped owners usually have three options: Declare bankruptcy, dump the property on the financial institution, or renegotiate the loan with the financial institution. The first two options only exacerbate the crisis for financial institutions, worsening their financial statements and increasing their capital requirements.

Unfortunately, the tax laws make the third option—renegotiating the loan with the bank or thrift—impossible for most owners because even though they are solvent, they lack the cash to pay the taxes owed after a restructuring. Since the Tax Reform Act of 1986, taxpayers who renegotiate debt secured by real property have been required to include discharge of indebtedness as income. The code provides for only two exceptions: family farmers and insolvent taxpayers.

The Discharge of Indebtedness Reform Act of 1992 would reinstate pre-Tax Reform Act tax treatment for individuals owning real property. Since discharge of indebtedness results in only phantom income for solvent taxpayers, this legislation would allow owners to lower their basis in real property to the extent of the discharge of indebtedness. This treatment would allow owners to defer the payment of taxes until the sale of the property, when they are more likely to have cash in hand to pay the additional taxes.

I urge my colleagues to join with the Senator from Arkansas and myself as cosponsors of this important legislation.●

By Mr. SIMPSON:

S. 3082. A bill to amend the Internal Revenue Code of 1986 to allow a waiver of the 3-year limitation on claiming a credit or refund; to the Committee on Finance.

CREDIT OR REFUND WAIVER AMENDMENTS

Mr. SIMPSON. Mr. President, I rise to introduce legislation to make a minor modification to the Tax Code, which I believe will be of important help to American taxpayers and to the integrity of the tax-collection process.

Mr. President, some weeks ago my office was contacted by constituents Ronald and Mary Jane See of Powell, WY. The story they told to me was a long and tragic one, and I will not go into all the details here. The essential points were these: The Sees were victims of a fire which destroyed most of what they owned, including their financial records. This fire occurred during a difficult period in their lives when they were experiencing other financial hardships, and led to a prolonged dispute with the Internal Revenue Service. This dispute was slow in resolution because of the loss in the fire of all of this couple's financial records. It became necessary for "substitute tax returns" to be prepared to determine the Sees' tax liability for a period of a few years.

I do not want to get into the specifics of who "is in the right" in this particular case. That is not what I have come here to the floor to discuss. Rather, I was very disturbed by something I discovered in the course of investigating this dispute.

I found that a strange situation arises when a couple inadvertently overpays their taxes over a period of a few years, and then underpays them in succeeding years. In this case, the amount of overpayment was reportedly larger than the amount of the underpayment—that is, on balance the IRS had reportedly received more of this couple's money than was actually owed.

Mr. President, under the law a real paradox arises out of such a situation. Even though, on balance, too much money might be paid to the IRS, the Internal Revenue Service will still in some instances come hard after the taxpayer and assess a liability for back taxes, and the corresponding interest and penalties as well.

This is not the result of the IRS running amok or acting out of any malice. It is the result of the way the law reads. Under current law, there is a 3-year statute of limitations on the credit one may claim for overpaying taxes, so in a situation like the one I have described, the overpayment, more than 3 years old, is forgotten while the underpayment is pursued.

Mr. President, let me say that I fully understand why there is a 3-year statute of limitations in the law. Under normal circumstances, certainly, there is no excuse for failing to file for a credit within 3 years of filing. My legislation would leave that 3-year statute of limitations in place.

But normal circumstances are not always there. Unusual circumstances sometimes obtain, and the law should have a modicum of flexibility to provide for that. My correspondence from the IRS states that "we know of no case where the Internal Revenue Service has been able to waive the statute, regardless of the hardship to the taxpayer." Which is to say, even though a couple may have overpaid their taxes over the years, and may be wiped out financially by new tax assessments, the law mandates that this occur. Mr. President, that is simply not right.

The legislation which I am introducing will make one small modification in the Tax Code to permit a waiver of the 3-year statute of limitations "upon a showing of good cause and reasonable diligence by the taxpayer."

I want to stress that this language places no new obligations on the IRS, nor does it undercut its ability to pursue taxes owed. What it does do is remove the barrier of the inflexibility of the law, which is apparently tying their hands in cases like this. I have purposely crafted the language so that it does not oblige the IRS to consider an old claim where there is no particular excuse or no particular hardship. All that my legislation would do would be to allow some flexibility in dealing with unusual, unforeseen circumstances, such as the one that I have briefly described today.

Mr. President, this is a moderate, minor change in the law, not intended to overturn the spirit of existing law, but rather to ensure that the spirit is properly upheld. It is certainly not part of the intention of any legislator here to see a working couple that have, on balance, overpaid their taxes, pursued for back taxes which are only owed because of a quirk in the law, to the point of financial ruin. I hope that my colleagues will support this change.

By Mr. WARNER (for himself and Mr. ROBB):

S. 3083. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

SHENANDOAH NATIONAL PARK ACT

Mr. WARNER. Mr. President, I rise today to introduce legislation which would authorize the Secretary of the Interior to transfer without reimbursement all right, title, and interest in certain lands in the Shenandoah National Park to the Commonwealth of Virginia.

In order to understand the necessity for this legislation one must first understand the history of the creation of the Shenandoah National Park.

In 1923, Stephen Mather, Director of the National Park Service, persuaded Secretary of the Interior Hubert Work to appoint a five-member committee to investigate the possibility of establishing a national park in the southern Appalachians. At this time there were no parks in the country east of the Mississippi River. In 1924, the committee was formed to find a site for such a park. Thus began the difficult 11-year effort to establish a park in the southern Appalachians.

On February 21, 1925, President Coolidge signed into law legislation which had been introduced by Senator Swanson of Virginia and Senator McKellar of Tennessee which called for the creation of a national park in the southern Appalachians and the Great Smoky Mountains.

In 1926, Congress authorized the park to be acquired by donation, without the expenditure of any Federal funds. This act did not officially create the parks but set forth the conditions of their establishment although in indefinite terms. The Secretary of the Interior and the committee were given the difficult task of raising the necessary funds for land acquisition. Therefore, while there was strong support for the creation of the park, its realization remained highly conditional since no Federal funds would be made available to purchase the park lands.

Although private donations were coming in, then-Gov. Harry F. Byrd realized the need to pursue other financing means if sufficient funds to acquire the acreage were to be realized. In January 1928, Governor Byrd asked the general assembly for a $1 million appropriation to make possible the purchase of park lands. A few days later, the legislature agreed and appropriated the funds. This $1 million appropriation coupled with the $1.25 million raised from private sources thus enabled Virginia to purchase the necessary acreage.

With the financial means in hand, the Virginia General Assembly passed in 1928 the National Park Act which authorized the State Commission on Conservation and Development to acquire land for transfer to the Federal Government to establish the Shenandoah National Park. In that same year, Senator Swanson and Representative Temple—both of Virginia—introduced identical legislation in both Houses of Congress "to establish a minimum area for the Shenandoah National Park, for administration, protection, and general development * * *" This legislation passed both Houses of Congress and was signed into law by President Coolidge on February 16, 1928.

Due largely to the appropriation by the State of Virginia and what historians have called Virginia's heroic land

acquisition efforts, the necessary acreage was required and the land titles were given to the Federal Government. On December 26, 1935, the Shenandoah National Park was officially established.

The Commonwealth's generous donation of lands to the Federal Government for the creation of this great park has now placed the Commonwealth in an unfortunate situation in which the State can no longer maintain the roads within the park. My legislation addresses this situation.

The transfer of land from the Commonwealth to the Federal Government specifically voided all rights-of-way for road purposes except for U.S. Highways 211 and 33. According to the deeds, the Commonwealth transferred ownership of all other roads and road rights-of-way on those lands to the Federal Government. Absolutely no reservations were retained by the Commonwealth for such roads.

Since 1935, the National Park Service at Shenandoah National Park has allowed the Commonwealth to maintain existing secondary roads on the fringes of the park that it wished to maintain through documents called special use permits. The Department of the Interior Solicitor has recently reviewed the applicable statutes in 16 United States Code and 23 United States Code and has determined that continuation of these special use permits is not appropriate. Special use permits may be used only to grant a temporary use of lands in national parks. The Solicitor has ruled that the established roads are not a temporary use and require complete ownership and control of the lands by the user. These permits expired over 2 years ago and the Department of the Interior will not reissue them. VDOT continues to maintain the roads without the permits although there is no guarantee this maintenance will continue. Furthermore, the NPS does not have the necessary equipment to maintain these roads at Shenandoah National Park and therefore, future maintenance of these roads is in serious question.

Federal law does not allow the National Park Service to give away park land for secondary road purposes. The only legal means to grant the Commonwealth road rights-of-way is an equal value land exchange authorized under the Land and Water Conservation Fund Act.

Mr. President, facing this dilemma, the Virginia Department of transportation has acquired land for this purpose, thereby placing the Commonwealth in the position of buying private land to give to the Federal Government to reacquire the rights-of-way of land that the Commonwealth gave away when the park was established.

Due to the unique circumstances of the park's creation, this equal value land exchange requirement is strongly opposed by the local communities and elected officials.

This opposition led to the Virginia General Assembly's passage of Senate Joint Resolution No. 505 on April 15, 1992, which would "establish a joint subcommittee to study the purchase of land by the Virginia Department of Transportation, or any other agency of the Commonwealth, for purposes of transfer to the Federal Government in exchange for the rights-of-way of secondary roads within the Shenandoah National Park." The resolution also requires "that the Virginia Department of Transportation and all other agencies of the Commonwealth suspend all activities, for 1 year, involving the acquisition of land and the transfer of such land to the Federal Government in return for road rights-of-way within the Shenandoah National Park * * *"

Mr. President, the U.S. Congress can resolve this controversy by passing this legislation which I am introducing today which would allow the Secretary of Interior to transfer to the Commonwealth—without reimbursement—all right, title, and interest in and to the roads within the part specified in the legislation.

Due to the Commonwealth's generous donation of lands to the Federal Government for the creation of the park, the Commonwealth should not be required to give the Federal Government land for exchange for maintaining and improving roads within the park.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 3083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER TO THE COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may convey, without consideration or reimbursement, all right, title, and interest of the United States in and to the roads specified in subsection (c) to the Commonwealth of Virginia.

(b) CONDITIONS OF CONVEYANCE.—

(1) EXISTING ROADS.—A conveyance pursuant to subsection (a) shall be limited to the roads described in subsection (c) as the roads exist on the date of enactment of this Act.

(2) REVERSION.—A conveyance pursuant to subsection (a) shall be made on the condition that if at any time any road conveyed pursuant to subsection (a) is no longer used as a public roadway, all right, title, and interest in the road shall revert to the United States.

(c) ROADS.—The roads referred to in subsection (a) are those portions of roads within the boundaries of Shenandoah National Park that, as of the date of enactment of this Act, constitute portions of—

(1) Madison County Route 600;
(2) Rockingham County Route 624;
(3) Rockingham County Route 625;
(4) Rockingham County Route 626;
(5) Warren County Route 604;
(6) Page County Route 759;
(7) Page County Route 611;
(8) Page County Route 682;
(9) Page County Route 662;
(10) Augusta County Route 611;
(11) Augusta County Route 619;
(12) Albemarle County Route 614;
(13) Augusta County Route 661; and
(14) Rockingham County Route 663.

SEC. 2. TRANSFER TO THE SECRETARY OF THE TREASURY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may transfer certain land located in Shenandoah National Park and described in subsection (c) to the Secretary of the Treasury for use by the Secretary of the Treasury as a detector dog training center for the United States Customs Service.

(b) CONDITIONS OF TRANSFER.—

(1) PROTECTION OF PARK.—An agreement to transfer pursuant to subsection (a) shall include such provisions for the protection of Shenandoah National Park as the Secretary of the Interior considers necessary.

(2) CONSIDERATION.—A transfer pursuant to subsection (a) may be made without consideration or reimbursement.

(c) DESCRIPTION OF LAND.—The land referred to in subsection (a) has the following legal description:

The Tract of land located just West of Road No. 604 about 1 mile South of Front Royal, Warren County, Virginia, and bounded as follows:

Beginning at (1) a monument in the line of the land of Lawson just West of Road No. 604; thence with the land of Lawson and then with a new division line through the land of Shenandoah National Park N 59 deg. 45 min. 38 sec. W 506.05 feet to (2) a Concrete Monument set, said point being N 59 deg. 45 min. 38 sec. W 9.26 feet from a monument a corner to the land of Lawson; thence with another new division line through the land of Shenandoah National Park N 31 deg. 31 min. 00 sec. E 1206.07 feet to (3) a Concrete Monument set in the line of the land of the U.S. Government; thence with the land of the U.S. Government for the following two courses: S 07 deg. 49 min. 31 sec. E 203.98 feet to (4); thence S 09 deg. 10 min. 06 sec. E 27.79 feet to (5) a corner between the land of the U.S. Government and the land of U.S. Customs Service Detector Dog Training Center; thence with a 282.896 Acre Tract of land of U.S. Customs Service Detector Dog Training Center for the following six courses:

S 10 deg. 38 min. 32 sec. E	152.47 feet to (6); thence
S 00 deg. 48 min. 32 sec. W	127.52 feet to (7); thence
S 08 deg. 25 min. 46 sec. W	422.15 feet to (8); thence
S 14 deg. 37 min. 16 sec. W	106.47 feet to (9); thence
S 27 deg. 13 min. 28 sec. W	158.11 feet to (10); thence
S 38 deg. 17 min. 36 sec. W	146.44 feet to the point of beginning, containing 9.888 acres, more or less.

Mr. ROBB. Mr. President, I rise today to join my senior colleague, Senator WARNER, in introducing a bill to transfer title of certain lands in the Shenandoah National Park [SNP] from the Federal Government to the Commonwealth of Virginia.

Mr. President, in 1928, the Commonwealth of Virginia authorized the State Commission on Conservation and Development to acquire land for donation to the Federal Government to help form the Shenandoah National Park. With a few exceptions, the Commonwealth did not retain highway rights-of-way.

For years, in recognition of the park's origin, the Park Service allowed

the Virginia Department of Transportation to operate and maintain secondary roads with a series of special-use permits. Those permits have now expired, and the Interior Department has declared that it cannot authorize the Commonwealth to continue maintaining the roads unless the Commonwealth reacquires the rights-of-way, by exchanging land of equal value. Clearly, these circumstances create an inequity in which the citizens of Virginia are being asked to pay for the same land twice. In recognition of this basic unfairness, the Virginia State Senate and House of Delegates in April passed Senate Joint Resolution 505, which suspends most land exchanges involving the SNP for 1 year.

The legislation Senator WARNER and I are introducing today is meant to untie the hands of the Interior Department. The bill would authorize the Secretary of the Interior to convey to the Commonwealth of Virginia, without consideration or reimbursement, all right, title, and interests of the United States in certain specified roads within the SNP. All right, title, and interests in such roads would revert to the United States if and when they were no longer used as public roadways.

I hope that my colleagues will move swiftly to pass this bipartisan legislation.

By Mr. COCHRAN (for himself, Mr. BOND, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GLENN, Mr. HATCH, Mr. HOLLINGS, Mr. MCCAIN, Mr. MCCONNELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ROTH, Mr. SMITH, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 328. Joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

Mr. COCHRAN. Mr. President, I am introducing legislation today to designate November 23, 1992, as "National Military Families Recognition Day." I am pleased that 22 other Senators are cosponsors of this joint resolution, and that my friend and colleague from Mississippi, MIKE ESPY, has introduced this measure in the other body.

Military families deserve special recognition for the sacrifices they make and the hardships they often endure. Even in peacetime, frequent and extended separations, whether from a husband, wife, or children, often create special problems for the military family.

Most active duty personnel are reassigned every 2 years, thereby reducing career opportunities for spouses and limiting their ability to establish roots in any location. Military children must adjust to new schools and new neighborhoods on a regular basis.

This joint resolution would set aside a special day for the Nation to pay tribute to military families and thank them for their contributions to our Nation's security.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD.

Mr. President, I urge my colleagues to support this legislation.

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

S.J. RES. 328

Whereas the Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas the people of the United States are particularly indebted to and respectful of the family members of the 569,000 military personnel deployed for Operation Desert Shield and Operation Desert Storm;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and education opportunities;

Whereas 72 percent of officers and 54 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) account for more than 2,815,000 of the more than 4,880,000 in the active duty community, and spouses and children of members of the Reserves in paid status account for more than 1,320,000 of the more than 2,470,000 in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly 450,000, and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that the families have made on behalf of the Nation; and

(2) November 23, 1992, is designated as "National Military Families Recognition Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. MITCHELL, his name, and the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Texas [Mr. BENTSEN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 33

At the request of Mr. MOYNIHAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 33, a bill to establish the Social Security Administration as an independent agency, and for other purposes.

S. 405

At the request of Mr. MITCHELL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 1372

At the request of Mr. GORE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the names of the Senator from Maryland [Mr. SARBANES], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 2167

At the request of Mr. SEYMOUR, the name of the Senator from Texas [Mr.

GRAMM] was added as a cosponsor of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2322

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2322, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2541

At the request of Mr. BOREN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2541, a bill to provide for improvements in the delivery of and access to health care in rural areas.

S. 2654

At the request of Mr. DECONCINI, the names of the Senator from Nevada [Mr. REID], the Senator from Alaska [Mr. STEVENS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2654, a bill to amend the Land and Water Conservation Fund Act of 1965 to ensure sufficient funding for Federal and State projects and for maintenance and security needs, to encourage multipurpose acquisitions, and for other purposes.

S. 2682

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2810

At the request of Mr. GORE, the names of the Senator from Indiana [Mr. COATS], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2889

At the request of Mr. BOREN, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2889, a bill to repeal section 5505 of title 38, United States Code.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2941

At the request of Mr. RUDMAN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2979

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2979, a bill to amend the Internal Revenue Code of 1986 to encourage charitable contributions and improve compliance with the rules governing the deductibility of such contributions.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from New Mexico [Mr. DOMENICI], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Mr. SARBANES], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS

HOLLINGS AMENDMENT NO. 2745

Mr. HOLLINGS proposed an amendment to the bill (S. 3026) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

For the Fishing Vessel and Gear Damage Fund—

On page 50, line 3, strike the sum "$1,281,000"and insert in lieu "$1,306,000".

For the Fisherman's Contingency Fund—

On page 50, line 8, strike the sum "$1,000,000" and insert in lieu "$1,025,000".

For the Foreign Fishing Observer Fund—

On page 50, line 20, strike the sum "$571,000" and insert in lieu "$565,000".

For the Commission on Agricultural Workers—

On page 73, line 5, strike the sum "$585,000" and insert in lieu "$578,000".

For the Department of State, Salaries and Expenses—

On page 78, line 16, after the "amended" delete the following: "(22 U.S.C. 2669)".

For the Repatriation Loans Program Account—

On page 82, line 2, strike the sum "$1,000,000" and insert in lieu "$624,000".

For the American Sections, International Commissions—

On page 85, line 14, strike the sum "$4,410,000" and insert in lieu "$4,403,000".

For Russian, Eurasian, and East European Research and Training Program—

On page 86, line 17, strike the sum "$4,784,000" and insert in lieu "$4,961,000".

HOLLINGS (AND OTHERS) AMENDMENT NO. 2746

Mr. HOLLINGS (for himself, Mr. REID, Mr. BRYAN, and Mr. INOUYE) proposed an amendment to the bill S. 3026, supra, as follows:

On page 63 line 10 strike from "SEC. 206." through to and including "Louisiana." on line 13 and insert in lieu thereof the following:

SEC. 206A. The Under Secretary of Oceans and Atmosphere is authorized to construct a building, on approximately 15 acres of land to be leased for a 99-year term from the University of Southwestern Louisiana.

SEC. 206B. (a) The Under Secretary of Oceans and Atmosphere is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years, a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada, area.

(b) The Under Secretary is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 206C. (a)(1) The Under Secretary of Oceans and Atmosphere is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) The Under Secretary is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) The Under Secretary is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

KENNEDY (AND SIMPSON) AMENDMENT NO. 2747

Mr. HOLLINGS (for Mr. KENNEDY and Mr. SIMPSON) proposed an amendment to the bill S. 3026, supra, as follows:

On page 20, line 4, strike out "$990,894,000" and insert in lieu thereof "$990,694,000".

On page 20, between lines 14 and 15, insert the following:

COMMISSION ON IMMIGRATION REFORM

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $800,000.

DOLE AMENDMENT NO. 2748

Mr. DOLE proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place, add the following:

SEC. . The General Accounting Office is hereby directed to report to Congress by September 1, 1992, their explanation for failing to comply with Public Law 100-202, and to complete by the adjournment of Congress sine die of the 102d Congress, the reports required to be submitted to Public Law 100-202.

BREAUX (AND OTHERS) AMENDMENT NO. 2749

Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. HOLLINGS, and Mr. RUDMAN) proposed an amendment to the bill S. 3026, supra, as follows:

Strike the paragraph regarding the Ready Reserve Force on page 71 of the bill, on line 10 beginning with "for" through to and including "program." On line 21, and insert in lieu thereof:

"For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $146,000,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. HARKNESS: *Provided*, That funds available under this heading shall be available only to acquire ships which were registered in the United States on or before January 1, 1992, or to build Ready Reserve Research force ships in United States shipyards: *Provided further*, That reimbursement may be made to the operations and training appropriations for expenses related to this program.

MILITARY VESSEL OBLIGATION GUARANTEE PROGRAM

For the costs, as defined in subsection 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $44,800,000: *Provided*, that the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of having naval and military utility in time of war or national emergency: *Provided further*, That such loan guarantees shall be available only for construction of vessels in United States shipyards: *Provided further*, for administrative expenses to carry out the Guaranteed Loan Program, $2,350,000, which may be transferred to and merged with the operations and training appropriations for the Maritime Administration."

PELL AMENDMENT NO. 2750

Mr. HOLLINGS (for Mr. PELL) proposed an amendment to the bill S. 3026, supra, as follows:

On page 79, line 15, after "(22 U.S.C. 2718(a))" insert the following: ", and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for followup activities to the United Nations Conference on Environmental and Development, including necessary travel".

DODD (AND OTHERS) AMENDMENT NO. 2751

Mr. DODD (for himself, Mr. PELL, and Mr. LIEBERMAN) proposed an amendment to the bill S. 3026, supra, as follows:

On page 76, line 25, strike all after "Armed Forces" up to and including page 77, line 2 and insert in lieu thereof the following: "of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement, a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement, or an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program,".

SMITH AMENDMENT NO. 2752

Mr. SMITH proposed an amendment to the bill S. 3026, supra, as follows:

At the appropriate place, add the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted."

DOLE AMENDMENT NO. 2752

Mr. DOLE proposed an amendment to amendment No. 2752 proposed by Mr. SMITH to the bill S. 3026, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

"The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289, signed by the Mayor of the District of Columbia on December 17, 1990) is hereby repealed, and any provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted. The provisions of the preceding sentence shall take effect one day following enactment."

BINGAMAN AMENDMENT NO. 2754

Mr. BINGAMAN proposed an amendment to the bill S. 3026, supra, as follows:

On page 73, line 18, delete the figure "$750,000" and insert in lieu thereof "$1,750,000";

On page 43, line 8, delete the figure "$121,021,000" and insert in lieu thereof "$119,923,000".

BROWN AMENDMENT NO. 2755

Mr. BROWN proposed an amendment to the bill S. 3026, supra, as follows:

On page 83, line 10, after "Agency" insert the following: ": *Provided further*, That none of the funds made available by this Act may be used to implement or enforce any International Coffee Agreement which has not been submitted to the United States Senate for its advice and consent:".

DODD AMENDMENT NO. 2756

Mr. HOLLINGS (for Mr. DODD) proposed an amendment to the bill S. 3026, supra, as follows:

On page 109, after line 8, insert the following new section:

SEC. 612. FEES FOR REGULATION OF INVESTMENT ADVISERS.

(a) IN GENERAL.—

(1) FEE.—

(A) CURRENTLY REGISTERED ADVISERS.—Each investment adviser registered under the Investment Advisers Act of 1940 prior to the effective date of this section shall submit to the Securities and Exchange Commission (hereafter referred to as the "Commission") an annual fee to be used by the Commission for recovery of the costs of supervision and regulation of investment advisers, as determined according to the schedule set forth in subparagraph (C).

(B) NEWLY REGISTERED ADVISERS.—Each person that becomes registered as an investment adviser in accordance with the Investment Advisers Act of 1940 on or after the effective date of this section shall pay the fees specified in the schedule set forth in subparagraph (C) upon such registration and annually thereafter.

(C) SCHEDULE.—The schedule set forth in this subparagraph is as follows:

Assets under management:	*Fee due:*
	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	$500
$25,000,000 or more, but less than $50,000,000	$1,000
$50,000,000 or more, but less than $100,000,000	$2,500
$100,000,000 or more, but less than $250,000,000	$4,000
$250,000,000 or more, but less than $500,000,000	$5,000

	Fee due:
$500,000,000 or more	$7,000.

(2) USE OF FEES.—Fees collected in accordance with this subsection shall—

(A) be deposited as offsetting collections to the Securities and Exchange Commission appropriation for the fiscal year ending September 30, 1993;

(B) be available to the Securities and Exchange Commission in addition to any other funds provided for in this Act; and

(C) remain available until expended.

(b) EFFECTIVE DATE.—This section shall become effective upon the enactment of authorization legislation and adoption by the Securities and Exchange Commission of appropriate implementing rules and regulations.

PELL (AND CHAFEE) AMENDMENT NO. 2757

Mr. HOLLINGS (for Mr. PELL and Mr. CHAFEE) proposed an amendment to the bill S. 3026, supra, as follows:

On page 91, line 17, delete the period and insert in lieu thereof the following: ": *Provided further*, That $800,000 shall be available for the World Scholar-Athlete Games.".

ADAMS (AND PELL) AMENDMENT NO. 2758

Mr. HOLLINGS (for Mr. ADAMS and Mr. PELL) proposed an amendment to the bill S. 3026, supra, as follows:

At the end of the bill add the following:

SEC. . (a) Pursuant to Private Law 98-54 and notwithstanding any other provisions of law, the Secretary of the Treasury is directed to pay from funds provided in this Act to the Department of State and identified by the Secretary of State to Joseph Karel Hasek, $250,000 (less than 5 percent of his losses), together with interest calculated under subsection (b), not later than 30 days after enactment of this Act.

(b) The interest to be paid under subsection (a) shall represent the amount of interest accruing on $250,000 from August 1, 1955, to August 8, 1958, at a rate which shall be determined by the Secretary of the Treasury.

(c) No amount in excess of 10 percent of any amount paid pursuant to this section may be paid to or received by any attorney or agent for services rendered in connection which such payment, and any such excessive payment shall be unlawful, any contract to the contrary notwithstanding.

HOLLINGS (AND OTHERS) AMENDMENT NO. 2759

Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. GORTON) proposed an amendment to the bill S. 3026, supra, as follows:

Amend section 611 to read as follows:

SEC. 611. (a) None of the funds appropriated under this Act may be used by the Commission to develop, issue, implement, or enforce a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9, or any successor proceeding, unless the Commission meets the requirements of subsection (b) and incorporates the requirements of subsection (c) into such rule or order.

(b) Such rule or order shall not take effect until 90 days after it has been issued by the Commission.

(c)(1)(A) The Commission shall not redesignate, from primary to secondary, any use of the frequencies between 1850 and 2200 MHz by a qualified private fixed microwave entity.

(B) The Commission may permit frequencies between 1850 and 2200 MHz that are allocated on a primary basis to qualified private fixed microwave entities to be used on a shared basis, except that any entity that shares the frequencies between 1850 and 2200 MHz with a qualified private fixed microwave entity shall bear the burden of eliminating any harmful interference to a primary system of a qualified private fixed microwave entity.

(C) Any newly licensed system, or any modification of or addition to an existing system, operated by a qualified private fixed microwave entity on frequencies between 1850 and 2200 MHz shall bear the burden of eliminating any harmful interference to any emerging telecommunications technology entity whose license was issued at an earlier date than the license for such newly licensed system or such modification or addition.

(D) Any grant of a license to a qualified private fixed microwave entity for a new system, or for modification of or addition to an existing system, to use frequencies between 1850 and 2200 MHz shall be on a primary basis, unless no other qualified private fixed microwave entity is operating on those frequencies on a primary basis.

(E) The Commission shall not, for the purpose of preserving the availability of frequencies for emerging telecommunications technologies or other uses, deny any application of a qualified private fixed microwave entity for a license for modification of or addition to an existing system, to operate on frequencies between 1850 and 2200 MHz.

(2) The Commission shall not impede or restrict the ability of qualified private fixed microwave entities operating on frequencies between 1850 and 2200 MHz, or of licensees or proponents of emerging telecommunications technologies, to enter into voluntary agreements for the purpose of optimizing efficient use of spectrum, including but not limited to migration of facilities to other frequencies or media.

(3)(A) At a date no earlier than 8 years following issuance of a rule or order affecting the use of the frequencies between 1850 and 2200 MHz by qualified private fixed microwave entities in the proceeding identified as ET Docket 92-9—

(i) any emerging telecommunications technology entity operating on or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any qualified private fixed microwave entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media; and

(ii) any qualified private fixed microwave entity operating or seeking to operate on frequencies between 1850 and 2200 MHz may submit to the Commission under this paragraph a proposal for migration of any emerging telecommunications technology entity's facilities operating on frequencies between 1850 and 2200 MHz to other frequencies or media.

(B) Any migration proposal under subparagraph (A) (i) or (ii) shall demonstrate that—

(i) the party proposing such migration has a license to operate on the frequencies used by the party subject to the migration or otherwise has the qualifications to use those frequencies;

(ii) there is a need for the proposed migration, including the unavailability to the party proposing the migration of other equally reliable frequencies at costs comparable to those for a system operating on frequencies between 1850 and 2200 MHz;

(iii) the party proposing such migration has in writing notified the party subject to migration (within a reasonable time sufficient to enable the parties to discuss entering into a voluntary agreement as described in paragraph (2)) of its intent to submit a migration proposal;

(iv) an alternative communications system for the party subject to migration would be available and would be at least as reliable in all respects as the communications system such party is operating at the time of the proposal; and

(v) the party proposing such migration will pay all costs associated with such migration and necessary to ensure the reliability of the alternative communications system, as such costs are incurred.

(C)(i) The Commission shall approve the proposed migration if the Commission finds that the migration proposal makes the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v).

(ii) If the Commission does not make the findings described in clause (i), the Commission shall not approve the proposed migration.

(iii) If the Commission approves the proposed migration, the Commission shall provide that the party subject to migration shall be provided an adequate period of time in which to construct and test the proposed alternative communications system and to complete migration. The party subject to migration shall not be required to cease using the frequencies between 1850 and 2200 MHz until the reliability of the alternative communications system has been established.

(iv) If the Commission approves the proposed migration, the Commission shall retain jurisdiction over the proposed migration to resolve all remaining disputes to ensure that the demonstrations described in subparagraph (B) (i), (ii), (iii), (iv), and (v) are made.

(d) The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which analyses the feasibility of allowing frequencies reserved for use by the Federal Government as of June 1, 1992, to be used by emerging telecommunications technology entities, or by any qualified private fixed microwave entity now operating on frequencies between 1850 and 2200 MHz.

(e) In this section, the following definitions apply:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "existing" means in operation on the date of enactment of this Act.

(3) The term "harmful interference" means any interference from any technology that exceeds the level of protection equivalent to that provided under section 94.63 of title 47, Code of Federal Regulations.

(4) The term "qualified private fixed microwave entity" means an entity licensed or permitted, or eligible to be licensed or permitted, under part 90 of title 47, Code of Federal Regulations, for Public Safety Radio Services, Special Emergency Radio Services, Power Radio Services, Petroleum Radio Services, and Railroad Radio Services.

BUMPERS AMENDMENT NO. 2760

Mr. HOLLINGS (for Mr. BUMPERS) proposed an amendment to the bill S. 3026, supra, as follows:

On page 3, line 20, of the Hollings amendment, add at the end the following "(except where such entity is a State or local government, or an agency thereof)".

SEYMOUR AMENDMENT NO. 2761

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

INS BORDER PATROL HOT PURSUIT POLICY

SEC. . CHANGES IN CURRENT BORDER PATROL HOT PURSUIT POLICY

(a) IN GENERAL.—The Attorney General, after consultation with the Commissioner of the Immigration and Naturalization Service, shall revise and implement, by not later than January 1, 1993, U.S. Border Patrol Pursuit policies which shall improve safety and prevent future accidents such as that which occurred in Temecula, California, on June 2, 1992.

(b) IMMEDIATE ACTION.—The Attorney General, after consultation with the Commissioner of the Immigration and Naturalization Service, not later than 30 days after enactment of this Act shall—

(1) implement a schedule of stationing available helicopters at border checkpoints to assist in hot pursuit events;

(2) implement an effective communications system between INS, Border Patrol, and local and state law enforcement agencies, which effectively incorporates state and local law enforcement officials in the pursuit and apprehension of fleeing suspect vehicles.

SEYMOUR AMENDMENT NO. 2762

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

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

SEC. . REPORT ON PRISONER TRANSFER TREATY BETWEEN THE UNITED STATES AND MEXICO.

(a) FINDINGS.—Congress finds that—

(1) the number of aliens who come into this country illegally continue to be at enormously high levels;

(2) a greater proportion of aliens who come into this country illegally do so for the purpose of participating in organized drug trafficking or other criminal operations, or engaging in criminal activity within the United States;

(3) alien involvement in criminal activity nationwide has risen sharply during the past decade;

(4) the number of convicted criminal aliens in State prisons and local jails has risen sharply;

(5) in some jurisdictions, one out of every four prisoners in local jails is a criminal alien;

(6) the rise of criminal alien population has placed enormous costs on State and local governments and the taxpayers in the area;

(7) policies and programs that result in the expeditious deportation of criminal aliens from the United States are needed;

(8) one method to expedite the deportation of criminal aliens is to establish prison transfer programs where a convicted alien serves all or a portion of the sentence in his or her home country; and

(9) a determination of the methods and the costs to implement effective alien transfer programs in needed.

(b) IN GENERAL.—Not later than April 1, 1993, the Secretary of State and the Attorney General shall submit to the appropriate committees of the Congress, a report that describes the use and effectiveness of the Prisoner Transfer Treaty (hereafter in this section referred to as the "Treaty") with Mexico to remove from the United States aliens who have been convicted of crimes in the United States.

(c) USE OF TREATY.—Such report shall include a statement of—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977 who would have been or are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens who have been transferred pursuant to the Treaty, and, of such number, the number of aliens transferred and incarcerated in full compliance with the Treaty; and

(2) the number of aliens in the United States who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty, and, of such number, the number of aliens incarcerated in State and local penal institutions.

(d) EFFECTIVENESS OF TREATY.—Such report may include a list of recommendations to increase the effectiveness and use of, and ensure full compliance with the Treaty, as well as transfer programs initiated by State and local governments. Such recommendations may include—

(1) changes and additions to Federal laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(2) changes and additions to State and local laws, regulations and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) methods for preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty;

(4) a statement by officials of the Mexican Government on programs to achieve the goals of and ensure full compliance with the Treaty;

(5) a statement as to whether recommendation would require the renegotiation of the Treaty; and

(6) a statement of additional funds that would be required to implement the recommended.

Such recommendations in paragraphs (1) through (3) may be made after consultation with State and local officials in areas disproportionately impacted by aliens who have been convicted of criminal offenses.

(e) IMPLEMENTATION.—The Attorney General and the Secretary of State shall implement no later than May 1, 1993, any administrative and regulatory recommendations as described in subparagraphs (d)(1)

SEYMOUR AMENDMENT NO. 2763

Mr. SEYMOUR proposed an amendment to the bill S. 3026, supra, as follows:

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

SEC. . PAYMENT OF SALARIES OF ADDITIONAL IMMIGRATION JUDGES.

(a) The Attorney General shall evaluate the ability of the existing level of immigration judges to the Executive Office of Immigration Reform to meet its current and anticipated workload for fiscal year 1993 and the possibility of reprogramming of immigration examination fees to support additional immigration judges and personnel.

DISCLOSURE OF KENNEDY ASSASSINATION RECORDS ACT

GLENN AMENDMENT NO. 2764

Mr. HOLLINGS (for Mr. GLENN) proposed an amendment to the bill S. 3026, to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; as follows:

On page 13, strike lines 9 through 14 and insert the following:

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

On page 15, line 7, after "make" insert "immediately".

On page 15, lines 8 and 9, strike "not later than 300 days after the date of enactment of this Act".

On page 17, line 3, after "operations," insert "law enforcement,".

On page 22, line 15, strike "after receiving the report from" and insert "after reported by".

On page 25, line 7, strike "create" and insert "complete".

On page 26, line 1, after "(iii)" insert "request the Attorney General to".

NOTICE OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on H.R. 5191, the Small Business Equity Enhancement Act of 1992. The hearing (postponed from an earlier date) will take place on Wednesday, July 29, 1992, at 10:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patty Forbes, counsel to the Small Business Committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Monday, July 27, 1992, at 2 p.m. to conduct a hearing on S. 2907, the National Flood Insurance Reform Act of 1992.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, July 27, at 3 p.m. to hold a hearing on United States plans and programs regarding weapons dismantlement in the former Soviet Union.

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

ADDITIONAL STATEMENTS

CHILD NUTRITION

• Mr. SARBANES. Mr. President, last Thursday the Senate Appropriations Committee reported the Agriculture appropriations bill for fiscal year 1993 which includes a $260 million increase for the Women, Infants and Children [WIC] Supplemental Feeding Program and a $5 billion increase for the Food Stamp Program. I applaud the committee's efforts as a commendable step to provide funding for programs essential to the health and well-being of many of our Nation's citizens. However, in my view, more needs to be done in this critical area, especially in terms of providing for our children.

According to a national study coordinated last year by the Food Research and Action Center [FRAC], 5.5 million American children under the age of 12 are hungry—one out of every eight children living in this country. Further, the study indicated that hungry children are two to three times more likely than other children to have suffered from individual health problems such as unwanted weight loss, fatigue, irritability, and headaches. Obviously, children who are faced with these distractions are much less likely to reach their full potential and become productive adults. If our Nation is to succeed in an increasingly competitive world, efforts must be expanded to ensure our children have access to basic nutrition. While I have discussed our Nation's history of Federal support for nutrition programs before, it is, in my view, important to review what was, for many years, a strong commitment to funding for food assistance programs.

The first significant history for Federal food donations was included in legislation enacted in 1935 which made funds available to the Agriculture Department to encourage the domestic consumption of agricultural commodities by diverting them from normal channels of trade. With passage of the National School Lunch Act on June 4, 1946, a major shift occurred in the purpose of food distribution programs. The stated purpose of this legislation was not only to provide a market for agricultural production, but also to improve the health and well-being of the Nation's youth.

A further shift in the primary purpose of food distribution programs from surplus disposal to that of providing nutritious foods to needy households occurred following the issuance of an Executive order in 1961 which mandated that the Agriculture Department increase the quantity and variety of foods donated for needy households. Congress continued to expand food and nutrition programs during the sixties and seventies, increasing reimbursements and expanding program eligibility to cover a wider range of low-income families. Critical new programs were put into effect, including the WIC Program and nutrition programs targeted at the elderly.

However, after nearly 45 years of almost uninterrupted growth, Federal funding for these critical food assistance programs was drastically cut through the Reagan administration's Omnibus Budget Reconciliation Act of 1981. This measure, which reduced Federal funding for all domestic programs by $35 billion in fiscal year 1982, cut approximately $1.4 billion from child nutrition programs.

These cuts in spending for child nutrition programs amounted to about 25 percent of the amount that would have been spent in fiscal year 1982 had no changes been enacted. The School Lunch Program received the largest dollar amount reduction, losing almost $1 billion in fiscal year 1982. The Special Milk Program was cut by 77 percent, grant funding for the Nutrition, Education and Training Program [NET] was cut from $15 to $5 million, and the Summer Food Service Program was reduced by 54 percent below the expected fiscal year 1982 level. A commodity reimbursement rate cut lowered fiscal 1982 spending for commodity distribution by an estimated 42 percent and the Child Care Food Program was cut by 29 percent.

Efforts to restore some of the cutbacks in these programs began in the mideighties with the passage of the Food Stamp amendments to the 1985 farm bill and the School Lunch and Child Nutrition amendments of 1986. In 1988, Congress passed the Hunger Prevention Act, major legislation later enacted into law, that mandated funding for commodity purchases for soup kitchens and food banks, expanded reimbursements and eligibility for the School Breakfast, Child Care Food, and Summer Food Service programs, and liberalized food stamp benefits and eligibility rules. In addition, Congress helped to spare further cuts in Federal funding for child nutrition programs by refusing to accept repeated requests from the administration to end all Federal support for meals served to nonpoor children. Had this request been implemented, it would have eliminated the broad-based nutrition support focus of the programs.

I am pleased that largely through these congressional efforts, Federal funding for food assistance programs has increased since the cutbacks of the early 1980's, with Federal support for these programs growing, according to the Congressional Research Service, by 72 percent, approximately 10 percent more than inflation. However, these levels are still far from what is required to ensure that all our country's children are adequately fed.

According to the 1990 U.S. Census, it is estimated that 33.6 million people live in poverty in the United States. While this number is clearly unacceptable and has increased from 24.5 million, the level in 1972, I am particularly concerned about the Census Bureau's data as it relates to children. An analysis of the Bureau's findings by the Children's Defense Fund shows that the number of children living in poverty grew by more than 1 million during the 1980's, an 11.2 percent increase from 1979 to 1989. The percentage increase is even higher when the 1990's numbers are compared to census statistics from the 1970's. That comparison shows the rate of children living in poor families has increased by an astonishing 33 percent, so that today, one in every five children is impoverished.

These figures are especially disconcerting since comprehensive programs, proven effective over time, have been in place to serve the needs of these children, only lacking the funding to address the problem appropriately. For example, according to a 1991 Congressional Research Service study, funding for the School Lunch Program, which serves the largest number of children of all the child nutrition programs, has not kept pace with inflation during the past decade, with overall participation declining by 2.5 million children, so that approximately 40 percent of all the children eligible for this program do not participate. This percentage would increase if the administration's fiscal year 1993 budget proposal to reduce by 20 percent the Federal subsidies for the School Lunch Program has been adopted.

As a cosponsor of S. 757, the Mickey Leland Childhood Hunger Relief Act, I am also very concerned that the administration's budget does not contain funding for this legislation, a bill thought by many to be the most important antihunger legislation this country has seen in 15 years. S. 757 directly addresses the issue of childhood hunger by encouraging a better diet for low-income people, promoting self-sufficiency among food stamp recipients and simplifying the administration of food assistance programs. It is my view that any comprehensive policy to alleviate childhood hunger must include funding for this critical measure.

While I note that the administration has proposed a significant increase in funding for the WIC Program, I regret that the increase in funding came at the expense of other important pro-

grams. In their analysis of the administration's fiscal year 1993 budget, the Child Welfare League of America indicated that overall spending for discretionary programs for children and families has been reduced by $433 million or 7 percent. I am further concerned that, even with the increase, the administration's proposal for funding WIC is still significantly less than what is necessary to assure that this very successful, cost effective program is available to all eligible individuals. As a cosponsor of S. 2387, the Every Fifth Child Act, a measure that would make appropriations to begin a phase-in toward full funding for WIC, I want to ensure that this meaningful program will meet the needs of the over 3 million low-income, nutritionally at risk women and children that were not served by this program last year.

As the necessity for increased funding for childhood nutrition programs has become painfully obvious and urgent, I wish to remind my colleagues, once again, of legislation to take down the arbitrary budget walls, enacted as part of the Omnibus Budget Reconciliation Act of 1990, which prevent savings from defense from being used for domestic purposes. These walls are based on assumptions about our defense needs, made almost 2 years ago, that have no relevance in the changed world in which we now find ourselves. While a strong military is still essential, the savings that would be procured from taking down these walls is substantial and could be used to fund many critical domestic programs, including the School Lunch Program, WIC, and the Every Fifth Child Act.

As you know, on February 25, 1992, I joined with Senator SASSER in introducing a measure to take down these walls and allow a rational choice between defense and domestic discretionary spending. I regret that the Senate did not vote in sufficient numbers to end the Republican led filibuster of this legislation and that the motion to invoke cloture and proceed to the bill failed by a vote of 50 to 48, 10 votes shy of the 60-vote majority needed to cut off debate. It is my view that continued administration opposition to this legislation has effectively prevented the opportunity for any reasoned debate on our national economic priorities.

Mr. President, this Nation's long record of strongly supporting child nutrition programs illustrates the high priority we have placed on ensuring that our children, this country's most precious resource, are adequately prepared to succeed in this increasingly competitive world. The unwillingness of the past two administrations to acknowledge this priority and accept the responsibility of funding these crucial programs is, in my view, an unmitigated tragedy. While I am pleased that the Senate Appropriations Committee has, under the artificial constraints of the Budget Enforcement Act, recognized the importance of childhood nutrition, we must continue our efforts to provide greater Federal support for critical nutrition programs which are of such great importance to many of our Nation's children.•

CELEBRATING MRS. RUTH HOLLIDAY WATKINS 100TH BIRTHDAY

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to Mrs. Ruth Holliday Watkins on her 100th birthday. Mrs. Watkins has been devoted to serving others for many years.

Mrs. Watkins was the founder and first president of the International Institute of Metro St. Louis in 1919. In 1989 she participated in their 70th anniversary. She has served with the Family and Children's Services, the YWCA, the Provident Counseling, and the Second Presbyterian Church. Mrs. Watkins organized and served as the first president of the St. Louis Science Center Woman's Division. In 1960, she received an honorary doctor of humanities degree from Lindenwood College for her loving dedication of intelligence and imagination to the community.

Thanks to Mrs. Watkins humanitarian contribution, the Horton Watkins High School was established in 1953. She donated the land for the school and its enlargements. The Horton Watkins High School is well respected and many students have enjoyed their teachings.

While still being an active and dedicated servant of the community, Mrs. Watkins raised three children and has three grandchildren and five great grandchildren. She still continues to support many local and national organizations.

Mr. President, the people of St. Louis are grateful for Mrs. Ruth Holliday Watkins years of service, loyalty, and dedication to its communities. I join her family and friends in wishing her a happy 100th birthday. St. Louis is indeed fortunate to have such a dedicated public servant as Mrs. Ruth Holliday Watkins.•

SOUTH DAKOTA HONORS CZECH DAYS AND THE SCOTTIE STAMPEDE RODEO

• Mr. DASCHLE. Mr. President, America truly is a melting pot of nations. Many people have traveled and continue to travel to our shores seeking refuge and a chance at a new life in the land of opportunity. One such group is the Czechoslovakian population that came and settled in South Dakota. In recognition of the contribution the Czech immigrants made to the culture of South Dakota, I am proud to draw the attention of my colleagues to the 44th annual Czech Days celebration which was held on June 19 and 20 in Tabor, SD. The South Dakotans of this area have tried to preserve the ways of the Czechoslovakian people, and, with great appreciation, I applaud the effort of those citizens who celebrate their heritage in this manner every year.

Another way we celebrate South Dakota's heritage is with a rodeo. Rodeos have always played an important role in our lives. In this spirit, I would like to recognize the 27th annual Scottie Stampede Rodeo to be held in Scotland, SD, on August 8 and 9, 1992. This event has rightly been billed as a great family-oriented event. Cowboys travel great distances to compete in Scotland. The Scotland Rodeo Club plans this event which acts to maintain rodeo as an active and vital part of South Dakota's heritage.

The South Dakota Legislature has passed resolutions commemorating Czech Days and the Scottie Stampede Rodeo, and I ask that the resolutions be printed in the RECORD at the close of my remarks.

Mr. President, I commend the sponsors of both of these events and the two resolutions and thank them for preserving the unique cultural character of the State of South Dakota.

The resolutions follow:

HOUSE COMMEMORATION NO. 1011

Whereas, Tabor Czech Days celebrates the rich cultural heritage that the Czech immigrants transported from their homeland to enrich their new home in South Dakota; and

Whereas, the peoples of Czechoslovakian descent have consciously preserved the language, customs, dress, spirit and cuisine of their immigrant ancestors; and

Whereas, this year's Czech Days' Royalty are: Queen Crystal Carda, daughter of Lawrence and Darlene Carda of rural Tabor; Prince Kyle Kreber, son of John, Jr. and Kim Kreber of rural Tyndall; Princess Selina Cimpl, daughter of Joe and Deb Cimpl of Tabor; and

Whereas, many fine attractions await those visiting the 44th Annual Czech Days, including the Czech Heritage Museum, Blachnik Museum, St. Wenceslaus Catholic Church, adult and children's programs in Sokol Park, live Czech music in Beseda Hall and two beer gardens: Now, therefore, be it

Commemorated, by the Sixty-seventh Legislature of the state of South Dakota, that the Legislature congratulate the Czech peoples of South Dakota for their outstanding, traditional celebration and invite all South Dakotans to participate in the 44th annual Czech Days on June 19th and 20th in Tabor, South Dakota.

HOUSE COMMEMORATION NO. 1042

Whereas, the 27th annual Scottie Stampede Rodeo held Saturday and Sunday, August 8 and 9, 1992, is a great family oriented event with talented cowboys from around the state and the nation coming to Scotland, South Dakota, to compete for prize money, fame and glory; and

Whereas, after the rodeo on Saturday night, there will be a country western dance at the Scotland City Hall that will be a great entertainment event; and

Whereas, the Scotland Rodeo Club does an outstanding job in promoting and hosting this fine event: Now, therefore, be it

Commemorated, by the Sixty-seventh Legislature of the state of South Dakota, That the Legislature congratulates the people of Scotland, South Dakota, for their outstanding celebration and invites all South Dakotans to participate in the 27th annual Scottie Stampede Rodeo on Saturday and Sunday, August 8 and 9, 1992, in Scotland, South Dakota.•

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

• Mr. SIMON. Mr. President, last May in my home State of Illinois, I chaired a field hearing of the Senate Democratic Hispanic Task Force on issues facing the Hispanic family—education, employment, and health care.

At the Chicago field hearing, I heard from a diverse group of men and women who provided very useful testimony about the challenges facing the Hispanic communities in these areas. The witnesses who testified also made a series of important and serious recommendations in these areas. Over the past several days, I have included testimony from the witnesses at the hearing in the RECORD. I ask that the fourth of five groups of testimony be included at this point in the RECORD.

The testimony follows:

UNIVERSITY OF ILLINOIS AT CHICAGO,
Chicago, IL, May 5, 1992.

Hon. PAUL SIMON,
U.S. Senate,
Kluczynski Building, Chicago, IL.

DEAR SENATOR SIMON: I would like to reiterate my appreciation for your invitation to attend the community forum and field hearing on issues affecting the Latino community. Your involvement in these concerns, and your willingness to engage Latino leaders in the process will bring about greater sensitivity and, hopefully, more initiatives and resources from the U.S. Congress.

Enclosed please find some thoughts regarding the Hispanic Centers of Excellence which was alluded to by Dr. Aida Giachello during her testimony. Dr. Giachello and others spoke about the need for more bilingual, bicultural health professionals to address growing health problems among Latinos. The Hispanic Centers of Excellence, if approached appropriately, can provide a model to deal with health professions training, research, outreach health services, and policy-making for Latinos in Illinois and elsewhere in the nation.

In the spirit of a holistic, integrated approach to health and education problems affecting Latinos I urge you to consider the suggestions enclosed herewith. My colleagues in the Hispanic Centers of Excellence and I stand ready to assist you in any way you deem necessary. Thank you in advance for your consideration in this matter.

Sincerely,

JORGE A. GIROTTI, Ph.D.,
Assistant Dean and Director,
Hispanic Center of Excellence.

THE HISPANIC CENTERS OF EXCELLENCE (HCOE) A MODEL FOR AN INTEGRATED APPROACH TO HEALTH PROFESSIONS TRAINING, RESEARCH, OUTREACH SERVICES, AND POLICY-MAKING FOR HISPANICS

BACKGROUND

The legislation that established Hispanic and Native American Centers of Excellence was initially designed for Historically Black Colleges and Universities (HBCU). In 1987 Congress passed a bill to assist HBCUs which trained African American health professionals. There are currently four such schools receiving approximately $12.5 million per year to enhance their training programs. The extension to include Hispanics and Native Americans was passed into law in 1990. About $2.5 million were appropriated to fund this expansion. One million was designated for Native Americans, and $1.5 million for Hispanics. During its first cycle, five schools (four medical and one pharmacy) receive funding under the Native American, and seven (all medical) schools under the Hispanic Centers of Excellence. The University of Illinois at Chicago College of Medicine is among these seven. The average award per school is $200,000.

The idea of "Centers of Excellence," that is the recognition by the Department of Health and Human Services (DHHS) that some institutions have shown a consistent and substantial track record in educating groups of people who are underrepresented in the health professions, is a solid one. For African Americans, HBCUs represent a natural repository of this designation for they have been created to address those particular needs.

For Hispanics, however, there are no counterparts to the HBCUs. Hispanics in the U.S. have had to rely on "mainstream" institutions to address their educational and health needs. Some institutions, for a variety of reasons, have done better in this respect than others. Therefore, the idea of recognizing those institutions through the "Centers of Excellence" designation is still a solid approach. Unfortunately, the DHHS has stopped short on what could become a model to integrate the various aspects of health professions training, research, outreach services, and policy-making for Hispanics.

Some Questions and Answers Regarding an Integrated Model

Q: Is there a need to have Hispanic Centers of Excellence (HCOE) occupying a separate free-standing edifice on campus?

A: It would be ideal to have a building on campus whose sole purpose was to consolidate the variety of ongoing efforts to address Hispanic health professions education, research, community outreach services, and policy-making issues. For instance, the Chicago metropolitan area continues to see steady increase in the Hispanic population. Eighty-five percent of all Latinos who live in Illinois. reside in the six-county area surrounding Chicago. A building on the University of Illinois at Chicago campus would provide the impetus to bring together faculty, staff, community leaders, and students, both Latios and non-Latinos with an interest in the welfare of the community, to address pressing issues affecting the population.

Q: What would be the key elements of this kind of initiative?

A: To make the above a reality there would be a need to build a home for the HCOE; to have a core faculty, a well as adjunct faculty; to provide scholarship assistance to students; and to establish a multidisciplinary approach.

First of all, a structure that would provide appropriate facilities to carry out the various objectives of the HCOE would have approximately 45,000 square feet of laboratory, classroom and office space. Currently, such facility would cost an estimated $7 million to build. Secondly, such Center should begin with a core full-time faculty of at least ten individuals, and could provide opportunities for dual assignment of faculty with other departments on campus. At least ten individuals could initially be recruited. thirdly, scholarships are indeed a major problem for Latino students with the talent and interest in the health professions and biomedical research. Ideally the Center would support fifty individuals on an annual basis at various levels of training.

Finally, an inter-disciplinary approach would make more sense if we want to address the myriad problems affecting health care delivery for Hispanics. At the University of Illinois at Chicago the Colleges of Nursing, Pharmacy, and Public Health, as well as the Early Outreach Program should receive support for Hispanic initiatives. Probably $1 million per year would be necessary at this time to initiate efforts in those areas. However, it is important to note that support should be provided to medicine-based HCOEs first so that they can accomplish what they have set out to do, then move on to other professions and build those programs.

Q: Would it be appropriate for HCOEs to function as coordinating centers for other DHHS-funded initiatives on a regional basis?

A: To the extent that those public health, education, outreach, and research efforts are exclusively directed at the Latino population, then it would be fitting to include the HCOEs in some coordinating capacity, particularly if we are functioning in the ideal environment described above. It would behoove the DHHS and its agencies to consider such holistic approach.

Q: What could be described as examples of a coordinating function for NCOEs?

A: For instance, designating certain HCOEs to "specialize" in one disease which disproportionally affects Hispanics would be a most efficient way to invest Federal resources and make a widespread impact on the health status of Latinos in the U.S. In this regard it would be important to include all regions of this country where Latinos live. The Midwest is many times overlooked in favor of a "bi-coastal" approach to fund distribution. Illinois has the fifth largest Latino population in the U.S. and should be considered on an equal basis.

Q: What are some long term objectives for an integrated HCOE?

A: In terms of health professions education, here are some realistic objectives:

1. Provide an academic enrichment/health education program for sixth, seventh, and eighth grade students.

2. Develop and implement a big brother/big sister mentoring program between medical, undergraduate, high school, and grammar school students.

3. Design and implement collaborative programs with community colleges with large Latino student enrollment to enhance science and mathematics preparation, and to improve transfer rates into science-oriented programs at four-year institutions.

4. Develop and implement a post-baccalaureate program for Chicago-area Latino students.

5. Work with the Board of Education, and Local School Councils to design a curricular program that emphasizes preparation for the health professions and implement the design at schools where Latinos constitute the majority of the student body.

In terms of biomedical and clinical research:

1. Expand resources available for student research, both during the summer and possibly extend support to year-around projects in conjunction with individual departments in the College of Medicine.

2. Provide research opportunities to students by engaging in collaborative agreements with clinics that serve a predominantly Hispanic patient population. Students would work with physicians on site on a variety of projects relating to public health and disease-specific issues.

3. Organize a network of Latino health researchers who would not only provide opportunities for students to work on various projects but also would serve as mentors and role models.

4. Develop teams of researchers, both Latino and non-Latino, to tackle specific research issues that pertain to salient problems for the Latino population; involve students in these teams as integral part of the process of definition and implementation of individual projects.

Some objectives in health outreach services;

1. Involve students at all levels (from elementary to medical schools) in the development and dissemination of health education materials targeted to the Latino community.

2. Work with agencies in the metropolitan area whose purpose it is to provide health services of any kind to Hispanics. Engage students in working with those agencies in projects that benefit the Latino population.

3. Support health fairs and similar health awareness events and programs; participate in campaigns that target specific health issues such as immunization, blood pressure, and cholesterol screenings, etc.

4. Coordinate these initiatives with the University Hospital and Clinics, where Hispanic utilization of services continues to grow.

Finally, regarding health policy-making the ideal thrust would be engaging students (undergraduate and medical) in activities at the state and federal levels. The medical school curriculum does not present much information to students in this realm, although the impact of federal policies has far-reaching implications for the work of individual physicians. It is difficult to ascertain, at this initial stage of development, what general direction the HCOEs should follow in this regard.

CONCLUSION

The recommendations above provide a synopsis of a model which given the appropriate conditions, would permit the Federal government, through the Department of Health and Human Services, to make a definite, positive impact on the health status of Hispanic Americans. At this point the major concern among those of us in health professions schools is the trend within DHHS to dilute the Centers of Excellence initiative by spreading limited funding among large numbers of recipients, thereby not allowing the already established centers to achieve their promise. This approach will prove detrimental for the progress of Hispanics in the health professions since it encourages piecemeal strategies to deal with what has become a monumental problem; one that requires a bolder method of targeting programs which have proven successful in the past.

Jorge A. Girotti, Ph.D.

CHICAGO, IL, MAY 1992.

GENERAL ASSEMBLY, STATE OF ILLINOIS, SPRING 1989

To the honorable members of the 86th General Assembly:

The Joint Committee on Minority Student Access to Higher Education was created by Senate Joint Resolution 72 on June 1987, and its work was continued with passage of Senate Joint Resolution 130 on July 1, 1988.

The Committee was established for the purpose of analyzing:

(1) The Chicago public schools' college preparation programs and course offerings.

(2) Their relationship to the proposed Illinois Board of Higher Education's increased undergraduate admissions requirements proposed to be implemented by 1993.

(3) The Illinois Educational Partnership Act, and

(4) The transfer rates of minorities from Illinois community colleges to four year institutions.

Pursuant to SJR 72 and 130, the committee conducted six public hearings. This report results from those hearings and subsequent committee deliberations.

As we enter the 1990's, Illinois' institutions of higher education face the growing challenges of preparing our future workforce. All Illinois children must be prepared in the years to come to meet the changing trends of the economy.

In order to ensure that minorities are better prepared to succeed in the workforce of tomorrow, Illinois institutions of higher education, the General Assembly, the business community, and primary and secondary local schools must exert leadership and pool their resources to reach out to minority communities.

The analysis and recommendations in this report offer a comprehensive approach to finding solutions.

This report was approved by the Committee on May 24, 1989 by unanimous vote.

Respectfully submitted,

MIGUEL DEL VALLE,
State Senator, 5th District.

ELLIS LEVIN,
State Representative, 5th District.

EXECUTIVE SUMMARY

The increased course standard requirements, as approved by the Illinois Board of Higher Education (IBHE), were unreasonable from their inception. Despite full agreement with the IBHE on the need for tougher college entrance requirements to improve the quality of the entering freshman, the committee agrees, based on testimony provided, that IBHE's proposal and implementation of the new requirements is seriously deficient.

First, the majority of the high schools in Chicago (47 to 64) do not adequately offer the courses to meet the requirements, and will be unable to offer these courses without substantial new revenue. Second, the new requirements improperly demand course offerings that are inappropriate for vocational schools, find arts academies, and schools with agricultural curriculae.

The committee supports the concept of increasing college entrance requirements. It is in everyone's best interest, including that of the minority community, to better prepare children for higher education and the workforce. However, it is clear that no new course pattern requirements should be mandated until these deficiencies are adequately addressed.

The state must ensure that no student be denied access to higher education due to the inadequacies that exist in inner city, rural, vocational, agricultural and some suburban high schools. Given the lack of resources for the state's high schools, the committee opposes the IBHE's implementation of increased course pattern requirements until such time as the State Board of Education certifies that all high schools in the state are offering the classes to meet these requirements. There should be a measure of flexibility in the standard to accommodate the diversity in high schools throughout the state.

Minority programs have been severely under-funded. Five percent of all new funds (for the next ten years) appropriated by the General Assembly for higher education should be allocated to minority programs and other services that enhances minority students access and retention. Increased funding of these programs must be a priority. A separate line item should be established in the IBHE budget for recruitment and retention programs.

Illinois universities' record of hiring tenured and non-tenured minority faculty is poor. This is a very complex problem to remedy due to the governance structure of academia. Yet, its resolution must have high priority.

The availability and adequacy of financial aid has become the single most important factor in minority student access and retention to Illinois colleges and universities. The committee recommends full funding of the Illinois State Scholarship Commission (ISSC), specifically for the Monetary Award Program (MAP). The ISSC must be more flexible and responsive to the needs of minority students.

Leading authorities in higher education must take a more aggressive role to improve minority access and retention by assuming ownership of the problem and identifying solutions, assigning high level institutional priority to minority scholarship funding and institutionalizing academic support programs.

A legislative oversight committee must be established to monitor programs that increase minority access and retention in Illinois public colleges and universities. The oversight committee would provide guidance and support through hearings, recommendations and follow-up on the progress of minority student program implementation and initiatives stemming from this report. The oversight committee can also review data collected by the governing boards of higher education, and study the budget requests submitted by the IBHE and institutions to the General Assembly.

The IBHE should develop a process by which uniform guidelines for all public institutions of higher education are to be established with regard to the recruitment and retention of minority students. Through the establishment of an Office of Minority Affairs, the IBHE will be able to assist all public institutions of higher education in their efforts to recruit and retain under-represented minority students, as well as perform other related activities outlined in this report.

Through partnership building, four year institutions and two year colleges should improve their articulation programs to increase transfer rates for all students, including minorities. To better inform and prepare students, community colleges should establish "transfer information centers" on and off campus, which are accessible to minority students. Such a program exists in California (as presented to the committee).

A partnership should be established between the business community and higher education to create opportunities and resources for minority students such as off-campus work study in the private sector, corporate college savings plans for disadvantaged children and others. At the committee's meeting with Chicago United business leaders in Chicago it was recommended that

the establishment of such partnership is sorely needed.

MINORITY STUDENT ENROLLMENT AND RETENTION IN HIGHER EDUCATION

African-American and Hispanic students are under-represented in institutions of higher education. An analysis of the Illinois Board of Higher Education's 1988 Report on Minority Student Participation in Illinois Higher Education indicates that African-American and Hispanic students are not represented in institutions of higher education in relation to their population or in relation to their enrollment in elementary and secondary education. The following information from the report highlights the status of minority student enrollment in higher education. (See Appendix 2.)

SUMMARY OF INDEX NO. 2—TABLE A: CURRENT REPRESENTATION

African-Americans comprised 15.1 percent of Illinois' estimated 1985 population and 22.8 percent of the 1st grade population in 1987, but made up 10.8 percent of public university enrollment, 13.2 percent of private college enrollment and 14.7 percent of community college enrollment.

Hispanics comprised 6.5 percent of the estimated 1985 population and 9.7 percent of the first grade population in 1987, but made up only 3.2 percent of public university enrollment, 5.2 percent of private college enrollment and 6.9 percent of community college enrollment.

African-American and Hispanic enrollment generally decreases at each successive level of education from 1st grade to 9th grade to 12th grade and on through under-graduate and graduate/professional education.

African-American and Hispanic student enrollment is proportionately higher in community colleges than in public or private institutions.

African-American and Hispanic student retention is a problem. African-American students comprise 10.8 percent of the public undergraduate enrollment, yet account for only 6.3 percent of those receiving bachelors degrees.

SUMMARY OF TABLE 8: TRENDS IN UNDERGRADUATE EDUCATION

Trends for Hispanic and African-American students differ. Over the past four years, African-American student enrollment has decreased at community colleges, has remained stable at public universities although there was a decline in 1987, and increased at private institutions, although the numbers and proportions of bachelors degrees awarded decreased.

According to the University of Chicago Metropolitan Report "Declining Minority Access to Higher Education," since 1980, Hispanic enrollment in public universities in Chicago has fallen by 10 percent, and by 11 percent in both private colleges and universities.

Hispanic enrollment has slightly increased in most areas of enrollment and awarding of degrees, but is still below representation. Statewide, enrollment increased at public universities and community colleges, although there was a decrease in 1986–87.

African-American and Hispanic students continue to be under-represented as recipients of bachelors degrees (Tables 2A and 2B). The proportion of students receiving bachelors degrees decreased for African-Americans and increased for Hispanics.

Over the last nine years, the proportions of African/American students receiving bachelors degrees in education have decreased, while there have been increases in computer and information sciences. In engineering and in the biological and physical sciences, African-American representation remains very low.

Hispanics showed increases in receiving bachelor degrees in the fields of biological and physical sciences, business management, computer and information sciences, engineering, health professions, and psychology and social sciences, although representation in these fields remains very low.

According to the University of Chicago Metropolitan Report: "Declining Minority Access to Higher Education," since 1980, African-American enrollment at the University of Illinois at Chicago decreased by 48%.

MINORITY STUDENT PROGRAMS

Testimony

Minority student programs are the foundation for improving student retention and enrollment. These programs usually serve as centers which provide student academic and cultural support, as well as the overall guidance that enhances the student's success in higher education. Unfortunately, inadequate state funding and the lack of institutional commitment to mainstream these programs has resulted in critical under-staffing and limited delivery of services.

Numerous institutions presented testimony on the need to expand funding and plans to increase minority student enrollment and retention. Although these plans deserve merit for attempting to address the problem, the lack of financial support for these programs on the part of the same institutions poses a major obstacle in achieving their goals.

The Illinois Board of Higher Education, in its FY 1989–90 budget request, recommended a $305 million increase in General Revenue Funds (GRF) for state support of higher education. Of this, only $3.2 million, or 1 percent of the total would be allocated to minority programs.

In turn, the Governor's proposed 1989–90 budget requests $110 million in new funding, which is $185 million less than IBHE requested. Minority programs would only receive approximately $1.3 million of new funding.

Overall, since 1983 higher education spending through GRF increased by 34.4 percent. Although this level is insufficient to meet the needs of higher education, it should be noted that it appears funding for minority programs has not increased at all.

There are numerous excellent programs in higher education which have done a commendable job in recruiting and retaining minority students. The General Assembly, as well as the institutions, needs to substantially increase funding for the expansion of minority student programs.

RECOMMENDATION

IBHE should request that five percent of all new higher education funds should be allocated for minority student programs and services in its annual budget request to the General Assembly.

IBHE should create separate line item budget request to the General assembly for minority recruitment and retention programs.

HIRING MINORITY ADMINISTRATORS, FACULTY AND COUNSELORS

Role models are very important in the educational process, especially for minority youths from low income families who are often confronted with large, predominantly white institutions, unfamiliar surroundings, inadequate support services, and an environment sometimes perceived or actually hostile toward minorities.

Lack of minority staffing at all levels of higher education was evident in the testimony. More must be done by the institutions to attract minorities. Minority faculty should be trained and promoted for administrative posts. Aggressive recruitment campaigns should be initiated, and one way to identify prospective candidates is by establishing a curriculum vitae bank with the IBHE. The bank would maintain curriculum vitaes from throughout the country which would be accessed by Illinois institutions.

The Office of Affirmative Action or its equivalent at every public institution should be a part of all search and screen committees for administrative and faculty hirings. The Affirmative Action office would certify whether or not all affirmative action guidelines were utilized and if attempts were made to recruit minorities.

Testimony indicated that some private universities have increased minority faculty and counselor hirings by adding department positions designated as minority positions. These universities have generally found many highly qualified minority candidates for their positions.

Also, faculty members are often burdened with dual responsibilities of administering a minority program, meeting their teaching responsibilities and providing student support services. Often minority faculty are adversely affected in the tenure process, because their research time is decreased by all of these responsibilities.

The Tables below provide an overview of minority hiring in Illinois institutions of higher education in 1985.

TABLE 1.—FALL 1985 FULL-TIME EMPLOYEES BY RACE/ETHNICITY AND SYSTEM EXECUTIVE/ADMINISTRATIVE/MANAGERIAL

	White	African American	Hispanic	Asian	Native American
Board of Governors	419	68	13	5	4
Board of Regents	310	22	4	5	0
SIU	434	31	3	11	1
University of Illinois	932	89	7	26	3
System total, 2,387	2,095	210	27	47	8
Percent	88	8.8	1.1	2	.3
City College, Chicago, system total, 187	90	81	12	3	1
Percent	48.1	43.3	6.4	1.6	.5
Community colleges system total 3,427	2,973	336	46	60	12
Grand total, 6,001	5,158	627	85	110	21
Percent	86	10.4	1.4	1.8	.35

Source: State Board of Higher Education, "Statistical Report of Female and Minority Employment in Higher Education, Fall 1985," July 1986.

TABLE 2.—FALL 1985 FULL-TIME EMPLOYEES BY RACE/ETHNICITY AND SYSTEM TOTAL FACULTY

	White	African-American	Hispanic	Asian	Native American
Board of Governors	1,500	153	38	90	2
Board of Regents	1,960	54	22	100	4
SIU	1,471	38	14	101	2
University of Illinois	3,859	93	73	392	10
System total, 9,976	8,790	338	147	683	18
Percent	88	3.4	1.5	6.8	.2
City College, Chicago, system total, 1,229	790	338	24	76	1
Percent	64.3	27.5	1.9	6.2	.08
Community colleges system total, 4,128	3,888	153	33	43	11
Percent	94.1	3.7	.8	1.0	.27
Grand total, 15,333	13,468	829	204	802	30
Percent	88	5.4	1.3	5.2	.2

Source: State Board of Higher Education, "Statistical Report of Female and Minority Employment in Higher Education, Fall 1985," July 1986.

OFFICE OF MINORITY AFFAIRS OF THE IBHE

Testimony

The committee received testimony describing several programs in Illinois currently in place that, although limited in scope, are nonetheless innovative and effective in their efforts to attract, retain and graduate minority students. Unfortunately, these programs most often seem to be isolated from the rest of the institution and from the community of higher education as a whole.

Recommendation

By establishing the Office of Minority Affairs at the IBHE, a major initiative will be undertaken to coordinate university recruitment and retention efforts through a centralized, comprehensive mechanism that standardizes university efforts. This office would incorporate programs tested and found to be successful in Illinois and in other states.

The office would establish statewide uniform guidelines adopted by the IBHE and implemented by all public institutions on minority student recruitment and retention. Its policy will include procedures for centralizing information on all existing high school placement programs, community agency outreach, and campus remedial programs.

This office would reflect a renewed commitment and a call for action to address the status of minorities in our public universities. It would create specific goals and objectives, as well as a timetable by which these achievements are to be met. The model would also include a comprehensive evaluation of programs that service minority students to ensure efficient programming.

The Office of Minority Affairs would be responsible for carrying out the following tasks:

Assist all public institutions of higher education in their efforts to recruit under-represented students.

Develop and oversee the implementation of comprehensive recruitment and retention programs at each public university and community college system.

Develop policy pertaining to recruitment and retention.

Centralize data collection on recruitment and retention efforts.

Establish uniform data collection systems and form on minority students in higher education.

Conduct an annual evaluation (report card) on each university system and institution.

Report to the Governor and the General Assembly pursuant to P.A. 85-281.

Assist in the development of peer counseling programs.

Work with the private sector to identify areas of funding for scholarships, community outreach and employment.

Help facilitate recruitment for graduate programs.

Assist with minority administrative and faculty hirings.

USE OF "HARD MONEY" TO SUPPORT MINORITY STUDENT PROGRAMS

Testimony

The committee noticed a troubling pattern in presentations made by top level administrators of Illinois institutions of higher learning. There is a tendency to support minority student programs with "soft money" rather than through institutional budget allocations, or "hard money." "Hard money" refers to the general operating funds while "soft money" refers to programs receiving special allocations, grants or funds from outside sources. A good measure of an institution's commitment to expand minority student access and retention is its willingness to budget state funds appropriated by the General Assembly to programs specifically designed for those purposes. In part, "hard money" ensures continued funding for programs.

Recommendation

The Illinois Board of Higher Education should expand the use of institutional dollars to support minority recruitment and retention programs. Institutional funds should supplement minority programs.

The committee's hearings also highlighted the importance of awarding graduate, teaching and research assistantships to minority students. These assistantships offer minority students the opportunity to pursue education without incurring major financial commitments for tuition and other costs. Assistantships also allow minority students an important opportunity to associate with faculty and to learn the university system by participating in it.

RACIAL TENSION AND DISCRIMINATION ON CAMPUS

Testimony

The most alarming charges brought before the committee were the allegations of discrimination and increased racial tension on some state campuses. Racial tension appears to be growing in some Illinois institutions of higher education, and it has created an atmosphere non-conducive to the learning environment and to the retention and recruitment of minority students.

There has been an increase in reports of harassment, racial slurs, distribution of racist and anti-semitic literature (at Northern Illinois University) and other campuses. The absence of top level minority administrators on many campuses has created frustration, as evidenced by the testimony at the Northern Illinois University campus, in which students called for minority hirings of top level administrator and staff positions.

Recommendations

Require race relations instruction in the general education requirements of all programs leading to bachelor's and associate of arts or science degrees. This can be accomplished by offering initial instruction through existing coursework, and subsequently, through a separate course. The IBHE would be responsible for developing, budgeting and monitoring the establishment of the curriculum.

Increase the penalties for racial, ethnic and religious crimes committed on college campuses, if needed.

Require institutions of higher education to automatically report all cases of racism and discrimination to the Illinois Department of Human Rights and the Attorney General.

Require the universities' Office of Affirmative Action to verify in writing whether or not all efforts were made to hire minority staff for all new administration and faculty hirings, and if affirmative action guidelines were employed. This information should be submitted to the president of the institution for inclusion in the annual report of the Illinois Board of Higher Education to the Governor and the General Assembly on Under-represented Students in Higher Education, pursuant to P.A. 85-281.

Promote culturally diverse activities on campuses which reflect the multicultural make-up of the different groups in the United States.

ANALYSIS OF THE ILLINOIS BOARD OF HIGHER EDUCATION'S FISCAL YEAR, 1990 BUDGET REQUEST AND THE GOVERNOR'S PROPOSED FISCAL YEAR 1990 HIGHER EDUCATION SPENDING

The Illinois Board of Higher Education recommended a $305 million increase in General Revenue Funds (GRF) for state support of higher education for FY 90. The current level of funding in GRF is $1.341 billion or only $16 million (1.2%) above the funding level of FY 87. The lack of state support for higher education has caused sharp tuition increases in the past two years and under-funding or elimination of critical programs.

HIGHER EDUCATION

[In millions of dollars]

	Actual fiscal year 1987	Actual fiscal year 1988	Actual fiscal year 1989	BHE fiscal year 1990	Gov. fiscal year 1990
IBHE request:					
GRF [1]	1,327,102.8	1,267,591.3	1,341,662.6	1,646,689.4	1,462,084.3
Other [2]	243,271.0	283,626.5	326,106.6	331,811.2	331,828.7
Total	1,570,373.8	1,551,217.8	1,667,769.2	1,978,500.6	1,793,913.0

[1] General Revenue Fund.
[2] Primarily tuition.

The Illinois Board of Higher Education argues that the $305 million increase cannot be appropriated without additional new revenues by the state. Coupled with a $404 million increase requested by the State Board of Education for elementary and secondary education, the education system is requesting a $709 million increase above the FY 89 level. Total state revenues are expected to be about $500 million above FY 89 in FY 90 from natural inflationary revenue growth.

While the IBHE and many public institutions of higher education publicly bemoan the decline of minority student enrollment in higher education, IBHE does not fulfill its obligation to expand minority programs by requesting only a one percent increase in its FY 90 budget.

This funding request of an additional $3.2 million for minority programs is insufficient at this time, given the need to increase minority student enrollment and retention, and to expand minority student programs and scholarships.

HIGHER EDUCATION TOTAL FUNDING

[In millions of dollars]

	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985	Fiscal year 1986	Fiscal year 1987	Fiscal year 1988	Fiscal year 1989	Fiscal year 1990
GRF	998.5	1,057.8	1,121.8	1,246.7	1,327.1	1,267.9	1,341.7	1,646.7
Other	216.6	238.2	301.8	350.2	399.1	449.4	485.7	331.8
Total	1,215.1	1,296.0	1,423.6	1,596.9	1,726.2	1,717.3	1,827.4	1,978.5

Since 1983, state general revenue funding for higher education has increased by 34.3%. This amounted to an average increase of 4.9% per year if it is not compounded each year. Although there has been a small amount of growth in state support for higher education, nevertheless there has been some growth. It would appear that funding for minority programs has not increased at all. Line-item spending is non-existent in university budget requests to the General Assembly, therefore statistics are not available to indicate increased spending for minority programs.

It is incomprehensible that neither the Board of Higher Education nor the individual universities can detail the amounts actually expended for specific minority programs.

The IBHE must take a fiscal leadership role in addressing minority enrollment and retention by requesting increased funding for minority programs in FY 90 and subsequent budgets, as well as by expanding minority recruitment and retention efforts with existing allocations.

Unless new revenue is generated by the state, education probably can expect the same funding crunch in FY 90 as we have seen during the past several fiscal years.

The implications of low funding levels in higher education are widespread and devastating for minorities and other lower socio-economic groups. Minority programs have not grown in numbers, quality, or effectiveness as evidenced by declining minority enrollment and retention.

According to the IBHE funding plan, if the requested $305 million increase in state funding for FY 90 is approved, minority programs will grow by $3.2 million or only one percent of the new revenues. Yet this budget request includes $120 million for salary increases of ten percent for personnel on top of a seven percent increase just recently awarded. While one percent goes for specific minority programs 40% goes to salary increases. IBHE has stated, as it did last year, that salary increases are the primary budget concern over the next three years. If less than a $120 million increase is approved for higher education in FY 90, most of it again will be directed to salary increases. Last year higher education received a $65 million increase ($250 was requested) and two-thirds of it went for salary increases while no new programs were implemented anywhere.

CONCLUSION

A comprehensive, multifaceted approach must be undertaken by Illinois' institutions of higher education to address the myriad of issues involving minority student participation and success in higher education. This approach must take into account changing trends and socio-economic needs of minority students.

Mandated increased requirements for college entrance cannot be implemented across the board at this time without adversely impacting students across racial, ethnic and geographic boundaries, due to the lack of available resources.

With renewed commitment and vigor on the part of all educational institutions, increased higher education funding and involvement on the part of all educational institutions, parents, the General Assembly, community colleges, agencies, and the private sector, Illinois can take its place as a leading state on minority achievement in higher education.

Equally important as full funding for minority higher education programs, is the institutional commitment to open the doors of opportunities for minority students, faculty, staff and communities through internal advocacy and promotion of equal opportunity and access.

The economy and jobs market leading into the 21st century will require higher educational and technical training levels of its workforce. The alternative is unthinkable.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Rick Carnell, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the United States-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Carnell in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leslie Tucker, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Ms. Tucker in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator and Mrs. SIMPSON, to participate in a program in Turkey, sponsored by the Turkish-American Businessmen's Association of Izmir and the American-Turkish Friendship Council, Incorporation, from May 25–30, 1992.

The committee determined that participation by Senator and Mrs. SIMPSON in this program, at the expense of the sponsors, was in the interest of the Senate and the United States.•

THE PRESIDENT'S PROPOSED CREDIT AVAILABILITY AND REGULATORY RELIEF ACT OF 1992

• Mr. RIEGLE. Mr. President, I rise to discuss President Bush's proposed Credit Availability and Regulatory Relief Act of 1992.

A. INTRODUCTION

President Bush sent this proposed legislation to the Congress on June 24. In the executive communication that accompanied the bill, he had several things to say about it.

The President said that the bill would reduce regulatory burdens on depository institutions. On page 1 of his statement, he said "[t]he regulatory burden on the Nation's financial intermediaries has reached a level that imposes unacceptable costs on the economy as a whole."

And on page 2, he said "I would like to emphasize that none of the bill's provision will compromise in any way the safety and soundness of the financial system."

And, also on page 2, he said "the prompt corrective action framework mandating swift regulatory responses to developing institutional problems will remain unchanged."

These statements are not true.

B. SUMMARY OF THE BILL

Let me describe what the President's proposed legislation really does. My colleagues should know what an extraordinary bill this is.

We are in the middle of the worst banking crisis since the Great Depression. But the President's latest response to that crisis is to promote forbearance on failing institutions and elimination or weakening of various safeguards against unsound or fraudulent activities—provisions he personally agreed to and signed into law just last December.

Earlier this summer, we had the worst urban riots in a generation. Those riots came only a few months after the Federal Reserve released the first comprehensive data on lending discrimination, data showing that

lending discrimination is a reality for millions of Americans. That is wrong and must be corrected. But the President's response—to weaken the Community Reinvestment Act—would be a stunning reversal in policy.

But the President's bill would be even more harmful. It would weaken important consumer protections, eliminate reporting requirements that promote better understanding of our banking system and our economy, and eliminate requirements for annual, onsite examinations by Federal banking examiners of our Nation's banking system. Annual, onsite examinations by Federal examiners are a cornerstone of the reforms enacted just months ago. I cannot imagine the President is even aware of this proposal being offered in his name.

Time does not permit me to go into every provision of this bill, but I want my colleagues to know about the bill's key features.

C. ANALYSIS OF ANTI-SAFETY-AND-SOUNDNESS PROVISIONS

Let me start by reviewing the provisions of the President's proposal that undermine safety and soundness in the financial system.

Put bluntly, this bill takes some of the core provisions of last year's banking bill, the FDIC Improvement Act, passed just last December—reforms that the administration then supported, and that the President himself signed into law—and guts them. Not entirely—it leaves in place the part where the American people loan tens of billions of dollars to the banking industry—but it scraps many of the key reforms needed to protect that taxpayer loan and ensure that it will be repaid on time and in full.

1. PROMPT CORRECTIVE ACTION

I'll start with prompt corrective action.

The prompt corrective action provisions of last year's bill are simple common sense. They say, in effect: "Regulators, you should act earlier and more aggressively when a bank or thrift begins to get into trouble. Get in there, correct the problems, and turn the place around, if you can. And if you cannot, sell the place, or close it down, before it becomes a loss to the deposit insurance system and a liability to the American people."

That's the gist of it. Tackle each problem early, while it is manageable, before together, they get out of hand and create a systemic risk to the entire banking structure.

The administration supported these reforms last year. The banking industry supported them. All the academics and public interest groups supported them.

The President says his bill would not modify these reforms. He's wrong. Section 115(b) of his bill would delay the effective date of the prompt corrective action requirements for a full year—until December of 1994.

What could do more damage to a requirement for prompt corrective action than delay? In effect, the President has proposed to delay dealing with the banking problem for a full year. Taxpayers lend to the banks now. Banks face up to their problems later.

Recent history can tell us a lot about what the consequences of this delay would likely be. We tried this approach for almost an entire decade. All through the 1980's, regulators delayed closing failed savings and loans with the acquiescence of the President and Congress.

The American people have paid dearly for this policy of delay. According to a report issued by the Congressional Budget Office last year, the costs of that delay came to some $66 billion, not counting the interest payments we will be making for the next generation. Mr. President, I ask unanimous consent to include a copy of that report in the RECORD at the conclusion of this statement.

(See exhibit 1.)

We have a commercial banking problem here and now. For the sake of America's taxpayers—for the sake of America's future economic vitality—we should deal with it here and now.

2. PROMOTING TOO-BIG-TO-FAIL

The President's bill would also promote the old "too-big-to-fail" policy by eliminating the requirement that the Federal Reserve set limits on how much banks can endanger themselves, through interbank deposits that expose them to the weaknesses of other banks.

The President, in his Executive Communication, characterized last year's bill as requiring the Federal Reserve to "write detailed 'bright line' regulations on the amount of credit one depository can extend to another."

The President is wrong when he says this is what Congress legislated last year. Let me read you the text of last year's bill. This is from section 308:

> The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other insured depository institution.

This does not require detailed, bright line regulations. It is a grant of broad authority to the Federal Reserve. The Fed can exercise that authority by regulation. It can exercise it by order, on a case-by-case basis.

What last year's banking bill did in this area was say, in effect: "Federal Reserve, Congress has identified a problem and you must fix it." We left it virtually one hundred percent up to the Fed to decide how the fix should work.

Now, maybe the President thinks the problem section 308 addresses isn't a real problem. If so, he's been getting some bad advice. I have previously put in the RECORD a scholarly article that explains the problem in some detail. Anybody with the slightest doubt about how interbank exposure is the heart of too-big-to-fail should read that article, which appears at pages S9978–87 of the CONGRESSIONAL RECORD for July 20.

The easiest way to understand the issue is to think back to how the too-big-to-fail policy got started. It was the Continental Illinois failure, back in 1984. There is still some debate about what the true story is, but one generally accepted version goes about like this: Continental Illinois got into trouble and the regulators were going to let it fail. Then somebody noticed that hundreds of small banks had all or more than all of their capital tied up in deposits at Continental Illinois. Let Continental go down and you bring down a lot of the system with it. So they bailed out Continental to keep the system alive.

Now, as I said, there's some debate about what really happened in the Continental case. Maybe we'll never know why or how the too-big-to-fail policy really got started. But if the story I just told didn't happen in Continental, it could easily happen today. Because the banks that are in trouble today—notwithstanding occasional administration statements to the contrary—include some of our very biggest banks, the banks where other banks also bank.

Now I hope we never see the day that one of those big banks starts to topple. But if that day comes—and it could—and we haven't taken appropriate steps to ensure that that bank's collapse does not jeopardize the rest of the banking system, the deposit insurance system and the American people will pay a terrible price for our neglect.

So that's the problem we addressed in section 308—a section the President's bill would repeal outright.

Now reasonable minds might differ about whether section 308 is the best way to deal with the problem. The administration did not address the problem at all in its bill last year. I would have listened very carefully if, at any step of the way, the administration had proposed its own approach to deal with this problem. But that never happened. They proposed nothing at all, and the administration never opposed section 308, to my knowledge. They just kept silent on the issue. So Congress crafted its own provision. I introduced this provision on March 5, 1991. Some 16 days of hearings followed its introduction. We consulted with the Federal Reserve. We consulted with representatives of the banking industry. We did not attempt to micromanage. We gave broad discretion to the Federal Reserve. We took a reasonable approach, and my mind is still open to other reasonable approaches. But in one form or another a safeguard is needed in this area—and one now exists and should be retained.

One thing is clear. For the President to propose to repeal section 308 alto-

gether, without proposing an alternative, is not a reasonable approach to this very real problem.

3. PROMOTING INSIDER LENDING

The President's bill would also undermine key provisions of last year's banking bill that restrict insider lending at federally insured depository institutions.

My colleagues are all aware that the banking industry has been very critical of these provisions. We're all hearing a lot about what an unnecessary burden they are—how nobody will be willing to sit on a bank's board of directors if these limits remain in force.

Well, limits on insider lending are not an unnecessary burden. They are basic common sense. And the limits in last year's bill responded to a very real problem that our regulatory agencies were not addressing on their own. Anybody who has forgotten about that problem should review some of the articles that came out after Madison National Bank failed.

Mr. President, I ask unanimous consent to insert in the RECORD at the conclusion of my statement copies of some articles that appeared last year in the Washington Post and the New York Times, concerning abusive insider transactions at Madison National Bank, and a copy of a Post editorial on this subject that appeared this spring.

I am confident most Americans would agree that anyone who would demand—as a condition of serving on a bank's board of directors—that the bank should lend more than 100 percent of its capital to members of its board and other insiders is somebody who probably shouldn't be on the board in any event. And that is the limit we passed last year: a bank should not lend more than 100 percent of its capital to insiders.

President Bush's bill would weaken that limit in several respects. First, it would let banks with less than $100 million in deposits lend up to 200 percent of their capital to insiders. Where is the evidence that such an exception is necessary or appropriate or consistent with safety and soundness? I know of no such evidence.

Second, the President's bill would give the Federal Reserve broad discretion to make exceptions to the limit.

Recently, Federal Reserve Chairman Greenspan complained about limits on insider lending at a bank structure conference in Chicago. Governor LaWare also complained about these limits last month in testimony before the Banking Committee. My sense is that they just reject out of hand the whole notion that additional limits on insider lending are needed. If they were given broad discretion here, I have concerns as to how they would use it. Certainly, you can count on this: the Fed would be inundated with requests that it exercise its discretion. I see no useful purpose in setting those events in motion.

4. AUDIT REFORMS

The President's bill also takes direct aim at the audit and accounting reforms enacted last December.

It deletes the requirements that independent public accountants attest to management assertions regarding the effectiveness of internal controls, procedures for financial reporting, and compliance with regulations relating to safety and soundness.

It relieves audit committees of the duty to review the basis of independent accountant reports on internal controls and compliance.

It allows the Federal banking agencies to designate as "privileged and confidential and not available to the public" information that last year's audit reforms required be made public.

And it defers implementation of the few surviving auditing requirements of last year's bill for an entire year, until January 1, 1994.

Now these audit reforms weren't just some hare-brained notion. They were crafted to reflect years of study by the General Accounting Office, careful analysis of what went wrong at dozens and dozens of failed banks and thrifts, numerous reports, and many hours of expert testimony. And the sum and substance of all that effort is this: insured banks and thrifts fail when their internal controls fail. So if we want to be on top of the problems at insured depository institutions, where taxpayers' money is now at stake, we must be on top of the state of their internal controls.

Again, reasonable minds could probably differ over the best way to go at this problem. But there is no doubt that here, too, Congress faced a genuine public policy problem and enacted a policy to solve it. It is wrong for the President to urge that we go back to the old lax practices that helped cause the problem in the first place.

D. ANALYSIS OF ANTICONSUMER AND ANTICOMMUNITY PROVISIONS

The President's proposal also would weaken laws that protect our communities and consumers against abuses.

1. COMMUNITY REINVESTMENT ACT

Hot on the heels of the Los Angeles riots and less than a year after the Federal Reserve released, for the very first time, comprehensive data showing just how pervasive discrimination in lending really is, the President's bill would virtually destroy the Community Reinvestment Act.

Let me explain how.

First, it essentially exempts most rural banks from the requirements of the Act. Any rural bank with assets of under $100 million simply writes to its regulator and states that, in its own opinion, it deserves a CRA rating of satisfactory or outstanding. Self-certify that you have an adequate CRA record and you bypass the CRA examination and evaluation process completely. And you can keep bypassing it year after year after year, forever.

The only justification I know of for this kind of special treatment is that rural banks want it. I don't think that's enough. I've never seen a study that suggests redlining doesn't go on in rural communities. I don't know anybody who would seriously argue that rural poverty isn't a real problem. Maybe there are better ways to address the community reinvestment issue. My mind is open to that, but there is no alternative proposed in this bill.

The second thing the President's bill would do is provide a safe harbor from CRA protest for all banks that have received outstanding CRA ratings. Get an outstanding rating and you are no longer subject to any CRA protest. This is unnecessary. If a protest is filed in a given case, it should be evaluated on its merits. If an institution has received an outstanding rating, and truly warrants that rating, it should have nothing to fear from a protest.

The final thing to notice about the President's bill is that it directs the regulators who are conducting CRA evaluations and preparing CRA ratings to look favorably on investments made outside their own communities. This of course undermines the central premise of the Community Reinvestment Act: namely, that a financial institution should invest in the communities that invest in it. I commend the President's restraint in limiting this authority to investments in distressed communities, but I question this erosion of the Community Reinvestment Act's central tenet.

2. TRUTH IN LENDING ACT

Another thing the President's bill would do is seriously weaken the consumer protections of the Truth in Lending Act. Section 211(b) of the bill does this by limiting damages under the act to actual damages.

The practical effect of this amendment would be to make it far more difficult to recover enough through civil litigation to justify the cost of bringing suit. So there will not be as many suits. If the administration were vigorous in enforcing the consumer protection laws through the regulatory process, we would probably see far less litigation. But the sad reality is that civil litigation—and the threat of civil litigation—have become the primary enforcement mechanisms we have under this administration. The President is now attempting to weaken them, and this should not be done.

3. TRUTH IN SAVINGS ACT

The President's bill also takes direct aim at the Truth in Savings Act. Here, too, the approach his bill takes is to severely weaken its civil liability provisions, where the effect would be to seriously undermine compliance with the act.

Frankly, I am mystified and troubled by the intensity of the opposition this act has received from the banking industry recently.

There seems to be some perception that Congress, without need or notice, crafted the Truth in Savings Act in the dead of night and then ambushed the banking industry with it.

Nothing could be further from the truth. The Senate passed that bill three times, beginning in 1988, before it finally became law. The House also passed it several times.

The Truth in Savings Act responded to a real and growing problem. That problem was this: a lot of depository institutions were engaging in misleading advertising of their deposit rates. They would do things like advertise a rate of 6 percent, then pay that rate on less than 100 percent of your balance, so the rate you would receive as a consumer would actually be significantly less than the advertised rate. Some of our largest banks were doing this.

In my view, that sort of deceptive advertising verges on fraud. Congress should not have had to act to outlaw it because the industry and its regulators should never have permitted the practice in the first place. But since that didn't happen, Congress was fully justified in taking this step.

E. CONCLUSION

I haven't listed all the things this Administration bill does. There are many more provisions. A few of them are innocuous and relatively uncontroversial. Most, in my view, are ill-conceived and unsound.

Why has the President put his stamp of approval on this piece of legislation? He says it is to relieve burdens on banks. He says that all the regulations this bill would undo place excessive costs on banks.

We need to think about that assertion very carefully. I urge the President to think about it. I especially urge the banking industry to think about it.

Because bound up in this concept of excessive regulatory costs is a question: What are we buying with these costs?

The answer to that question is clear. We are buying a tremendous amount. Arguably, we are buying the very stability that makes it possible for the banking industry to survive its present crisis.

Let me remind my colleagues of two key facts.

First, the old deposit insurance system for banks didn't work and the insurance fund went broke.

Second, the American people have now put roughly $70 billion of their hard-earned money on the line to keep that system afloat—to say nothing of the hundreds of billions they are also paying to rescue the deposit insurance system for savings and loans.

Now we have a period of years for banks to strengthen themselves and repay the loan with higher insurance premiums.

We have maintained stability in the banking system, but there is a price for that stability. The revised and stronger deposit insurance system costs more than the old one that went broke—but no more so than is necessary to do the job properly.

The banking industry has only narrowly avoided a crisis of confidence that could easily have done far greater damage. And it is not out of the woods yet. Some people in the administration are trying to put out the line that the problem is now behind us. Well the chairman of the FDIC, Bill Taylor, does not think so, and he is in the best position to know. He testified before the Banking Committee on this subject just last month, and told us that we still have over a thousand banks, with over $600 billion in assets—20 percent of all the industry's assets—on the problem bank list. That number is growing, not shrinking. In fact, in the past 12 months, that number grew over 50 percent.

Those troubled banks and their troubled assets are the real problem. Last year's bill did not create that problem, it was an effort to solve it. And clearly, the President's bill undercuts that effort.

The American people are bearing tremendous burdens to preserve our deposit insurance system and, along with it, a stable operating environment in which banks and thrifts can continue to make money for bank shareholders. An entire generation of taxpayers will pay hundreds of billions to close failed savings and loans. In addition, they have now loaned tens of billions to close failed banks and they may have to loan tens of billions more. There remains a serious repayment risk.

Moreover, it is the American people, through ever higher monthly fees and minimum balance requirements, lower interest rates, and a variety of new charges that have crept into their banking transactions, who are paying for the banking industry's stability nickel by nickel and hour by hour.

Just a few weeks ago, the Comptroller General of the United States gave the House Banking Committee his views on this bill. Here is what he said:

The supervisory reforms that are now under attack do nothing more than encourage banks and their regulators to recognize the realities of sound banking in the current environment. It is unfair to call these reforms burdensome because there should be no burden for well-run banks.

I believe it would be a grave mistake to weaken the safeguards enacted to protect the financial integrity of the deposit insurance funds and, ultimately, the taxpayers. The regulatory lessons learned from the 1980s and the debacle of the savings and loan industry that consumed its insurance fund and presented the bill to the taxpayers must not be repeated. If the safeguards enacted by the FDIC Improvement Act are cast aside, then I believe the government is indeed setting the stage for another serious financial crisis for the deposit insurance funds and the taxpayers.

The Comptroller General has given us a powerful and important warning. We should heed that warning and not repeat past mistakes.

EXHIBIT 1

CBO STAFF MEMORANDUM—THE COST OF FORBEARANCE DURING THE THRIFT CRISIS

This memorandum was prepared by Philip F. Bartholomew under the supervision of Elliot Schwartz. Emily Kolinski and David Whidbee provided research assistance. Michael Crider, Kim Kowalewski, Thomas Lutton, Larry Mote, Sherry Snyder, and Bob Sunshine made substantial contributions to this memorandum. This analysis was conducted at the request of the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives. It provides an estimate of the cost of delay in closing failed thrift institutions resulting from the policy of forbearance. In accordance with the Congressional Budget Office's mandate to provide objective and impartial analysis, the memorandum contains no recommendations.

SUMMARY

Several federal regulators of depository institutions recently have suggested that a policy of regulatory forbearance might be granted to currently troubled banks and thrifts. Regulatory forbearance would permit these troubled depositories to remain open. Regulators argue that these institutions are suffering temporary financial setbacks and that, given sufficient time, they will be able to restore themselves to sound financial condition. This same argument was made during the early part of the thrift crisis. The Congressional Budget Office estimates that this policy increased the eventual bill for resolving failed thrift institutions by about $66 billion (in 1990 dollars).

To estimate the additional cost incurred because of the policy of forbearance, CBO examined data for 1,130 thrifts that were either resolved during the period 1980 through 1990 or are projected to be resolved in 1991. Of these failed thrifts, 57 percent had become insolvent on a book-value basis by year-end 1984, and 80 percent had become insolvent by year-end 1987. Although the federal regulators were aware of the insolvency of these institutions at the time, it took an average of 38 months to close and resolve them from 1980 through 1990.

The cost of not closing thrifts when they first became book-value insolvent represents over half of the estimated $127 billion cost (in 1990 dollars) of resolving the 1,130 thrifts. Thus, forbearance may have doubled the cost of the thrift bailout. The average failed thrift deteriorated in value at an annual rate of 37 percent between the time it first became book-value insolvent and when it was closed and resolved by the Federal regulator.

INTRODUCTION

At year-end 1980, there were 3,993 thrift institutions with assets of $604 billion whose deposits were insured by the Federal Savings and Loan Insurance Corporation (FSLIC). By year-end 1990, the number of thrifts had declined to 2,342; the nominal value of their assets had grown to about $1 trillion.[1] Most of this consolidation came through government closure rather than voluntary merger. During this 10-year period, 842 thrifts were

NOTE.—All years are calendar years, unless otherwise stated.

[1] See tables A-1 for a detailed accounting of changes in the thrift industry from 1980 through 1990.

closed and resolved at a cost to the government estimated at the time to be $80.1 billion (approximately $85.4 billion in 1990 dollars) on a present-value basis.[2] At year-end 1990, 179 thrifts were in government conservatorships and 109 institutions were insolvent, judged by the book value of their tangible capital.[3] The Congressional Budget Office (CBO) projects that these 288 thrifts will be resolved in 1991 at an estimated cost of about $44 billion, or about $42 billion in 1990 dollars. Thus, the estimated cost of resolving these 1,130 thrifts exceeds $125 billion in 1990 dollars.[4]

FORBEARANCE

Forbearance is the discretionary practice of not enforcing an existing rule. In the 1980s, thrift regulators elevated forbearance to a general policy for the entire thrift industry—they did not close institutions when they became insolvent. Regulators did not violate statutes; rather, in altering agency regulations they interpreted those statutes in the most liberal way possible, thereby allowing themselves to avoid closing insolvent institutions.

In 1982, approximately 85 percent of all thrifts reported negative net income; 415 thrifts reported themselves to be insolvent on tangible basis (see Table A-1). Regulators initially responded to this problem by closing increasing numbers of insolvent thrifts. The number of annual thrift resolutions more than doubled between 1981 and 1982, from 28 to 63.

At the time, however, many observes argued that the thrifts' problems were temporary, brought on by high interest rates and deep recession. When interest rates declined, it was argued, and the economy recovered, thrifts would be able to regain solvency. Indeed, the industry as a whole experienced positive net after-tax income for the years 1983 through 1986. Net operating income, which measures the difference between interest earned on assets and interest paid on borrowing, was only slightly negative for the industry in 1983 and was positive and substantially improving for 1984 through 1986.

It was also anticipated that the Depository Institutions Deregulation and Monetary Control Act of 1980 and the Garn-St. Germain Act of 1982 would provide additional relief to the thrift by reducing regulatory burdens. Interest rate ceilings on deposits were phased out, and thrifts were permitted to engage in a wider variety of investment activities. Several states afforded their chartered thrifts more liberal investment options. Many observers thought that this regulation would allow thrifts to diversify that their investments and reduce the overall level of risk of risk of their portfolios.

The forbearance policy in part grew out of the recognition that the combined effects of economic recovery, lower interest rates, and statutory deregulations would take some time to affect the financial health of the thrifts. Thus, it was argued, regulators should not necessarily close troubled thrifts as quickly as strict accounting measures of solvency would indicate. Indeed, some thrifts benefited from this policy. Of the 212 thrifts that were tangibly insolvent in 1981, 16 were restored to solvency in 1982. Of the 415 thrifts that were tangibly insolvent in 1982, 51 were restored to solvency in 1983.

Another reason for granting forbearance was that the FSLIC did not have sufficient cash resources to close all insolvent institutions. Closure of all institutions that were tangibly insolvent in 1982 probably would have depleted the fund's cash. The required outlays for deposit insurance would have increased an already record federal budget deficit. Policymakers wanted to avoid asking taxpayers to foot the bill for FSLIC's losses, if the industry's problems were only temporary. Thus, regulators avoided closing institutions or arranging supervisory mergers. Losses were not recognized and the FSLIC remained financially solvent, at least until 1987 when the magnitude of the losses finally forced the recognition of the FSLIC's insolvency.

By the mid-1980s, however, many thrifts were still experiencing problems, and thrift regulators offered a new argument to avoid closing troubled institutions—that troubled thrifts could "grow out of their problems." Unfortunately, allowing them to does so did not anticipate either the subsequent decline in energy prices and its effect on the collapse of the credit quality of thrifts in the Southwest or the Tax Reform Act of 1986, which affected real estate values. By 1986, many thrifts that had previously been restored to financial health now suffered from a reduction in their asset values. In 1986, thrifts lost more than $1 billion in net nonoperating income, the accounting measure that best reflects asset losses. In 1987 and 1988 combined, thrifts lost $19 billion in net nonoperating income.

Thus, regulatory forbearance permitted the thrift industry to deteriorate. By not closing insolvent thrifts or requiring them to recapitalize, the regulators exacerbated the problem—inherent in insurance relationships—of moral hazard. Moral hazard is the term economists use to describe the reduced incentive of insured parties to protect themselves against risk if the potential losses associated with that risk are guaranteed (or insured) by another party. The U.S. system of deposit insurance addresses the risk of moral hazard through regulation and prudential supervision. When those safeguards failed, the adverse incentives of moral hazard were given free play.

Forbearance, therefore, set the stage for rampant investment speculation and fraudulent practices, all of which added to the ultimate cost of resolving the thrift crisis.

ESTIMATING THE COST OF FORBEARANCE

Recent studies of government accounting for deposit insurance suggest a method of estimating the cost to the government of the regulatory forbearance policies of the 1980s.[5] This method would recognize losses on a more timely basis by requiring the deposit insurer to record losses on the government's books once a depository was insolvent on a book-value basis.[6] Thus, a depository would be recognized as having failed when it became insolvent on a book-value basis, rather than when it was closed, as is current practice. In the unlikely event that an institution that was insolvent on a book-value basis recovered, the avoided resolution costs would be recorded as a receipt.

Retiming resolutions based on a tangible solvency rule

Financial statements (call reports) from all thrifts regulated by the Federal Home Loan Bank Board or insured by the FSLIC contain information that can be used to estimate the cost of resolving failed thrifts, if they had been closed when they were reported to be insolvent. The best available measure of solvency, which is contained in call reports, is tangible capital—the value of tangible assets minus liabilities. When tangible capital equals zero, an institution is effectively insolvent.

The effects of this insolvency criterion can be analyzed by applying it to the 1,130 thrifts that already have been or are expected to be resolved. This set of institutions includes 842 thrifts that were resolved by the FSLIC or its successor, the Resolution Trust Corporation (RTC), during the period 1980 through 1990. It also includes 288 unresolved thrifts that are projected to be resolved sometime in calendar year 1991–179 thrifts that were in RTC-conservatorships at year-end 1990, and 109 thrifts that were tangibly insolvent but not in government hands at the end of 1990.[7]

Most failed thrifts were not resolved until long after they became tangibly insolvent. Figures 1 and 2 compare the timing of when these 1,130 thrifts first became insolvent on a tangible basis with when they were resolved; Figure 3 shows the average length of time institutions were insolvent. About 57 percent of these thrifts were insolvent before 1985, yet the FSLIC had resolved only 15 percent. By year-end 1987, 80 percent were insolvent, but only 26 percent had been resolved. The average duration of insolvency before closure and resolution for the entire 1,130 thrifts was 38 months. Thrifts resolved in 1990 were, on average, insolvent for 49 months. Thus, by 1990, thrift owners, managers, and directors had had more than four years of forbearance to try to salvage their institutions and for moral hazard incentives to operate.

[Figures 1, 2, and 3 not reproducible in the Record.]

At the time an institution is closed, the RTC estimates—as did the FSLIC before it—the present-value cost of resolving the institution's assets and liabilities. This is the agency's best estimate of the cost of resolution. Thus, FSLIC and RTC estimates of resolution costs can be used to determine the final cost of resolving failed thrifts. Table 1 shows aggregate information on the 1,130 thrifts closed and projected to be resolved during the period 1980 through 1991. The estimated present-value costs of resolution are shown in nominal terms and recalculated in 1990 dollars. The estimated constant dollar cost of resolution totaled more than $125 billion over the 1980–1991 period.

[2] Additional thrifts were merged with regulatory supervision at no insurance cost to the government.

[3] Tangible capital excludes the value of goodwill created through merger transactions.

[4] CBO currently projects that an additional 887 thrifts that are now solvent when measured on a book-value basis will need to be resolved by year-end 1995, because of their financial problems. If closed today, these thrifts would cost, on a present-value basis, an additional $33 billion to resolve.

[5] The Omnibus Budget Reconciliation Act of 1990 mandated the study of government accounting for deposit insurance by CBO and the Office of Management and Budget (OMB). Both agencies presented their mandated studies to the Congress at the end of May 1991. The studies included numerous options for reforming the accounting treatment of government deposit insurance.

[6] See Congressional Budget Office, "Budgetary Treatment of Deposit Insurance: A Framework for Reform" (May 1991).

[7] CBO currently projects that an additional 887 thrifts will require resolution by either the RTC or the Savings Associations Insurance Fund by 1996. These 887 thrifts are currently operating in a tangibly solvent condition, but based on the poor quality of their asset portfolio these thrifts will most likely fail and require government resolution in the near future.

TABLE 1.—CHARACTERISTICS OF INSTITUTIONS RESOLVED, 1980–1991

[In millions of dollars]

Year	Number of resolutions	Total assets	Average number of months of tangible insolvency	Resolution cost per dollar of assets [Percent]	Estimated present-value cost of resolution	
					Current dollars	1990 dollars
1980	11	1,458	5.4	11.5	167	262
1981	28	13,908	5.2	5.5	759	1,091
1982	63	17,662	12.9	4.6	803	1,087
1983	36	4,631	16.4	5.9	275	357
1984	22	5,080	23.4	14.6	743	928
1985	31	5,601	25.9	17.5	979	1,238
1986	46	12,455	30.6	24.6	3,065	3,609
1987	47	10,660	35.7	34.8	3,704	4,208
1988	205	100,660	42.0	31.0	31,180	33,994
1989	37	11,019	42.4	58.0	5,399	5,641
1990	316	117,191	49.0	28.4	33,031	33,031
1991 [1]	288	167,542	55.0	26.1	43,782	41,687
Total	1,130	467,867	42.1	26.5	123,887	127,133

(1) Projected.

Source—Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Estimating the cost of delay in closing and resolving failed thrifts

A simple method to determine the cost of forbearance (or the cost of delaying the closure of insolvent thrifts) would appear to be to subtract the originally reported negative amount of insolvency from the estimated cost of resolution, which occurred some time later. This calculation, however, would misstate the losses incurred after an institution became insolvent on a book-value basis because of the inclusion of administrative costs in the resolution cost estimates and the exclusion of embedded market-value losses that are unrecognized in the book-value measure of tangible capital.

To account for both the administrative costs and the embedded losses, CBO calculated what the cost of resolution would have been had insolvent institutions been resolved when they reported negative tangible capital.[8] This calculated resolution cost was then compared with the actual estimated resolution cost made by the resolving agency (either FSLIC or RTC) when the institution was resolved. The difference between these two amounts represents the estimated cost of delay resulting from forbearance (see Figures 4 and 5). After adjusting for inflation, this calculation produces an aggregate estimated cost of delay, in 1990 dollars, of approximately $66 billion for the 1,130 thrifts.

[Figures 4 and 5 not reproducible in RECORD.]

The $66 billion cost of forbearance can be used to calculate the annual real rate of deterioration of the troubled thrifts that were allowed to remain open. The cost of resolving failed thrifts increased, in real terms, an average of 37 percent in each year that they were left open to operate. The median annual increase in costs for the 1,130 thrifts was 51 percent. The estimated resolution costs increased for 513 thrifts. The remaining thrifts either were resolved at no additional costs or were resolved in the year they became insolvent.

Calculating the cost of delay requires a number of simplifying assumptions. One assumption is implicit—that certain costs incurred in the process of resolving a failed thrift are the same whether it would have been resolved when it first became insolvent, or later, when it actually was resolved. These costs come from the government's administration of resolutions and the possible loss of franchise value that may take place if regulators act precipitously.[9]

The most important assumption is that the costs remaining after the calculated resolution costs are subtracted from the reported resolution costs represent the deterioration in net worth that could have been avoided if the institution had been shut down at the time of insolvency. Although the estimated cost of delay attempts to incorporate a write-down of the embedded losses, some of these losses may still be represented in the estimate. There is, however, sufficient reason to believe that a substantial portion of those losses represent additional costs that could have been avoided if institutions had been closed earlier. Many troubled thrifts attempted to increase their assets and funded that growth by borrowing at high rates. Undercapitalized thrifts paid costly premiums for their deposits and other borrowings. Financing growth is this way only reduced or made negative their net operating profits. Fraud and negligence, fueled by the incentive of moral hazard, have been well documented. On balance, the weight of available evidence indicates that much of the estimated $66 billion in added costs that occurred between the time of insolvency and the time of closure was the result of actions and investments made by thrift officials during the intervening period.

Two factors associated with calculating the cost of forbearance based on tangible solvency could change the estimated cost. First, some tangibly insolvent thrifts did recover. About 345 thrifts currently operating and tangibly solvent on a book-value basis were technically insolvent at some time during the 1980s. CBO projects that 70 percent of the 345 thrifts will ultimately fail and require resolution. Adjusting the earlier calculations of the cost of forbearance to account for the possible continued recovery of the surviving institutions would lower the estimate by only $1.5 billion.

A second factor, however, could raise the estimate of forbearance costs. Many analysts have suggested that earlier closure of failed thrifts might have benefited other, healthy, thrifts that subsequently also failed. Because undercapitalized or insolvent thrifts were permitted to compete with healthy thrifts (and banks), they bid up interest rates offered to depositors and bid down rates required of borrowers. The resulting squeeze on the profits of all financial competitors ran up the cost of the thrift debacle.

Thus, on balance, the forbearance policy practiced by thrift regulators during the 1980s must carry a large portion of the burden for escalating the cost of the thrift bailout. Had regulators acted more promptly, as much as $66 billion might have been saved.

TABLE A-1.—YEAR-END THRIFT INFORMATION, 1980–90

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Assets and Net Worth (billions of dollars):											
Number of institutions	3,993	3,751	3,287	3,146	3,136	3,246	3,220	3,147	2,949	2,597	2,342
Total assets (RAP basis)	604	640	686	814	978	1,070	1,164	1,251	1,352	1,157	1,005
Net worth (GAAP basis)	32	27	20	25	27	34	39	34	46	51	NA
Tangible net worth	32	25	4	4	3	9	15	9	23	36	38
Income (millions of dollars):											
Net after-tax income	781	−4,631	−4,142	1,945	1,022	3,728	131	−7,779	−12,057	−3,124	−964
Net operating income	790	−7,114	−8,761	−46	990	3,601	4,562	2,850	907	−3,549	−1,099
Net nonoperating income	398	964	3,041	2,567	796	2,215	−1,290	−7,930	−11,012	316	428
Taxes	407	−1,519	−1,578	576	764	2,087	3,141	2,699	1,952	−109	331
Asset Portfolio (percentage of total):											
Home mortgages	66.5	65.0	56.3	49.8	44.9	42.4	38.9	37.8	38.6	42.9	44.5
Mortgage-backed securities	4.4	5.0	8.6	10.9	11.1	10.4	13.1	15.6	15.4	14.0	14.5
Mortgage assets	70.9	70.0	64.9	60.7	56.0	52.8	52.0	53.4	54.0	56.9	59.0
Institution Type:											
Stock institutions:											
As a percentage of all institutions	20.0	21.0	23.0	24.0	30.0	33.0	37.0	40.0	44.0	44.0	44.0
As a percentage of total assets	27.0	29.0	30.0	40.0	52.0	56.0	62.0	70.0	74.0	75.0	75.0
Federally-chartered:											
As a percentage of all institutions	50.0	51.0	51.0	51.0	54.0	53.0	54.0	56.0	58.0	60.0	64.0
As a percentage of total assets	56.0	63.0	70.0	66.0	64.0	64.0	64.0	65.0	71.0	75.0	83.0
Tangible Capital-to-Asset Ratio (assets in billions of dollars):											
Greater than 6 percent:											
Number of thrifts	1,701	1,171	787	661	643	806	972	1,113	1,136	1,180	1,132
Total tangible assets	181	101	59	84	62	95	156	188	196	206	195
Between 3 percent and 6 percent:											
Number of thrifts	1,956	1,766	1,202	1,091	945	1,009	995	891	864	813	837
Total tangible assets	379	348	190	222	227	259	316	356	418	480	484
Between 1.5 percent and 3 percent:											
Number of thrifts	230	524	592	569	526	460	354	277	281	245	163
Total tangible assets	39	113	136	185	168	212	191	196	244	206	154
Between 0 percent and 1.5 percent:											
Number of thrifts	63	178	291	310	327	266	227	194	160	120	101
Total tangible assets	4	50	81	88	153	135	144	143	182	59	83

[8] The calculation of what resolution costs would have been relies on data for reported levels of tangible net worth, both at the time of insolvency and at the time of resolution.

[9] The calculation also assumes that the time value of money and the resolution's cash flow were unchanged over time.

TABLE A-1.—YEAR-END THRIFT INFORMATION, 1980-90—Continued

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Less than 0 percent:											
Number of thrifts	43	112	415	515	695	705	672	672	508	239	109
Total tangible assets	0.4	29	220	234	336	335	324	336	283	192	89
Conservatorships (assets in billions of dollars):											
Number of thrifts	NA	NA	NA	NA	NA	NA	NA	NA	NA	281	179
Total tangible assets	NA	NA	NA	NA	NA	NA	NA	NA	NA	93	79
Resolutions (millions of dollars):											
Number of thrifts	11	28	63	36	22	31	46	47	205	37	316
Total assets	1,458	13,908	17,662	4,631	5,080	5,601	12,455	10,660	100,660	11,019	117,191
Estimated present-value cost	167	759	803	275	743	1,022	3,065	3,704	31,180	5,399	33,031
Estimated present-value cost, in 1990 dollars	262	1,091	1,087	357	928	1,238	3,609	4,208	33,994	5,641	33,031

Source: Congressional Budget Office using data from Federal Home Loan Bank Board, Office of Thrift Supervision, Resolution Trust Corporation, and Ferguson and Company. The format of this table is adapted from James R. Barth, Philip F. Bartholomew, and Carol J. Labich, "Moral Hazard and the Thrift Crisis: An Empirical Analysis," Consumer Finance Law Quarterly Report, vol. 44, no. 1 (Winter 1990), p. 23.

Notes: Data for 1990 are preliminary. For 1989 and 1990, industry data do not include those thrifts in conservatorships at year-end (the thrifts included are referred to as private-sector thrifts by the Office of Thrift Supervisions). Resolutions in 1988 do not include 18 "stabilizations" that had assets of $7,463 million and tangible net worth of negative $3,348 million, and an estimated present-value resolution cost of $6,838 million. Resolutions in 1989 do not include seven resolutions by the Federal Savings and Loan Insurance Corporation (reportedly at no cost to FSLIC) and two by the Resolution Trust Corporation (reportedly at no cost to the RTC). Home mortgages exclude multifamily and nonresidential mortgages. RAP—Regulatory Accounting Practice; GAAP—Generally Accepted Accounting Principles; NA—not applicable.

TABLE A-2.—ATTRITION AMONG INSTITUTIONS INSURED BY THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1980-90

[Assets and costs in millions of dollars]

Year	Resolutions requiring FSLIC or RTC assistance									Resolutions requiring no assistance	
	Liquidations			Mergers and other types of assisted resolutions			All assisted resolutions				
	Number	Total assets	Total cost	Number	Total assets	Total cost	Number	Total assets	Total cost	Management consignment cases and RTC conservatorships [1]	Supervisory assisted mergers
1980	0	0	0	11	1,457.6	166.6	11	1,457.6	166.6	0	21
1981	1	88.5	30.4	27	13,819.7	728.3	28	13,908.2	758.7	0	54
1982	1	36.1	2.9	62	17,626.0	800.4	63	17,662.1	803.3	0	184
1983	5	262.6	60.6	31	4,368.5	214.1	36	4,631.1	274.7	0	34
1984	9	1,497.7	583.3	13	3,582.5	159.3	22	5,080.2	742.6	0	14
1985	9	2,141.3	630.1	22	4,227.0	391.5	31	6,368.3	1,021.6	23	10
1986	10	583.8	253.7	36	11,871.3	2,811.3	46	12,455.1	3,065.0	29	5
1987	17	3,043.8	2,277.5	30	7,616.6	1,426.1	47	10,660.4	3,703.6	25	5
1988	26	2,965.2	2,831.7	179	97,694.7	28,347.8	205	100,659.9	31,179.5	[2] 18	6
1989	30	2,294.7	1,406.7	7	8,724.5	3,992.5	37	9,662.0	5,608.0	281	0
1990	144	22,544.6	10,685.5	172	94,646.2	22,345.9	316	110,253.0	31,305.0	179	0
Total	252	35,458.3	18,762.4	590	265,634.6	61,383.8	842	292,797.9	78,628.6	555	333

[1] After 1988, thrifts were placed into Resolution Trust Corporation (RTC) conservatorship before resolution; before 1989, many thrifts were placed into a management consignment program.
[2] Resolution of these institutions—called stabilizations by the Federal Home Loan Bank Board—was incomplete.

Source: Congressional Budget Office using data from the Federal Home Loan Bank Board and the Office of Thrift Supervision.

Note: Costs are estimated present-value costs of resolution.

[From the Washington Post, May 13, 1991]

A BANK BUILT BY DEVELOPERS CRUMBLES—MADISON NATIONAL'S INSIDER LOANS STUDIED

(By Joël Glenn Brenner)

The neon sign that reaches to the top of Madison National Bank's downtown headquarters had long since short-circuited so that the letters B-A-N-K faded and flickered, leaving the five employees gathered below Friday night to talk in darkness.

More than seven hours earlier, the federal government had seized the bank, and the Madison employees were sharing gossip about the bank's demise—the second bank failure here in less than a year—and its sale to Signet Banking Corp. for $18 million.

"It's sad to see this happen, but it wasn't like we weren't expecting it," said Marjorie Gleason, who worked at the bank's main office. "This bank has been on the edge for years. If just came down to what would finally push it over."

Gleason's matter-of-fact explanation was borne out by recently released financial documents and interviews with federal banking regulators that showed Madision has been on the verge of collapse since the late 1980s.

The bank, which for years had thrived on real estate lending, particularly loans to the developers who sat on its board, was squeezed in the area's real estate bust. Madison records show that two-thirds of the bank's troubled loans went to officers, directors and their relatives.

That regulators had long been aware of Madison's troubles, and even helped prop it up in its last months, is likely to spark further debate in Congress over how regulators handle bank failures. [See story on Page 14.]

In Madison's case, many of the problems that contributed to its collapse date back to 1963 and the bank's original mission: to serve the region's real estate developers, many of whom sat on its board.

In 1963, the mission made perfect sense.

The Washington skyline then consisted largely of the Capitol, the Washington Monument and sprawling federal offices. The real estate boom sparked by the emerging Washington business community was just moving into full swing.

Some of Madison's founders already had made their fortunes building the apartments, offices and shopping centers that would soon overshadow the federal enclave.

Despite their stature and wealth, a few of these developers—Charles E. Smith, Jack Bender and Samuel Cohen—had never served on the boards of Washington's venerable old-line banks because of discrimination against Jews, according to longtime local businessmen.

According the those who remember that era, these developers set out to form a bank where they could have easier access to credit and could direct things to their liking. They were joined by several other prominent Washington players—developer Dominic F. Antonelli Jr., attorney Leonard L. Silverstein, accountant Morris B. Hariton and U.S. ambassador Kingdon Gould Jr.

In its first year of operation, Madison made a profit of $348,000. Its growth record was the best of any of the four new banks chartered at the time. Its success, Madison said then, was linked directly to the area's construction boom.

In just the first six months, the bank originated and serviced about $24 million in construction loans. By Madison's second year, that number had jumped to more than $100 million.

Although some of the original founders such as Smith bowed out early on, Madison maintained its strong ties to the area's commercial real estate community, inviting developers and other real estate professionals to serve on the board.

Ulysses "Blackie" G. Auger, real estate investor and owner of Blackie's House of Beef, joined Madison and became one of its largest shareholders. Antonelli, Bender and other directors, such as wholesale fish distributor and real estate investor William C. Eacho Jr., also began buying large blocks of stock. At one point, nearly 58 percent of Madison's ownership was concentrated in the bank's boardroom, which was one of the most close-knit in town.

Madison directors who resigned often were replaced by their relatives or friends. Jack Bender's sons, Howard and Stanley, for example, have continued in their father's place. Samuel Cohen's son-in-law, Morton Funger, became a Madison director as well. Even Smith, who has tried over the years to separate himself from the bank, remained tied to it through his son-in-law, bank director Robert P. Kogod.

In the early 1970s, rumors abounded among local businessmen that Madison was a "candy story" for its directors and their friends, who reportedly could get loans simply by asking.

In 1976, an investigation into Madison's lending practices by The Washington Post revealed that all but one of the real estate loans of $100,000 or more made by the bank over a three-year period went to directors, stockholders and former Madison employees. Among those who received loans for themselves or their business interests were Auger, Antonelli and Gould.

Although none of these insider loans caused losses, The Post investigation found that while Madison was busy funding its directors' projects, it was paying much less attention to the credit needs of the broader community. Several businessmen charged that they had been denied real estate loans and that "connections" were the only way to get Madison financing.

Then-chairman Louis C. Paladini defended Madsion against charges that its directors and stockholders had benefited unduly from self-dealing in loans and fees made on those loans. Federal regulators, saying that loans to directors and officers are legal as long as they are made at arm's length and at prevailing terms, also defended the institution.

But Madison's emphasis on lending to its board members caught the attention of Congress, which held a series of hearings to discuss the bank's operations.

Although the charges of insider dealing soon faded, Madison's reputation for lending to its board did not. The bank continued to market itself as a commercial real estate lender. As real estate boomed again in the 1980s, Madison found itself with the area's highest concentration of construction loans.

From 1985 through the third quarter of 1990, commercial real estate and construction loans grew from 24 percent to almost 44 percent of Madison's loan portfolio. Even Baltimore-based MNC Financial Inc., the biggest financier of local real estate development, has only 27 percent of its protfolio concentrated in office buildings and raw land.

Federal banking regulators said last week that they had been warning Madison for years about this lack of diversity. They also had warned bank officials to tighten their lending practices, which the regulators said included making high-risk real estate loans without collateral, providing full financing for real estate projects and lending "based on charter rather than cash flow."

In April 1989, the board promised it would address these concerns. But the bank's condition continued to deteriorate and real estate lending continued at the same rate, despite what had become a sharp downturn in the local real estate market, according to bank examiners. In late 1990, regulators forced the bank to sign a formal agreement to improve operations and the Federal Reserve began pumping cash into Madison to keep it alive.

To determine the depth of Madison's problems, federal bank examiners swarmed the bank's M Street NW headquarters in January of this year and began a loan-by-loan review of Madison's books.

Even before the exam began, Antonelli resigned from the board. The rampant overbuilding in the commercial real estate sector had battered Antonelli's real estate empire and forced him into bankruptcy reorganization he now owes Madison more than $7 million.

Another six board members resigned just before the examiners began their loan review. Most of them also were heavily involved in the real estate industry; the bank said they left to "concentrate on personal matters."

In the middle of the regulatory scrutiny, Madison's two top executives also resigned. Chairman K. Donald Menefee and President Norman Hecht reportedly left the bank at the request of the Office of the Comptroller of the Currency, which oversees the nation's banks. The two were replaced in late February by Michael F. Ryan, who also oversaw the National Bank of Washington in the final months before its collapse last year. Menefee and Hecht have declined to discuss why they left the bank.

But one Madison official, who requested anonymity, said last week that Hecht and Menefee were never the ultimate decision makers.

"The decisions that were made at the bank were made by the board," the official said. "They ran the place. They called the shots."

Sources say Madison board members always exercised direct control of the bank's lending. Recently released documents show they gave themselves, their relatives and Madison officers 20 percent of all the loans made by the bank company.

Many of those loans have since gone sour. According to a filing last week with the Securities and Exchange Commission, two-thirds of Madison's troubled loans are loans that were made to insiders to fund their real estate projects.

Madison said loans to its officers, directors and their relatives were made on the same terms as loans given to unrelated borrowers. However, bank regulators, who asked not to be identified, said last week that the relationships between the board and the bank are under formal investigation by the Federal Deposit Insurance Corp. Such a probe is common practice when a bank fails.

Said one regulator: "It's clear that these loans contributed significantly to the demise of the bank."

Ryan said lending to bank directors was simply "part of the corporate culture." He said Madison never directly funneled loans to the board, but because board members were developers it made sense to lend to them.

Madison employee Gleason, as she turned to look at Madison National one last time before heading home late Friday, took a different view.

"It's sad. We'd all heard what a mess the place was, with inside deals and stuff. And I think we all knew in our hearts that Madison wouldn't make it. But what's really a shame is that we all knew—and there was nothing we could do about it."

[From the Washington Post, May 10, 1991]

MADISON'S OFFICIALS HOLD BULK OF ITS SOURED LOANS

(By Joël Glenn Brenner)

Two-thirds of the troubled loans that have brought Madison National Bank to the brink of collapse were made to its own directors and officers to fund their real estate ventures, according to financial reports filed yesterday with the Securities and Exchange Commission.

Madison's parent, District-based James Madison Ltd., announced last week that Madison is insolvent, with liabilities exceeding assets. Losses at the Madison banking subsidiaries have been so large that a federal takeover could occur, it added. Sources said the Federal Deposit Insurance Corp. is trying to sell Madison and that a deal, with government assistance, could be completed shortly.

Madison made loans to insiders at a level that, while legal, is practically unheard of in the banking industry, analysts said. According to the SEC filing, $1 out of every $5 in Madison loans outstanding in 1990 went to bank directors, executive officers or their relatives for building commercial offices, buying land and constructing homes.

Among the bank company's directors and their relatives who have outstanding loans for real estate projects are developer Dominic F. Antonelli Jr., a Madison founder who resigned from the board last August and is now in bankruptcy; Antonelli's son John and his daughter Lee; Ulysses "Blackie" G. Auger, a Madison founder and owner of Blackie's House of Beef; Richard S. Cohen, president of Willco Construction Co., who resigned from the board in the fourth quarter; Cohen's brother, Ronald Cohen; Howard and Stanley Bender, both Madison directors and owners of Blake Construction Co.; and Richard A. Kirstein, a Madison director and president of Richmarr Construction Corp.

District land records show that even as recently as January, when real estate values were plummeting and the bank's fortunes were in question, Madison continued to make loans to its directors.

On Jan. 24, Angelo Puglisi, former head of Madison Bank of Maryland, and his partners received a $20,000 loan on vacant land at 21st and P streets NW. That was Madison's second loan on the property, according to a review of the land records by the Service Employees International Union.

None of these directors returned phone calls for comment yesterday.

Madison Chairman Michael F. Ryan, who recently took control of the institution, said the bank did not deliberately funnel loans to its board members.

"This bank was created by real estate developers and these were real estate-related loans," Ryan said. "The fact that [the loans] happened to be to directors is an issue of the employment of the directors. . . . It was a corporate culture."

Yesterday's disclosure included $43.9 million in loans to directors and officers that had not been reported to shareholders or regulators. Madison attributed the addition to "refinements to the company's loan classification system." Ryan declined to comment on why these loans had not been classified before as insider deals.

Problems with insider loans are nothing new at Madison, which became the subject of a congressional investigation in the late 1970s because of its heavy emphasis on lending to its board of directors. Antonelli and Auger were criticized then for loans they had received.

Unlike in the 1970's, however, insider loans made recently have contributed significantly to the financial problems of the bank company, which operates of the bank company, which operates the sixth-largest bank in the District and smaller banks in Maryland and Virginia.

Madison was founded in 1963 by a group of mostly Jewish real estate developers—headed by builder Charles E. Smith—who had found it difficult to get financing for their projects from other banks in the District. Madison has continued to focus on real estate lending, and its board of directors is still made up largely of those in the real estate industry.

Although lending to directors and officers is an accepted banking practice, it has been cited by industry experts as a key factor contributing to the failure of hundreds of the nation's savings and loans.

Federal regulators have said the problem of excessive insider dealings in the nation's commercial banks is not a significant problem. They say careful supervision by the Office of the Comptroller of the Currency (OCC) has kept banks from abusing the insider loan privilege.

Although banks report to federal regulators which loans they make to directors and officers, they are not required to disclose that information to shareholders unless the loans become troubled.

Madison said in the SEC filing that all of its insider loans "were made in the ordinary

course of business and on substantially the same terms, including interest rates and collateral, as those prevailing at the time . . . and did not involve more than the normal risk of collectibility with respect to other loans in the company's portfolios."

However, according to the filing, federal regulators have criticized nearly half of the $132.2 million of loans that Madison has outstanding to its directors, officers and their relatives. Of those, $24 million in loans are no longer paying interest. Another $27 million are classified as troubled because they are collateralized by property that has lost substantial value or are otherwise "substandard."

In addition, Madison has written off $11.5 million of insider loans as uncollectible. That accounts for one-third of all the bank company's loan write-offs in 1990.

For the past several months, Madison has been the subject of intensive examinations by all three federal banking regulators, the OCC, the FDIC and the Federal Reserve Board. It has signed special supervisory agreements with all three that prohibit it, among other things, from making more loans to directors.

Madison said in its filing that any future action by the regulators could result in "substantial civil money penalties against" its directors and other affiliated parties.

Madison's deposits continue to be insured up to $100,000 per customer account.

EX-OFFICIALS AT MADISON INVESTIGATED

(By Joël Glenn Brenner and Kirstin Downey)

Former top officials of Madison National Banks of the District and Virginia are being investigated by seven federal agencies for possible illegal activity prior to the failure of the banks last month, according to regulatory documents and sources close to Madison.

According to these sources, investigations by the FBI, the U.S. Attorney's Office, the Internal Revenue Service, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corp. and the Department of Housing and Urban Development are underway into a wide range of possible illegal activities, including making fraudulent housings loans, insider stock trading, check-kiting and falsifying bank documents.

Regulatory documents show that as of last summer, the FBI was investigating K. Donald Menefee, former chairman and chief executive of James Madison Ltd. in the District, in connection with possible money-laundering violations. Sources said that investigation was still underway at the time of the bank's collapse May 10.

Menefee could not be reached for comment.

Madison was formed in 1964 by a group of prominent local developers including Dominic F. Antonelli Jr. He and other directors have borrowed heavily from the bank over the years. The bank failures, which came after massive losses on real estate loans, are expected to cost the FDIC about $160 million.

The Office of the Comptroller of the Currency (OCC) said yesterday that it has decided to fine former Madison directors and officers, whom it did not identify, for "unsafe and unsound banking practices" and other violations of banking law, including violations of rules governing bank loans to their own officials.

In the five years before regulators shut down the banks, directors and officers were cited by the OCC more than 80 times for violating bank laws, including exceeding limits on loans to directors and falsifying financial documents, according to documents disclosed during a congressional hearing this month. However, monetary penalties were not assessed against the banks' leadership for these violations.

FDIC spokesman David Barr said his agency is investigating officers and directors for their role in the banks' collapse and could bar them for life from working in another bank or savings and loan, seek restitution from them, or both. He said it is too early in the investigation to tell what action, if any, the agency would take.

Officials from the SEC and the FBI refused to comment.

Internal regulatory memos dated Aug. 22, 1990, indicate that the FBI was investigating James Madison's then-chairman Menefee for his involvement with two unnamed bank customers under investigation by the bureau for possible money-laundering. Sources said the FBI's investigation into Menefee was continuing at the time of Madison's failure.

"It appears that while Mr. Menefee was a loan officer, he lent [these] two customers money personally," the memo said. The FBI, according to the memo, was trying to "determine what knowledge, if any Meneff has of these men's other business dealings." Madison, the memo said, was paying for Menefee's legal fees in connection with the investigation.

Menefee was forced to resign his position in the months before the bank collapsed in May. It could not be learned whether his resignation was related to the FBI inquiry.

Internal regulatory documents also state that John Broumas, former chairman of the Madison National Bank of Virginia, was forced to resign by the bank's directors last July after the board was informed that he was involved with a check-kiting scheme that defrauded the bank of $71,000 and with an insider stock-trading scheme that netted him $350,000. Check kiting involves drawing money illegally from several accounts through fraudulent transactions.

Broumas declined to return phone calls for comments.

Sources said the SEC is probing Broumas's stock transactions, which involved three other bank employees, two of whom resigned or were dismissed. According to the documents, Broumas asked the three employees to set up brokerage accounts in their names, with their Social Security numbers, using Broumas's money. Broumas executed more than 400 transactions in bank stock through the accounts between January and May 1990, making about $350,000 in profits, the documents report.

The stock trades violate SEC rules that require insiders to return any profit that was gained on stock held for less than six months to the company, the documents said. In addition, insiders are not allowed to trade stock in other people's names and must file forms with the SEC every time they buy or sell stock in their firm. Broumas never filed the required reports, the documents said, and he has never returned his profit to Madison, according to sources.

In addition to the trading violations, documents said Broumas and two friends were involved in a check-kiting scheme through the bank. The fraud was discovered by the bank's internal auditors, the documents said. Broumas repaid the $71,000 after he was forced to resign July 11, 1990.

Frank Cerutti, former president of Madison National Bank of Virginia, also is being investigated by the FDIC and the OCC, sources said, for allegedly falsifying minutes of a board meeting. Cerutti was forced to resign after the board discovered the changes in the minutes, sources said.

Cerutti could not be reached for comment.

According to documents, Cerutti altered the minutes to reflect approval of a loan for the benefit of his church. "His church had applied for a loan at the [Virginia] bank and apparently was pressuring him for an answer to the request," one document said. However, the loan officer was not prepared to present the loan to the bank's board for approval.

"After pressure from Cerutti," the document said, the board did approve its "intent to lend." However, a review of meeting minutes reflected the board's approval for the loan, the document said: "All roads led back to Cerutti, who apparently falsified the minutes to reflect approval. The [Virginia] board subsequently asked for his resignation."

Madison National Bank first came to the attention of the U.S. Attorney's Office in 1985 in connection with an investigation into fraudulently obtained loans insured by HUD's Federal Housing Administration, said Steven Tabackman, a former assistant U.S. attorney who headed the investigation between 1985 and 1988.

The probe, jointly conducted by HUD, the FBI and the IRS, has resulted in more than 60 criminal convictions. No Madison officials have been charged.

District land records show that Madison provided the money that allowed real estate investors to buy numerous small apartment buildings in Northeast Washington in 1982 and 1983. These properties were resold to investors with the use of fraudulently obtained FHA-insured loans, and the real estate brokers and investors split the proceeds from the sales, according to guilty pleas by participants in the transactions.

Madison would have received part of the proceeds from each transaction in exchange for financing the deals, Tabackman said.

Many of these transactions involved real estate investor Marvin Gitelson through two firms he owned, Sundust Investment Corp. and Bancies Inc.

In November 1989, Gitelson was charged with narcotics trafficking and HUD fraud, and later pleaded guilty to two counts of interstate transportation of property taken by fraud and making false statements to HUD.

Gitelson had 13 separate accounts at Madison, according to court documents, where he deposited the proceeds of his various business enterprises. Those enterprises included real estate investments and check-cashing services, Tabackman said.

HUD also is investigating whether Madison was involved in schemes to defraud the agency. "It's a hot matter right now," said Hilton Green of the HUD Inspector General's Office, who declined further comment. "We're looking into a lot of folks."

Former officials contacted about the probes said they were unaware of any inquiries into the banks' activity.

"I have no idea of any criminal investigation," said Norman F. Hecht Sr., former president of Madison National Bank in the District.

[From the Washington Post, Apr. 27, 1992]

KEEPING INSIDERS WITHIN LIMITS

When the curtain fell on the now-defunct Madison National Bank last year, the spotlight shifted belatedly to the huge number of shaky insider loans held by its directors, top executives and key shareholders. That costly discovery, along with similar findings at

other failed institutions, prompted Congress to tighten restrictions on bank lending to insiders. Now some bankers are complaining that new Federal Reserve Board implementing regulations will cause banks to lose some of the best business they ever had. But weighed against the loss in public trust that imprudent insider deals can cost, the new bank boundaries make sense.

Before the clampdown, bank directors and other insiders could individually or collectively borrow more than 100 percent of the bank's equity capital, provided the loans weren't made on preferential terms. The new regulations will limit individual insider loans to 25 percent of equity capital, and the total of loans to all insiders could not exceed 100 percent in the case of large banks and 200 percent for small institutions. Even with these generous aggregate insider lender limits, bankers fear that the guidelines will force some of their most favored directors to choose between directorships and the continuation of their comfortable borrowing relationships. But if that is one of the eventual results, the guidelines will indeed be serving the public interest.

Opponents of the new banking discipline seem to have lost sight of a director's basic role. Bringing in business or adding prestige to a bank board, is (or should be) secondary to a director's principal duty, which is to protect the interests of the owners—shareholders—and depositors. That is the reason bank directors, unlike those in other businesses, take oaths of office. Their loyalty is owed to the institution they represent, not just to the chief executive who selected them or to the account officer who generously services their loans. Unfortunately, as illustrated by the long list of failed institutions, too many overborrowed directors and other insiders became too compromised by their own personal banking needs and relationships to give sufficient care and diligence to the safety and soundness of the banks they were sworn to protect. That alone is reason for Congress and the federal regulators to have acted as they did.•

OUTSTANDING ENGINEERING

• Mr. GORTON. Mr. President, the State of Washington is home to many of the most beautiful natural resources in the world. Mount Rainier, the Columbia River, and the amber waves of wheat in the Palouse are just a few of our natural wonders. These resources have great esthetic and economic value for the State of Washington.

But the list of notable landmarks in Washington State does not end with our natural resources. For the third year in a row, District 12 is the home of Civil Engineering magazine's "Outstanding Civil Engineering Achievement" prize. This year's recipient is the West Seattle low-level swing bridge.

This bridge is one experts said could not be built. It is a concrete segmental box-girder swing bridge with twin leaves weighing 7,500 tons each. It is the only hydraulically operated double-leaf concrete swing bridge in the world.

This unique bridge is the engineering solution to the challenge posed in the Duwamish Waterway improvement plan. The bridge enables large ocean freighters to better navigate the water to upriver marine terminals and industries. It will give industrial transportation a more direct access into the industrial areas that line the Duwamish River. And finally, it provides access to West Seattle, where about a quarter of the city's population lives. The bridge carries more than 70,000 vehicles per day, 12,000 of which are heavy trucks, with links to two interstate highways, a major State highway, and downtown Seattle.

Mr. President, I would like to congratulate the Seattle Engineering Department, which sponsored the project, and commend the Port of Seattle, King County, Washington State Department of Transportation, and the Federal Highway Administration for their involvement. I also ask that an article from the July 1992 issue of Civil Engineering entitled "Seattle Swings Again" be inserted in the RECORD.

The article follows:

SEATTLE SWINGS AGAIN

(By Rita Robinson)

Constructed as an industrial workhorse to divert truck traffic from an adjacent graceful high-level span, the $33.5 million West Seattle Low-Level Swing Bridge is becoming an aesthetic landmark in its own right. When a ship in the west channel of the Duwamish River approaches Harbor Island, the twin concrete segmental box girder leaves rise imperceptibly, part and swing toward the river banks in a slow-motion ballet, a spectacle that moves 15,000 tons of concrete in 2 min.

Each leaf has a 173.5 ft tail span and a 240 ft channel span, clearing the channel by 55 ft. This is 12 ft higher than the predecessor bascule structure, and the difference has reduced the need for openings for river traffic about by 30%. The swing bridge diverts some 3,000 trucks a day from the high bridge, giving them a more direct access into the industrial areas that line the river. As a bonus for pedestrians and cyclists, the bridge provides a more direct route for public access to West Seattle's beaches and trails (CE September 1990).

The unique design—this is the only hydraulically operated double-leaf concrete swing bridge in the world—is the engineering solution to the challenge posed in the Duwamish Waterway Improvement plan, which calls for widening the existing 150 ft channel to 250 ft. The existing bascule was skewed 45 deg. To the channel, and reusing the right-of-way meant a clear span length of 353 ft, an enormous reach for a bascule bridge. The answer was a swing structure with two pivot piers on the river banks rather than the usual single pivot midchannel.

In the final design, the span between the center line of the pivot piers is 480 ft, and constructing the leaves in the open position kept the channel open for shipping. Because the new piers and open leaves are well outside the channel markers, maritime officials feel that this stretch of the waterway is now reasonably collisionproof. Even with the existing channel, large ocean freighters are better able to navigate the waterway to upriver marine terminals and industries.

The transportation corridor that serves Harbor Island also serves West Seattle, where about a quarter of the city's population lives. It carries more than 70,000 vehicles per day, 12,000 of which are heavy trucks, with links to two interstate highways, a major state highway and the downtown area. For the engineers and contractors, the biggest site problems involved keeping major industrial traffic moving at all times of the day and night, moving an electrical tower and relocating water and telephone lines without disrupting service to 70,000 people.

Traffic detours were well publicized, and a toll-free van/shuttle carried more than 64,000 bicyclists and pedestrians over the high-level bridge during construction. (By themselves, they are excluded from the high bridge.) a design/construction oversight committee representing the community, businesses and local government agencies met regularly to discuss progress.

Migrating fish had to be protected at all costs, so in-water construction was halted between March 15 and June 15. During demolition of the old bridge piers, the contractor fabricated a temporary "air curtain" of polyvinyl chloride perforated pipe and high-pressure air pumps. The curtain absorbed about 80% of the pressure wave created by the underwater blasts, and no salmon or steelhead fish were lost.

Finally, the innovative design caused fiscal problems. When the cry was raised that no one had built such a heavy swing bridge before, the Federal Highway Administration declined to fund it, although the agency did contribute $7.2 million for approaches. The design team produced two alternates that were to hold down costs by increasing the bidding competition. The segmental concrete version came at $33.5 million, but no one bid on the composite concrete and steel design.

Moving the 7,500 ton leaves is an engineering feat in itself, and city officials were apprehensive about the innovations this entailed. No one was sure that the lift-turn pistons would work, so the city required testing of a half-scale model hooked to a computer that simulated 10 year's use. Taken apart after the test, the model shows no wear on seals or surfaces.

Normally, a swing bridge pivots on a fixed center bearing, with balance wheels to stabilize the span during operation and wedges to immobilize the span for roadway traffic. Seismic design considerations, as well as the unprecedented weight made these normal machines components impractical. The designers turned to hydraulics: A 9 ft. diameter hydraulic cylinder lifts the bridge off its stationary service bearings and provides an oil bearing for rotation. Hydraulic cylinders propel the leaves, drive and retract the center and tail locks. The skew, which had lengthened the span to problem proportions, shortened the retraction path of the leaves to 45 deg.

Redundancy was an important design factor. In each pier house, two of the three 100 hp, 125 gpm hydraulic pumps supply power for the hydraulic system, while designation of the spare third is rotated among them. In extreme emergencies, each leaf could be moved by only one slewing cylinder or even against the friction of the service bearings should the lift-turn cylinder fail to operate. These maneuvers would require manual overrides of pressure-relief valves in the hydraulic system, and could damage some of the service bearings.

Although the locks are designed to be driven against a ½ in. misalignment, each box girder has enough torsional stiffness so that locks are required only at the center line. In the operating position, a large steel locking

bar at midstream connects the tips of the leaves together, and a similar tail lock connects the end of each movable leaf to the approach structure. The locks are driven and horizontally retracted by independent hydraulic cylinders operated by separate pumps. In a power failure, emergency generators housed in the lower level of each pier house come on line. These generators are rated at 350 kw, and burn diesel fuel stored in tanks located in the pier houses.

The control tower, adjacent to but separate from the west pivot pier, is 120 ft. above the water, giving the bridge operator clear views of the channel and the approach roadways. Normally, a computer controls the operation; it pushes the buttons, checks the interlocks and tracks status on a monitor. The human operator can, however, interrupt most of the steps with manual override. Each operation in the carefully orchestrated sequence must be complete and checked by the system before the next is started. For instance, all traffic and pedestrian safety gates are in place before the locks are withdrawn. Total elapsed time for an opening, including halting vehicular traffic with lights and gates, is 4.5 min.

To open the bridge, two hydraulic slewing cylinders with a 24 in. diameter piston and a 92 in. stroke rotate each leaf at 0.57 deg./sec. Hydraulic buffers stop each leaf in 0.44 deg. of travel. Open-position buffers are located on the roof of the pier house and contact stops on the inner surface of the transition element core. Tail-span buffers are located on the approach span piers. Because closing speeds are reduced to 35% of normal at the point of contact with the buffers, the buffer loads during normal operation are quite small.

The design engineers established the dimensions of each cantilever leaf according to its proximity to the high-level bridge. The leaves are bobtailed in the tail section—they could not be made symmetrical about the pivot shaft because of the restricted space available to clear the existing bridge pier. The east leaf, with its tail span of 173 ft, tucks under the high-level bridge during slewing, just clearing the nearest column; the west leaf is identical but its channel span tucks under the high-level bridge.

The pier houses are 42 ft in diameter, with 32 in. thick concrete walls. They house the machinery, emergency generators and part of the control system, and are carried by reinforced concrete footings that bear on 36 in. concrete-filled steel pipe piles. Each pier table is supported by a transition element that provides two load paths to the foundation. When the bridge is open to vehicular traffic, the load path goes through a conical shall to the walls of the pier house. (Service bearings composed of steel plates with reinforced elastomers separate the transition element from the roof of the pier house.)

In the operating position, the entire movable leaf, including the transition element and pivot shaft, is raised about 1 in. to transfer the load from the service bearings to the pivot shaft a concrete-filled steel shell resting on the hydraulically operated lift-turn cylinder.

The exacting tolerances specified for manufacture and installation of the mechanical components were similar to those used to set turbines and generators. The 12 ft diameter pivot shafts were made in three sections, machined and assembled in the shop, then subjected to a run-out test on a horizontal axis. The two journals are circular within 0.004 in., and the base of the cylinder is perpendicular to the axis within 0.007 in. Similar tolerances were met after the cylinders were disassembled, shipped and reassembled on site. The test were made both before and after the cylinders were filled with concrete.

DESIGN PRECAUTIONS

The design engineers took precautions to make the swing bridge earthquake resistant. They had to consider all elements of the project—approaches, movable leaves, piers and locks—in light of Seattle's designation as being in UBC Zone III. Soils near the mouth of the Duwamish River would be subject to liquefaction and potential ground subsidence in a severe earthquake. They range from hydraulic fill and recent alluvial sands and silts to heavily preconsolidated glacial till, all interspersed with lenses of loose silt. Depth to the solid till formation varies from 50 ft on the west 200 ft. on the east.

The engineers specified vibroflotation to densify the problem soils in order to prevent loss of lateral containment of soil around the upper portion of the piles supporting the piers, which are located in the sloping banks of the channel excavation. Special seismic isolation sleeves—48 in. diameter steel pipes—surrounding each pile control the elevation at which the piles begin to receive lateral support from surrounding soils. This arrangement creates a center of rigidity at the same location as the center of mass, minimizing torsional problems that would arise during an earthquake if the lateral stiffness varied from pile to pile. The sleeves also support the tremie seal, which is separate from the footing so these components can move independently during a shock.

Other precautions involved provisions for future maintenance. The designers provided safe access for inspectors and maintenance personnel plus adequate openings for removal and replacement of each piece of machinery. The 9 ft diameter hydraulic lift-turn cylinders, for instance, weigh about 5 tons each.

Because the concrete box girders have free ends rather than ends fixed to piers, control of long-term deformations was a major concern during design. The leaves contain more post-tensioning than required for stress control for the final dead-load balancing. As a precaution, there are several unbonded tendons that can be stressed in the future to account for unanticipated deflection.

Superplasticizers added to the high-strength concrete mix reduced water requirements and provided workability with minimum shrinkage and creep. Thermocouples embedded in the concrete permitted close monitoring of strength development, which in turn allowed early prestressing.

The segmental box girders were cast in place. First, the 60 ft long pier tables were cast in the closed position to control stresses on the service bearings that transmit the loads to the pier house walls. Then the pier tables were moved to the open position, and work proceeded simultaneously on both leaves so that incremental adjustments could be made for matching the elevations of opposing segments. Prior to casting the last two segments on each arm of the leaves, the bridge was swung to the closed position to check the alignment and profile. No major adjustments were required in the formwork as a result of these checks. A 2 in. thick overlay of latex-modified concrete provides the traffic surface.

CREDITS

The project, sponsored by the Seattle Engineering Department, is owned by the city of Seattle. Funding also came from the Port of Seattle, King County, Washington State DOT and the Federal Highway Administration. The joint venture West Seattle Bridge Design Team was composed of Andersen Bjornstad Kane Jacobs, Inc., Seattle, and the local offices of Parsons Brinckerhoff Quade & Douglas, Tudor Engineering, Inc., Contech Consultants (segmental concrete) and Hamilton Engineering Inc. (hydraulic machinery). Elcon, Portland, Ore., provided electrical design for power and illumination.

The construction contract was awarded to joint venture Kiewit-Global in December 1988, which completed the project in 608 workings days (about 28 months). If also involved 49 subcontractors. After utility work was completed, the bridge was opened to traffic in August 1991.

The West Seattle Low-Level Swing Bridge was nominated by Rich Hovey, Director of District 12. This is the third Outstanding Civil Engineering Achievement prize in a row for the District. In 1991, it went to the decade's effort by the U.S. Army Corps of Engineers in response to the eruption of Mount St. Helens, and in 1990, the winner was the Mount Baker Ridge Tunnel and its lidded approaches, in another part of Seattle.•

ORDERS FOR TUESDAY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Tuesday, July 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the first 30 minutes of morning business under the control of the majority leader or his designee; with Senator GORTON recognized for up to 10 minutes and Senator COATS for up to 5 minutes; that upon the third reading of S. 3026, the State, Justice, Commerce appropriations bill, the Senate then proceed to the consideration of Calendar No. 560, H.R. 5487, the Agriculture appropriations bill; that on tomorrow, Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

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

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. HOLLINGS. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:25 p.m., recessed until 9:15 a.m., Tuesday, July 28, 1992.

NOMINATIONS

Executive nominations received by the Senate July 27, 1992:

THE JUDICIARY

R. EDGAR CAMPBELL, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOANNA SEYBERT, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

NATIONAL INSTITUTE FOR LITERACY

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR TERMS OF 3 YEARS (NEW POSITIONS):

JOHN CORCORAN, OF CALIFORNIA
HELEN B. CROUCH, OF NEW YORK
SHARON DARLING, OF KENTUCKY
JIM EDGAR, OF ILLINOIS
JON DEVEAUX, OF NEW YORK
RONALD M. GILLUM, OF MICHIGAN
BENITA C. SOMERFIELD, OF NEW YORK
SUSAN ANN VOGEL, OF ILLINOIS

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

GENE ERNEST BIGLER, II, OF CALIFORNIA
LESLIE C. HIGH, OF PENNSYLVANIA
HELEN MARGIOU, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MICHAEL EMBACH THURSTON, OF WASHINGTON

DEPARTMENT OF AGRICULTURE

STEVEN D. SHNITZLER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 4, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LUCY K. ABBOTT, OF MAINE
AMIT AGARWAL, OF CALIFORNIA
THOMAS HART ARMBRUSTER, OF HAWAII
DORON DAVID BARD, OF MARYLAND
PETER HENRY BARLERIN, OF MARYLAND
BERTRAM DOMINICUS BRAUN, OF NEW YORK
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CHRISTIAN M. CASTRO, OF MASSACHUSETTS
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EXTENSIONS OF REMARKS

PREVIOUS QUESTION FIGHT TUESDAY ON LINE-ITEM VETO AMENDMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. SOLOMON. Mr. Speaker, I am inserting these extensions of remarks to alert my colleagues that tomorrow, Tuesday, July 28, I will be joining with Representative DREIER in urging defeat of the previous question on the rule for the supplemental appropriations bill (H.R. 5620) in order to amend the rule to make in order a line-item veto rescission authority amendment.

The text of my amendment can be found in the CONGRESSIONAL RECORD of Thursday, July 23, at page H 6584. I am appending to these remarks a summary of the amendment.

In essence, my amendment is identical to H.R. 78 introduced by Representative JIMMY DUNCAN of Tennessee back on January 3, 1991, which has been languishing in the Committees on Rules and Government Operations ever since. The only difference from H.R. 78 is that my amendment would only apply to fiscal 1993 appropriations bills rather than being permanent authority.

Under the terms of the amendment, the President could rescind budget authority in any fiscal 1993 appropriations bill within 20 days after its enactment and submit a message to Congress notifying it of the rescission. Congress would then have a 20-day review period in which to pass a resolution of disapproval. If the disapproval resolution becomes law, the funds would be spent. If not, the budget authority would be canceled.

Mr. Speaker, the line-item veto alone will not bring our budget into balance, but it can be a very useful tool in moving us in that direction. According to a GAO report earlier this year, the deficit could have been reduced by up to $70 billion between fiscal years 1984 and 1989 if the President had had the line-item veto.

Our current rescission provisions under title X of the Budget Act are woefully inadequate as we already saw earlier this year since Congress can ignore or drastically alter any proposed rescission. The current law requires approval of a rescission by both Houses before the spending can be blocked. My amendment reverses that process by permitting a rescission to stand unless both Houses of Congress disapprove the rescission and that disapproval resolution becomes law.

This is the only meaningful way we can assure that Congress has a clear up-or-down vote on the President's rescission proposals.

I urge my colleagues to join us in voting down the previous question on the supplemental rule so that we can give the President this authority on a limited, 1-year trial basis. Let's at least give the concept a chance to work.

At this point in the RECORD, Mr. Speaker, I include a summary of my amendment, a copy of a "Dear Colleague" letter sent to all Members today, an excerpted summary from the GAO report, and a list of the 170 House Members who have sponsored or cosponsored line-item veto bills or constitutional amendments.

SUMMARY OF SOLOMON LINE-ITEM VETO RESCISSION AUTHORITY AMENDMENT TO SUPPLEMENTAL APPROPRIATIONS BILL

The amendment is based on H.R. 78 introduced by Rep. Jimmy Duncan (R-TN) on Jan. 3, 1991 (referred to the Committees on Rules and Government Operations; 123 current cosponsors), except that it would only apply to fiscal 1993 appropriations bills;

Under the terms of the amendment, the President could send Congress a special message within 20-days of session after the enactment of a fiscal 1993 appropriations bill, rescinding all or part of any discretionary budget authority contained in that bill;

The budget authority would be considered canceled unless both Houses, by majority vote, pass a joint resolution disapproving the rescission, in whole, with 20-days after the message is received, and the joint resolution becomes law;

After congressional passage of a joint resolution of disapproval, the President would have the constitutional ten days in which to sign or veto it, and, if it is vetoed, Congress would have an additional five-days of session in which to vote to override the veto (a two-thirds vote of both Houses being required under the Constitution);

A joint resolution of disapproval would be subject to ten-hours of debate in the Senate and in accordance with the rules of the House, and would not be subject to amendment in either House;

If Congress adjourns its final session sine die before the expiration of the 20-day review period, the rescission would not take effect, but the message shall be deemed to have been resubmitted on the first day of the new Congress.

COMMITTEE ON RULES,
Washington, DC, July 27, 1992.

VOTE "NO" ON PREVIOUS QUESTION FOR SUPPLEMENTAL RULE TO ALLOW FOR VOTE ON LINE-ITEM VETO AMENDMENT

DEAR COLLEAGUE: On Tuesday, July 28th, when the House takes up the rule on the supplemental appropriations bill (H.R. 5620), we urge you to vote down the previous question so that we can amend the rule to make in order a line-item veto rescission authority amendment for fiscal 1993 appropriations bills.

You may already be one of 170 House Members who have sponsored or cosponsored line-item veto bills or constitutional amendments. This may be your last opportunity in this Congress to go on record in the House in support of such authority.

The line item veto is supported by both President Bush and candidate Clinton and has broad bipartisan support in the House. Moreover, some 43 governors presently have some form of line-item veto authority.

According to a January, 1992 GAO report, "Line Item Veto: Estimating Potential Savings"; "If the President had had line item veto authority from fiscal years 1984 through 1989 and used that authority to reduce or eliminate each item to which an objection was raised in SAPs, we estimate that the savings would have ranged from $7 billion to $17 billion per year, for a cumulative 6-year total of about $70 billion."

Under the Solomon amendment, the President could submit a rescission message for any fiscal 1993 appropriations bill within 20-days of its enactment. Congress would then have 20-days of session in which to disapprove it by enactment of a joint resolution. The President would then have 10-days in which to sign or veto the disapproval resolution, and, if vetoed, Congress would have an additional five-days in which to override the veto.

For the full text of the amendment, see the Congressional Record of July 23, 1992, at page H 6584. If you have any questions, please contact Don Wolfensberger at the Rules Committee office (x5-9191).

Sincerely yours,

GERALD B. SOLOMON;
Ranking Republican.

DAVIS DREIER,
Member of Congress.

GAO REPORTS AND TESTIMONY: JANUARY 1992

BUDGET AND SPENDING

Budget Issues—Line Item Veto: Estimating Potential Savings

If presidential line item veto/line item reduction authority had been applied to all items to which the President objected during fiscal years 1984 through 1989, spending could have been cut by about $70 billion. This would have reduced federal deficits and borrowing by 6.7 percent, from $1,059 billion to $989 billion. These estimates, however, are fraught with uncertainties, and other administration documents suggest that they may overstate savings. GAO found that more than 70 percent of the line item veto savings in fiscal years 1984 through 1989 would have occurred in five areas that account for 20 percent of discretionary spending: (1) transportation; (2) commerce and housing credit; (3) education, training, employment, and social services; (4) income security; and (5) natural resources and the environment. Conversely, only two percent of the possible savings would have come in four areas that account for 70 percent of discretionary spending: (1) science, space, and technology; (2) national defense; (3) international affairs; and (4) veterans benefits and services.

HOUSE SPONSORS OF LINE-ITEM VETO BILLS AND CONSTITUTIONAL AMENDMENTS

("L" denotes legislative line item veto bills which give the President enhanced rescission authority; "C" denotes line-item veto constitutional amendments)

Allard (R-CO): C.
Allen (R-VA): L.
Archer (R-TX): L,C.
Armey (R-TX): L,C.

Bacchus (D-FL): L.
Baker (R-LA): L,C.
Ballenger (R-NC): L,C.
Barrett (R-NE): L.
Barton (R-TX): L,C.
Bateman (R-VA): L,C.
Bennett (D-FL): L,C.
Bereuter (R-NE): L,C.
Bilbray (D-NV): L,C.
Bilirakis (R-FL): C.
Blaz (R-GU): L.
Bliley (R-VA): L,C.
Boehner (R-OH): L,C.
Bruce (D-IL): L.
Bunning (R-KY): L,C.
Burton (R-IN): L,C.
Bustamante (D-TX): L,C.
Camp (R-MI): L,C.
Campbell (R-CA): L,C.
Cardin (D-MD): L.
Carper (D-DE): L.
Chandler (R-WA): L,C.
Clinger (R-PA): C.
Coble (R-NC): L,C.
Combest (R-TX): C.
Condit (D-CA): L,C.
Cooper (D-TN): L.
Costello (D-IL): L.
Coughlin (R-PA): L,C.
Cox (R-CA): L,C.
Crane (R-IL): C.
Cunningham (R-CA): L,C.
Dannemeyer (R-CA): L,C.
DeFazio (D-OR): L.
DeLay (R-TX): L,C.
Derrick (D-SC): L.
Doolittle (R-CA): L,C.
Dorgan (D-ND): L.
Dornan (R-CA): L.
Dreier (R-CA): L,C.
Duncan (R-TN): L.
Emerson (R-MO): L,C.
English (D-OK): L.
Ewing (R-IL): L,C.
Fawell (R-IL): L,C.
Fields (R-TX): L,C.
Fish (R-NY): L,C.
Franks (R-CT): L,C.
Gallegly (R-CA): L,C.
Gallo (R-NJ): L,C.
Gekas (R-PA): L.
Gibbons (D-FL): C.
Gilchrest (R-MD): L.
Gillmor (R-OH): L,C.
Goodling (R-PA): C.
Gordon (D-TN): C.
Goss (R-FL): L,C.
Hall (D-TX): L,C.
Hamilton (D-IN): L.
Hancock (R-MO): L,C.
Hansen (R-UT): L,C.
Hastert (R-IL): L,C.
Hefley (R-CO): L,C.
Herger (R-CA): L,C.
Hobson (R-OH): L,C.
Holloway (R-LA): L,C.
Houghton (R-NY): C.
Huckaby (D-LA): L.
Hunter (R-CA): L,C.
Hutto (D-FL): L.
Hyde (R-IL): L,C.
Inhofe (R-OK): L,C.
Ireland (R-FL): C.
James (R-FL): L.
Johnson (R-CT): L,C.
Johnson (R-TX): L,C.
Johnson (D-SD): L.
Kasich (R-OH): C.
Kleczka (D-WI): L.
Klug (R-WI): L,C.
Kolbe (R-AZ): L,C.
Kyl (R-AZ): L,C.
Lagomarsino (R-CA): L,C.
Lancaster (D-NC): L.
Lent (R-NY): L.
Lewis (R-FL): L,C.
Lightfoot (R-IA): L.
Livingston (R-LA): L,C.
Lloyd (D-TN): L.
Long (D-IN): L.
Lowery (R-CA): L,C.
Luken (D-OH): L.
McCandless (R-CA): L.
McCollum (R-FL): C.
McCrery (R-LA): L,C.
McEwen (R-OH): L,C.
McGrath (R-NY): C.
McMillan (R-NC): L.
Machtley (R-RI): C.
Martin (R-NY): C.
Meyers (R-KS): L,C.
Miller (R-OH): L.
Miller (R-WA): L,C.
Moorhead (R-CA): L,C.
Nichols (R-KS): L.
Nussle (R-IA): L.
Oxley (R-OH): C.
Packard (R-CA): L,C.
Pallone (D-NJ): L.
Parker (D-MS): L.
Patterson (D-SC): L.
Paxon (R-NY): L,C.
Payne (D-VA): L.
Pease (D-OH): L.
Penny (D-MN): L,C.
Petri (R-WI): L,C.
Poshard (D-IL): L.
Price (D-NC): L.
Quillen (R-TN): L,C.
Ramstad (R-MN): L,C.
Ravenel (R-SC): L,C.
Ray (D-GA): L.
Rhodes (R-AZ): L.
Riggs (R-CA): L,C.
Ritter (R-PA): L,C.
Roberts (R-KS): L,C.
Rogers (R-KY): L.
Rohrabacher (R-CA): L,C.
Ros-Lehtinen (R-FL): L.
Roth (R-WI): C.
Santorum (R-PA): L,C.
Saxton (R-NJ): C.
Schiff (R-NM): L,C.
Sensenbrenner (R-WI): L,C.
Sharp (D-IN): L.
Shaw (R-FL): C.
Shays (R-CT): L,C.
Skeen (R-NM): C.
Slattery (D-KS): C.
Smith (R-NJ): L.
Smith (R-TX): L,C.
Smith (R-OR): L.
Solomon (R-NY): L,C.
Spence (R-SC): L,C.
Spratt (D-SC): L.
Stearns (R-FL): L,C.
Stenholm (D-TX): L.
Stump (R-AZ): L,C.
Sundquist (R-TN): L,C.
Swett (D-NH): L.
Tallon (D-SC): L.
Taylor (R-NC): L.
Thomas (R-WY): L,C.
Upton (R-MI): L,C.
Vander Jagt (R-MI): L,C.
Vucanovich (R-NV): L,C.
Walker (R-PA): L.
Walsh (R-NY): L.
Weber (R-MN): L.
Weldon (R-PA): R.
Wilson (D-TX): L,C.
Wolf (R-VA): C.
Wylie (R-OH): L,C.
Young (R-FL): C.
Zeliff (R-NH): L,C.
Zimmer (R-NJ): L,C.

Totals: 170 Members have sponsored at least one bill or constitutional amendment: 128 Republicans and 42 Democrats.

TRIBUTE TO DR. CLAIRE A. QUINLAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Dr. Claire A. Quinlan, an outstanding citizen who is retiring from the California Department of Education after 17 years of dedicated service to the Sacramento community.

Dr. Quinlan should be commended for her many accomplishments since joining the department of education in 1975 as an education research and evaluation consultant. She was an original designer and coarchitect of the California Basic Educational Data System, providing the State of California with an annual collection on all public school demographic data. Dr. Quinlan also designed and conducted statewide evaluations of categorical programs, including the consolidated evaluation report of categorical programs. Her tireless dedication led to the appointment as administrator of the special studies and evaluation reports unit in 1989. Since 1991, Dr. Quinlan has served as assistant division director and has also been responsible for the California School Recognition Program and the local evaluation assistant unit.

Dr. Quinlan received her Ph.D. in research, statistics and measurement and her master's in educational psychology and guidance from the University of Northern Colorado. Her master's in business administration was obtained from the California State University at Sacramento and she received her bachelors degree in modern languages, English and education from the University of Rhode Island.

As an advocate for improving the quality and efficiency of public education, Dr. Quinlan's dedication as a leader in education, is life long. In 1951, she began her career as a public high school teacher where she taught in Vermont, Rhode Island, and Colorado for 9 years. From 1962–69, she actively served as assistant professor of psychology and assistant dean of psychological services at the University of Colorado, where she was responsible for the campus testing program and the primary research advisor for student personnel doctoral faculty. When she relocated to Jamestown College in North Dakota in 1969 Dr. Quinlan's appointments included vice-president for student affairs, dean of the social science division, and chairwoman of the psychology department.

Mr. Speaker, I highly commend Dr. Claire A. Quinlan on her accomplishments and contributions to the public education system, and I ask that my fellow colleagues join me in congratulating her as a devoted public servant. I extend my best wishes to her in all of her future endeavors.

THE BUSH ADMINISTRATION DEBATE POLITICAL STRATEGY FOR ELECTION YEAR S&L BAILOUT FUNDING

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. VENTO. Mr. Speaker, we now have in writing from President Bush's handpicked Chief Executive Officer [CEO] of the Resolution Trust Corporation [RTC], Albert Casey, a document recognizing that funding for the RTC would result in the embarrassing situation that would increase the deficit before the election. RCT CEO Casey, a man who serves at the pleasure of the President, has cynically set the spin that the administration should engage in at the week's meeting of the Thrift Depositor Oversight Protection Board.

Mr. Casey is suggesting that Congress should be ignored and that he be allowed to borrow money to cover estimated losses in order to shift thrifts from conservatorship to receivership. Appropriately, Secretary Brady rebuffed Mr. Casey's suggestion, ostensibly to keep faith with a promise he made in the fall of 1989. I would suggest that Secretary Brady has made a half-hearted effort to obtain loss funds, or Secretary Brady would have surely moved this issue to a priority on the President's agenda.

Mr. Speaker, we now have a smoking gun. The Bush administration is more interested in the political blame game than the goal of appropriating funds for the RTC. The only concern during this election year is that additional loss funds would increase the 1992 deficit. The Bush administration isn't working with the Congress to address the serious questions of the RTC operation and the soaring costs. Instead there is public proclamations by RTC CEO Casey and Office of Thrift Supervision [OTS] Director, Timothy Ryan, that the S&L-bank crisis is over and finished. The tune they are happily singing is a forbearance program for troubled S&L-banks. These lyrics sing the blues about Congress—because Congress didn't provide the Bush administration an additional $42 billion in loss funds. The fact of the matter is that it was Mr. Casey and Mr. Ryan who would not provide credible answers to the questions Congress asked to order to change the tune and the lyrics of the song.

I ask that Mr. Casey's letter and memo and Mr. Brady's reply be placed in the RECORD.

RESOLUTION TRUST CORPORATION,
Washington, DC, July 7, 1992.

Hon. NICHOLAS F. HARDY,
Secretary of the Treasury,
Washington, DC.

DEAR MR. SECRETARY: There is enclosed a memorandum regarding a possible solution to effect resolutions despite our lack of "less" funds.

We strongly urge that you call a special meeting of the Thrift Depositor Protection Oversight Board for the purpose of discussing and authorizing the suggested action. The preferable dates for this meeting are July 27 and 28 as we shall be appearing with you before the Banking Committees of the House and Senate on July 29 and August 5. Also, the afternoon of August 3 is the next regularly scheduled meeting of the Oversight Board. I propose to meet individually with the members of the Board to acquaint them with the need for this action.

As a separate initiative, we are considering using part of our $2.5 billion that we have held for emergencies to receive Home Federal in late September.

Sincerely,

ALBERT V. CASEY,
President and CEO.

Enclosure.

RTC has been considering alternative funding strategies given the situation in Congress. Every alternative we have been able to construct has resulted in the inescapable fact that the RTC would obligate the United States. For example;

If we use notes, no matter how we do so, the notes will be obligations of the U.S. Government.

If we draw funds from the Federal Financing Bank in excess of our ability to repay, we will obligate the U.S. Government.

If we buy assets from our receiverships (pay with notes) to advance funds for future transactions we will not be able to repay the Federal Financing Bank and again would create an obligation for the U.S. Government.

Given the foregoing we would recommend the following strategy for dealing with the Congressional impasse. The Oversight Board in concert with the Department of Treasury will notify the Congress to the effect:

That the preferred and correct process for funding the RTC is the U.S. Congress.

That the prospects of congressional funding before early next year (late February) is not likely and becomes less so as time passes.

As joint custodians of the public welfare, the Executive and the Congress need to move the S&L Cleanup forward; it is costing the taxpayer $2.5 million a day. Since the Congress is at an impasse the Executive finds that it must move the process forward not withstanding the fact that we believe the Congress should provide funding.

Accordingly we are instructing the Federal Financing Bank to provide less funds to the RTC so that it may continue the timely resolutions of failed thrifts and a prompt undertaking of the obligations of the U.S. Government to insured depositors.

In taking the foregoing action, it is critical that we are able to take the "high ground" with respect to the use of FFB funds for losses. The key to our position is that it is clearly the responsibility of Congress and we have on 1 separate occasion stood by that belief, but the situation today is unconscionable and we are therefore going forward fully aware that Congress may seek to prevent our initiative. We are clearly taking risks:

Deficit increases (before election)

If we can do this now, why have we on three occasions not done so?

The deficit increase speaks for itself. The second risk will be addressed by the Bill, that is why we must take the "high ground" again, at the outset admit that we are of the belief that Congress should provide the needed funds but the administration cannot sit by and allow the S&L cleanup to founder. (We will of course have to demonstrate that what we are going is legal and not a violation of the Constitution i.e. Congress must appropriate.)

It should be clearly understood that this initiative will only produce about $12 billion in loss funds as we will run up against the debt cap. More funds could become available as we sell assets. But, $10 billion is the realistic number.

THE SECRETARY OF THE TREASURY,
Washington, July 10, 1992.

Hon. ALBERT V. CASEY,
President and CEO, Resolution Trust Corporation, Washington, DC.

DEAR AL: Thank you for your July 7 letter in which you urge the Oversight Board to authorize the Resolution Trust Corporation (RTC) to borrow loss funds from the Federal Financing Bank (FFB). This proposal would allow the RTC to use FFB borrowing to exceed the amount specifically appropriated by Congress to pay for permanent losses incurred in resolving failed thrifts. As the two enclosed letters show, the Oversight Board has consistently stated, and Congress has repeatedly confirmed, that borrowing from the FFB should not be used to expand the amount available for losses.

I appreciate your efforts to consider every possible alternative that will allow the thrift cleanup to continue. However, I continue to believe that the best way to do this is to continue to urge Congress to provide adequate funds to the RTC so that the cost to the taxpayers can be held to a minimum.

I would be happy to discuss this matter further with you, either upon my return or at the Oversight Board meeting on August 5.

Sincerely,

NICHOLAS F. BRADY.

TRIBUTE TO MRS. MARGARET WONG LIM

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. MATSUI. Mr. Speaker, I rise today to salute Mrs. Margaret Wong Lim, an outstanding citizen who has dedicated over 40 years of her life to public service. On August 14, 1992, the Sacramento Chinese Community Center will be honoring Mrs. Lim for her many achievements.

Margaret Wong Lim, known to many as "Peggy," is a fourth generation native of Sacramento. She attended Sacramento's public schools of Washington Elementary, Sutter Junior High, and Sacramento Senior High prior to graduating from Sacramento City College. She continued her higher education at Stanford University and the University of California at Berkeley.

Mrs. Lim is a career life underwriter with the Franklin Life Insurance Co. since 1947. October of 1992 will mark her 45th anniversary and during her affiliation she has been awarded with membership recognizing outstanding achievement, such as the Key Club, Diplomat Club, $100 Million Club, and is life member of the Franklin Million Dollar Conference. For the past 27 years her participation with the National Life Underwriters Association earned her the National Quality Award and the National Sales Achievement Award each year.

Throughout her life, Mrs. Lim has also demonstrated her tireless dedication to the Asian community. She is an active member of the Chinese Community Church, serving in the past as a deacon of the Consistory and has currently been appointed member of the Greater Consistory. During 1981 through 1986, Mrs. Lim was the secretary, treasurer, and board member for the Asian job resource project. But her proudest moment came 5

years ago with the opening of Sacramento's unique 99-bed Asian Community Nursing Home. Long hours were dedicated serving and actively working on the finance committee to raise funds for the construction of their skilled nursing home.

Mr. Speaker, Margaret Wong Lim has served as an exemplary community leader and I commend her for her many contributions to the Sacramento area. It is with great pleasure that I rise to recognize Mrs. Lim, her achievements and dedication are truly worthy of praise and I invite my colleagues to join me in commending her.

PASS THE MILITARY FREEDOM ACT OF 1992

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday July 27, 1992

Mr. KOSTMAYER. Mr. Speaker, Col. Margarethe Cammermeyer joined the Army as a nurse in 1961. She spent 14 months in Vietnam during the height of the war there, administering aid to wounded and dying soldiers. For her valiant efforts, she received the Bronze Star. In the 1970's, she joined the Army Reserve, later transferring to the National Guard. Over the next two decades, she rose to the rank of chief nurse in the Washington State Army National Guard and was in line to become chief nurse for the U.S. National Guard. Along the way, she was named "Veterans Administration Nurse of the Year" in 1985, earned her doctorate in nursing at the University of Washington, and received the highest awards for clinical expertise and professionalism from the Surgeon General

On June 11, the Army expelled Colonel Cammermeyer. Why? Because she acknowledged that she is a lesbian. She refused to lie. Thus, due solely to her sexual orientation, Colonel Cammermeyer's exemplary military career has been destroyed.

Colonel Cammermeyer is not alone. The Pentagon's policy of banning gays and lesbians in the U.S. military continues to ruin the professional lives of hundreds of dedicated public servants each year.

The military has abandoned its most often cited historical reason for excluding homosexuals from serving. Its claims that gays and lesbians are a security risk, susceptible to blackmail, have been soundly debunked by at least three studies conducted by the Defense Department itself.

In fact, Defense Secretary Dick Cheney has even spoken of gay soldiers "who have served notably, served well." Furthermore, Secretary Cheney finds no problems whatsoever with gay civilians serving in the Defense Department, many of whom work at the highest and most sensitive levels. The Secretary himself labeled the blackmail argument "an old chestnut."

Oddly enough, the Pentagon's policy seems only to apply in times of peace. In the months leading up to the war in the Persian Gulf, the Defense Department suspended most investigations of suspected homosexuals because they were needed overseas. Hundreds of admitted gay and lesbian soldiers and reservists were shipped overseas to serve during the conflict. They served with honor and distinction.

The Pentagon's only remaining rationale for excluding gay soldiers is its claim that their presence in the Armed Forces makes it difficult "to maintain good discipline, good order, and morale."

No one suggested such absolute idiocy when gay and lesbian soldiers were dying on the field of battle. Actually, according to Department of Defense studies and records released in 1989, gays and lesbians in the military have the highest performance records on the average of any single subgroup, consistently in the top 5 percent.

If the "good discipline, good order, and morale" contention sounds familiar, it should. It is the same argument that was used to exclude blacks from the armed services for so many years. In fact, conservatives during the 1940's argued that integrating the Armed Forces would destroy our Armed Forces because whites would not serve alongside blacks. This contention turned out to be a red herring; indeed, after President Truman issued his Executive order in 1948 calling for the integration of the Armed Forces, the military took the lead in American society in welcoming minorities and in promoting equal opportunity for people of all races.

Mr. Speaker, it is time for the military to do the same with gay and lesbian soldiers. It is, in fact, long past time for the Government to reverse this policy.

Polls indicate that the public agrees: A 1991 poll showed that 80 percent of Americans believe that homosexuals should be admitted to the military. In addition, major editorial boards of leading newspapers support overturning the ban—the New York Times, the Washington Post, USA Today, the Philadelphia Inquirer, and many other publications have urged the Pentagon to overturn its policy of discrimination.

In addition to the enormous human cost that the policy entails, there is a staggering financial expense as well. In fact, if the public knew the financial costs of enforcing the Pentagon's discriminatory and absurd policy, the percentage of people who support overturning the band on gays and lesbians in the Armed Forces would certainly be higher.

A recently released Government Accounting Office [GAO] study shows how costly and wasteful this policy has been. Examining Defense Department data from 1980 to 1990, the report found that the various service branches discharge an average of 1,500 persons each year simply for being gay. Over the period studied, 16,919 service members were discharged due to their sexuality.

The Defense Department did not provide the GAO with a breakdown of the money it spends to investigate and remove lesbians and gay men from the military. However, GAO calculated the cost to the Government of recruiting and training replacements for the lesbians and gay men discharged in 1990 at $27 million. Because 1990 was the year with the fewest discharges of any year studied, costs for other years were presumably much higher.

In 1990, the Pentagon spent $28,226 to recruit and train each enlisted person and $120,772 per officer. Between 1980 and 1990 a total of 16,692 enlisted men and women and 227 officers either resigned or were discharged because of their homosexuality. In 1990 dollars, that works out to $498 million of wasted taxpayers' money. Keep in mind that this total represents only the cost to replace dismissed service members; it does not include the money that the military spends on investigating, prosecuting, and ultimately discharging gay service members. In today's fiscal climate, this is an unconscionable waste of the taxpayer's money to sustain an unconscionable policy.

In addition to documenting the financial costs that the Defense Department's policy involves, the GAO also states:

> Many experts believe that the military's policy is unsupported, unfair, and counterproductive; has no validity according to current scientific research and opinions; and appears to be based on the same type of prejudicial suppositions that were used to discriminate against blacks and women before these policies were changed.

The GAO report also found that other NATO countries which do not bar gays from the military have suffered no ill effects. Finally, the GAO reported that, within the United States, the eight municipal police and fire departments with openly gay and lesbian personnel have experienced only "a positive impact on management personnel relations."

The President of the United States, with a stroke of the pen, could overturn this mean-spirited and hateful policy today. I implore him to do so, now. Failing that, the Congress must enact legislation immediately to end this discriminatory policy. Legislation, known as the Military Freedom Act of 1992, has been introduced in both Houses of Congress which would do just that. The Military Freedom Act is very simple; it prohibits discrimination by the Armed Forces on the basis of sexual orientation and reaffirms existing Armed Forces rules and policies regarding sexual misconduct. The bill, thus, distinguishes between orientation and conduct, thereby attacking the stereotype of gay and lesbian individuals as incapable of serving their country professionally.

Anyone—homosexual or heterosexual—guilty of sexual misconduct harms morale, discipline, and esprit de corps. However, the mere confession of one's sexual orientation has nothing to do with one's professional behavior and capacity to serve.

Thousands of gay men and lesbians have served our country with the same dedication and professionalism as heterosexual soldiers. It is time to discontinue this intolerance and injustice to a part of our population that has served our country so courageously. It is time to end the Pentagon's policy of sanctioned discrimination as Japan and France have done.

The Federal Government, sustained by the tax dollars of all citizens, must set an example for the whole country by outlawing, not encouraging, discrimination against gay and lesbian citizens. Officially sanctioned discrimination only encourages hate and prejudice and even violence toward gay and lesbian Americans.

In dismissing Colonel Cammermeyer, the United States lost a model public servant who had dedicated her life to her country. We can-

not afford to lose any more outstanding talent to discriminatory and myopic Government policy, nor can we as a nation accept such prejudice and bigotry. The Congress must act now to pass the Military Freedom Act of 1992.

TRIBUTE TO CHARLES RINKER

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. BILBRAY. Mr. Speaker, on Saturday, July 18, 1992, Nevada and America as a whole lost a living piece of history in the death of Charles Rinker, a veteran of two world wars. Engulfed with the American spirit, Charles Rinker volunteered for military service on his 16th birthday by lying to the recruiter claiming that he was 18 years old. He was immediately trained and shipped to France with the first American contingent of the "Doughboys."

During his time in Europe, he served with the 55th Company, 5th Regiment, and the 2d Regular Army at the Indian Head Invasion and at the age of 91, he was the last surviving member of his unit. By his 18th birthday, his Marine brigade had already served in five major battles, which were credited with turning the tide of the war.

In mid 1918, the 55th Company helped France stop the German advance at the town of Chateau Thierry. His unit along with others proceeded to drive German forces out of the Belleau Wood, a forest near the Marne. German forces then crossed into the Marne, where they were counterattacked by the 55th near the town of Soissons on July 18, 1918.

By mid September 1918, Allied troops had retaken the ground the Germans had gained since the spring. His company advanced and easily took the town of St. Mikiel. Mr. Rinker then participated in the last offensive of the war. The battle was known for the heavy fighting that took place between the Argonne Forest and the Meuse River.

A list of honors show the courage and valor which he exemplified during his service to the United States of America. He received a Silver Star, the French Croix de Guerre, Victory Medal with five battle stars, and the Green and Red French Croix de Guerre.

Mr. Rinker's service to his country did not end with the conclusion of World War I. He proceeded at the age of 43 to participate in World War II as an Army engineer in the South Pacific. He was a life member of the Veterans of Foreign Wars, the American Legion and the Second Division Inc. He also held membership in the ranks of the Veterans of World War I and the Marine Corps League.

Mr. Speaker, I cannot emphasize the loss that Nevada feels with the passage of this American hero. He served his country without hesitation when she called. He brought honor and distinction to his family, the State of Nevada, the city of Henderson, and most of all to the United States of America. The bravery, honor, and tenacity of Charles "Fred" Rinker will be sorely missed.

TRIBUTE TO JUNE WEINRAUCH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to June Weinrauch of Arlington Heights, IL. Mrs. Weinrauch will celebrate her 75th birthday on August 2, 1992.

June Weinrauch was born in 1917 to Kitty Kiley and Harry Ellis of Chicago, IL. She grew up on the west side of Chicago attending Our Lady of Sorrows Parish. She was employed by the Zenith Co.'s Public Relations Department for over 15 years preceding her retirement in 1983.

Since 1983, Mrs. Weinrauch has enjoyed spending time with her family—4 children, 17 grandchildren, and 12 great grandchildren. Her children, Kathy, Kim, Jack and Nick, join their children and grandchildren in celebrating this important milestone in June Weinrauch's life.

Mrs. Speaker, I come to the floor today to recognize Mrs. June Weinrauch and her wonderful family. I hope that August 2 is a wonderful day for Mrs. Weinrauch and the first of many birthday celebrations to come. I know my colleagues join me and her family in wishing Mrs. Weinrauch a happy birthday and many happy returns.

IS MILOSEVIC GUILTY OF WAR CRIMES?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. BROOMFIELD. Mr. Speaker, the ongoing carnage in Bosnia has shocked the world. President Slobodan Milosevic's policy of ethnic cleansing is essentially destroying Bosnia. Already, 8,000 innocent human beings have been killed, over 1 million have been displaced and billions of dollars in infrastructure damage has been done. The exodus of refugees from that battered republic is overwhelming neighboring Croatia and spilling over into adjoining countries. Milosevic and his immoral regime have destroyed a beautiful and peaceful region in an effort to build a greater Serbia.

While the Serbian strongman tries to distance himself from the ongoing tragedy—the worst in Europe since the Second World War—he still essentially orchestrates the actions of former Federal Army units in Bosnia. He also has influence over the Serbian irregulars who continue to shell the Sarajevo airport in an effort to disrupt the United Nation's badly needed relief flights. Federal Army units from Serbia and Montenegro have been called in to Bosnia to participate in the siege of Goradze, a Muslim town where 70,000 people are stranded and dying without food, water, electricity, or medical assistance.

It might be time for the world community to stand up to this Serbian madman and charge him and his henchmen for crimes against humanity, their aggression in Croatia, and their atrocities against the Muslim community in Bosnia. If we do not have the will to militarily right this wrong, we must at least bring international condemnation down on the head of Milosevic, Europe's new Hitler.

I would like to bring the following Financial Times article on Britain's views regarding this issue to the attention of my colleagues.

[From the Financial Times, July 17, 1992]

UK WARNS SERBIA OF ACTION ON "WAR CRIMES"

(By Ralph Atkins)

Britain signalled yesterday that it may press for international action to investigate allegations of war crimes committed by Serbs against Moslems in Bosnia-Herzegovina.

Baroness Chalker, the UK overseas development minister, said abuse against Moslems was "obviously a war crime under the terms of the Geneva Conventions, and we give due warning that is so".

She added: "The Serbs are following a systematic policy of 'ethnic cleansing' and that has to be dealt with by the international community."

Downing Street officials said there was sufficient prima facie evidence of torture and indiscriminate killing of civilians to justify an investigation, possibly under United Nations' auspices.

However, the Foreign Office said last night that it was unclear whether external countries could have jurisdiction over atrocities committed in another country's internal conflict.

Baroness Chalker was speaking after a meeting in London between Mr John Major, the UK prime minister, and Mrs Sadako Ogata, UN high commissioner for refugees, to discuss Britain's contribution to humanitarian aid for Yugoslavia.

Mrs. Ogata told the prime minister that she regarded the refugee problem in Yugoslavia as the worst in Europe since the Second World War.

Britain has sent medical staff to Yugoslavia at a cost of £25m.

Mr. Major promised he would use Britain's presidency of the European Community to persuade other member states to attend a conference on refugees and other humanitarian issues, called by Mrs Ogata in Geneva on July 29.

The conference is also likely to be used to press for international action to stop breaches of the Geneva Conventions.

Mr Major is also to write to other heads of government to highlight the scale of abuse in Yugoslavia.

Baroness Chalker said reports from Mrs Ogata and from UK officials in the region told of "the purposeful pinpointing" of Moslems in Bosnia-Herzegovina.

"Their houses are shot up at night to threaten them to leave the following morning, and, when these Moslems have left, the houses are then set on fire from the inside," said Baroness Chalker.

"I don't believe people know how bad it is."

Last night Mr. Major was due to meet Lord Carrington, chairman of the EC-sponsored peace talks.

TRIBUTE TO MR. GEORGE H. DEAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. MATSUI. Mr. Speaker, I rise today to salute Mr. George H. Dean for his outstanding

public service to the community of Sacramento, CA.

Mr. Dean is presently the president of the Sacramento Urban League and for the past 13 years his involvement has been an instrumental success. He concurrently has been involved as one of Sacramento's media personalities as the producer and host for "Urban Times," a 30-minute talk show which airs on KOVR–13. Since December 1985, his involvement has expanded as a producer and host for KRXQ–93, a weekly radio talk show broadcasted throughout the community.

Mr. Dean holds a master's degree in industrial and labor relations from Cornell University, and a bachelors degree in sociology from Arizona State University. Before coming to Sacramento, Mr. Dean actively served as the president of the Urban League in Omaha, NE and made substantial commitments to the Los Angeles and Phoenix Urban Leagues.

As a community leader in Sacramento, Mr. Dean has extended his involvement in a variety of groups and causes including the Private Industry Council, Sacramento Metropolitan Chamber of Commerce, Sutter Hospital Commission on Program Planning and the Sacramento Symphony.

Mr. Speaker, it is with great pleasure that I rise to recognize Mr. George H. Dean. His achievements and dedication are truly worthy of praise and I invite my colleagues to join me in commending Mr. Dean.

CONFLICT OF CULTURES: EUROPEAN VERSUS INDIAN

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday July 27, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 127, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we, as a Congress, have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a recollection of an anonymous Micmac Indian, as published in a book entitled "Native American Testimony". The article recounts an exhibition of Indian culture currently not in favor. The editorial comment which precedes the article is provided also.

SILMOODAWA GIVES A COMPLETE PERFORMANCE

Following the example set by Christopher Columbus, the Spanish conquistador Hernando Cortez continued the ritual of sending Indians to Europe in order to parade them before royalty. At the court of Charles V, Aztecs posed for artists and juggled for gawking lords and ladies. Later, in the eighteenth century, Indian chiefs went abroad to discuss disputed territorial boundaries and present petitions. And in 1827, a party of Osage Indians undertook a three-year sightseeing tour of France. Such trips were encouraged not only for the entertainment Indians provided, but because officials wished to impress Native Americans with the splendors of Europe and the power of their governments. In 1870 an anonymous Micmac Indian—from Canada's Maritime Provinces—told the Reverend Silas T. Rand the following story about one "Real Live Indian" who turned the tables on his aristocratic audience.

Shortly after the country was discovered by the French, an Indian named Silmoodawa was taken to Planchean [France] as a curiosity. Among other curious adventures, he was prevailed upon to exhibit the Indian mode of killing and curing game. A fat ox or deer was brought out of a beautiful park and handed over to the Indian; he was provided with all the necessary implements, and placed within an enclosure of ropes, through which no person was allowed to pass, but around which multitudes were gathered to witness the butchering operations of the savage.

He shot the animal with a bow, bled him, skinned and dressed him, sliced up the meat, and spread it out on flakes to dry; he then cooked a portion and ate it, and in order to exhibit the whole process, and to take a mischievous revenge upon them for making an exhibition of him, he went into a corner of the yard and eased himself before them all.—ANONYMOUS, *Micmac*.

LEGISLATION TO ASSIST THE ST. PAUL PORT AUTHORITY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. VENTO. Mr. Speaker, on July 22, I introduced legislation to assist the St. Paul Port Authority. This is a unique and urgent matter which is essential to the viability of the economy of St. Paul.

The St. Paul Port Authority's Common Revenue Bond Fund Program consists of approximately 168 separate bond issues totaling over $332 million in outstanding bonds. These bonds have been issued over a period for 18 years, and have provided financing to industrial, residential, and commercial projects in the city of St. Paul and its immediately surrounding areas. The program has been the main industrial engine of the city of St. Paul, and has been responsible for creating and preserving over 38,000 industrial jobs.

Due to a number of factors, including a general deterioration in the economic conditions, the reserves supporting these bonds, are likely to be depleted in the year 2000. Unless this program is restructured, bonds maturing after that date would then be paid solely from project cash flow which without this change may not be sufficient to pay the principal and interest in the out-years.

H.R. 5659 will eliminate technical restrictions that currently impede the St. Paul Port Authority's plan to restructure the Common Revenue Bond Program to avoid this potential default. The bill is intended to apply solely to the St. Paul Port Authority because no other municipal bond issuer is in a similar situation.

H.R. 5659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN PORT AUTHORITY BONDS.

(A) IN GENERAL.—In the case of bonds described in subsection (b)—

(1) the simultaneous reduction of interest rates on such bonds shall not affect the tax-exempt status of the interest on such bonds, and

(2) such bonds shall not be treated as arbitrage bonds under section 148 of the Internal Revenue Code of 1986 by reason of the failure to reduce interest rates on loans made with the proceeds of such bonds before the date of such simultaneous reduction.

(b) BONDS DESCRIBED.—The bonds described in this subsection are bonds issued—

(1) by or behalf of a port authority created on August 17, 1932,

(2) pursuant to a resolution adopted on February 14, 1974, that established a common bond security fund program, and

(3) after September 3, 1980, and before May 30, 1991.

PERSONAL EXPLANATION

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. PETERSON of Florida. Mr. Speaker, due to my wife's illness, I was unable to make rollcall votes 290 to 319.

On July 22, had I been here, I would have voted "aye" for rollcall No. 290, ordering the previous question; "aye" for rollcall No. 291, the rule for Interior appropriations; "aye" for rollcall No. 292, House Resolution 518; "aye" for rollcall No. 293, House Resolution 519; "aye" for rollcall No. 294, House Resolution 520; "aye" for rollcall No. 295, the Bennett amendment to Interior appropriations bill; "aye" for rollcall No. 296, the Dorgan amendment; "present" for rollcall No. 297, quorum call; "nay" for rollcall No. 298, the Crane amendment; "nay" for rollcall No. 299, the Brewster amendment; and "aye" for rollcall No. 300, the Stenholm amendment.

On July 23, had I been here, I would have voted "aye" for rollcall No. 301, the Duncan amendment to the Interior appropriations bill; "nay" for rollcall No. 302, the Dicks amendment; "aye" for rollcall No. 303, the Walker amendment; "aye" for rollcall No. 304, the Steams amendment; "aye" for rollcall No. 305, the Burton amendment; "aye" for rollcall No. 306, final passage of H.R. 5503; "aye" for rollcall No. 307, House Resolution 526; "nay" for rollcall No. 308, the Oxley amendment to the cable bill; "aye" for rollcall No. 309, the Dingell amendments; "nay" on rollcall No. 310, the Manton amendment; "aye" for rollcall No. 311, the Tauzin amendment; "nay" for rollcall No. 312, the Lent amendment; and "aye" for rollcall No. 313, final passage of H.R. 4850.

On July 24, had I been here, I would have voted "nay" for rollcall No. 314, the McCollum amendment to the voting rights language assistance bill; "aye" for rollcall No. 315, the Condit amendment; "nay" for rollcall No. 316, the McCollum amendment; "nay" for rollcall No. 317, the Rohrabacher amendment; "nay" for rollcall No. 318, the motion to recommit with instructions; and "aye" for rollcall No. 319, final passage of H.R. 4312.

LYME DISEASE AWARENESS WEEK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. GEJDENSON. Mr. Speaker, I rise today to acknowledge that this week, beginning July 26, 1992, has been designated "Lyme Disease Awareness Week" by an act of Congress and the President.

It is vitally important that the facts about this painful and often life-threatening disease are brought to the forefront. This disease does not discriminate. It can strike anyone and is caused by the bite of a tick no larger than a speck.

In only the 3 years from 1988 through 1991, the number of reported cases nearly tripled from 362 to almost 1,000 per year in my State of Connecticut alone. If left unreported and untreated in humans, this serious illness can cause debilitating ailments including loss of vision, paralysis, and death.

Fortunately, last month, medical researchers from Harvard and Yale Universities announced the discovery of a promising vaccine to control this devastating disease. The vaccine, which to date has been proven successful on mice, has a remarkable side effect. Not only does it help protect the mice from Lyme disease, but when an infected tick attempts to contaminate a vaccinated mouse, the harmful bacteria in the tick is neutralized. If these unexpected findings in laboratory mice transfer to humans, it could lead to the complete elimination of Lyme disease.

Last fall, the Connecticut Department of Health Services was the recipient of a grant from the Centers for Disease Control to conduct a 2-year study to define and monitor the extent of Lyme disease in Connecticut. Connecticut is uniquely qualified to conduct this research because current results can be compared to similar data collected in 1977, after the disease was discovered in Lyme, CT. The grant will also be used to conduct tick studies and to develop and evaluate a Lyme disease education program for ninth grade students.

It is critical to keep the public informed about this disabling illness, and I am pleased that "Lyme Disease Awareness Week" will facilitate that process.

A STRATEGY TO CONTROL GOVERNMENT SPENDING

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1992

Mr. SAXTON. Mr. Speaker, this year, the Office of Management and Budget [OMB], estimates that the Federal Government will consume more than one-quarter of our Nation's wealth. In other words, the Federal Government is a bigger burden today than it was during the heyday of President Johnson's Great Society.

Many people may find this confusing. Reports coming out of Washington talk of the need to spend more funds on social programs. We are told that the Government has to keep up with the ever increasing needs of the people. However, many others believe that we need to rein in the astronomical growth of Federal spending. After all, the Federal Government spends more than twice as much today as it did when Ronald Reagan came to town in 1981.

TABLE I.—AMOUNT OF GOVERNMENT SPENDING: 1981–92

[In billions of dollars]

	Spending	Percent of GDP
1981	678.2	22.9
1982	745.8	23.9
1983	808.4	24.4
1984	851.8	23.0
1985	946.4	23.8
1986	990.3	23.5
1987	1,003.9	22.5
1988	1,064.1	22.1
1989	1,144.2	22.1
1990	1,251.8	22.9
1991	1,323.0	23.5
1992	1,475.4	25.2

Source.—Budget of the United States Government, Fiscal Year 1993: Supplement, February 1992.

The President, the Congress, and the American people need to realize that we must get a handle on Federal spending before it is too late. Every day we fail to control wasteful spending, future generations go deeper in debt.

DIAGNOSING THE DISEASE

There may be many reasons why spending is out of control, however, we should first recognize the cause of the disease. During the mid-1980's, the Gramm-Rudman budget enforcement rules forced the Federal Government to restrict spending. The goal of Gramm-Rudman was to balance the budget by controlling the growth of spending, allowing naturally increasing tax revenues to catch up.

Critics of Gramm-Rudman said it was a failure. However, the data present a different picture. Government spending was reduced from more than 24 percent of gross-domestic-product [GDP] down to 22 percent of GDP and the budget deficit dropped dramatically from more than 5 percent down to 3 percent of GDP. Today, with Gramm-Rudman effectively repealed as part of the 1990 budget deal, our deficit is approaching 7 percent of GDP.

The disease that is eating away at America's future is the Federal Government's apparent lack of discipline when it comes to spending other people's money. The Federal Government is like a young child in a toy store; we want everything in the store, but we don't take into consideration how much it costs. To further illustrate this, just look at the Congressional Budget Office's [CBO] projected accumulated budget deficit between 1993 and 2002. CBO estimates that the aggregate budget deficit will be $2.86 trillion, which will add an additional $285.6 billion a year to the national debt. CBO also forecasts that the budget deficit for the year 2002 will be $414 billion.

TABLE II.—*The deficit outlook through 2002*

[Billions of dollars]

1992	290
1993	258
1994	227
1995	210
1996	222
1997	254
1998	272
1999	298
2000	332
2001	369
2002	414

Source.—The Economic and Budget Outlook: Fiscal Years 1993–1997, Congressional Budget Office, January 1992.

PINPOINTING THE PROBLEM

Since our already declining defense budget may be cut by an additional $80 billion over the next 5 years, why are we spending at record levels? The answer may be found in the dramatic growth in domestic spending over the last 4 years. While defense spending has been declining, domestic spending has grown by an average of more than $45 billion per year, nearly three times the rate of growth during the Carter administration. Most dramatically, domestic spending is growing twice as fast as inflation.

Since spending is decreasing in most nondomestic categories—defense, international expenditures, and deposit insurance—the only way the budget can be balanced is by controlling domestic spending.

POSSIBLE SOLUTIONS

There are many ways to decrease the budget deficit. Theoretically, we can increase tax revenues to the federal government. By doing this, we can balance the budget since the revenues will increase to meet outlays. However, increased tax rates have an adverse effect on the economy—eventually leading to less revenue. The 1990 budget agreement, for instance, has lost $3 in revenue for every dollar it was supposed to raise.

In addition to the adverse economic effect, history has shown that since 1947, for every $1 of increased taxes we have increased spending by $1.59.

Another solution is a total freeze on spending. A freeze would cap spending at the previous year's level. Even though this tactic would balance the budget the fastest, it is politically unrealistic.

A "POLITICALLY CORRECT" SOLUTION

There is one solution that will not harm the economy and can be sold politically. A sensible way to balance the budget is one which controls the growth of government by limiting the skyrocketing growth in domestic spending and eliminating waste in Government.

This balanced budget solution will limit the growth of domestic spending to the growth of inflation—3.1 percent in 1991. The rationale behind limiting the growth of domestic Spending is simple. Non-domestic spending, which includes defense, international expenditures, and deposit insurance, is already scheduled to decrease over the next several years. Therefore, with limited and controlled growth in domestic spending at the rate of inflation, along with the already declining nondomestic spending, it is very possible that we can balance the budget in the next 6 to 7 years.

TABLE III.—SPENDING AND DEFICITS, OFFICE OF MANAGEMENT AND BUDGETS ESTIMATES VERSUS HOLDING DOMESTIC SPENDING TO THE RATE OF INFLATION

	OMB's spending	Deficit	Controlled spending	Deficit
1992	1,475.9	394.9	1,475.9	394.9
1993	1,523.8	354.8	1,502.3	333.3
1994	1,492.5	227.5	1,449.6	184.6
1995	1,558.4	211.7	1,497.3	150.6
1996	1,633.3	201.8	1,549.8	118.3

TABLE III.—SPENDING AND DEFICITS, OFFICE OF MANAGEMENT AND BUDGETS ESTIMATES VERSUS HOLDING DOMESTIC SPENDING TO THE RATE OF INFLATION—Continued

	OMB's spending	Deficit	Controlled spending	Deficit
1997	1,708.8	205.1	1,581.0	77.4

Source: Budget of the United States Government, Fiscal Year 1993: Supplement, February 1992; and staff calculations.

By additionally targeting a reduction in wasteful government spending, which the General Accounting Office [GAO] puts at more than $180 billion, we can balance the budget much faster or we can use the waste dividend to increase funding for certain programs that politicians may want to increase faster than needed to keep pace with inflation.

CAN IT BE DONE?

There is no excuse for a $414 billion deficit in the year 2002. When one looks at CBO's budget deficit projections for the next 10 years and sees that there isn't even an attempt to balance the budget, it speaks volumes of what is wrong with Washington. Our job in Congress is to get a grip on what we are doing. If a welder in New Jersey or a teacher in New Mexico can live on a set salary—buy a house, raise children, put them through school, and even have enough to retire on, why is it so hard for us in Government to make the same tough choices?

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 28, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 29

8:00 a.m.
Judiciary
To hold hearings on the nominations of Alvin A. Schall, of Maryland, to be United States Circuit Judge for the Federal Circuit, Linda H. McLaughlin, to be United States District Judge for the Central District of California, Carol E. Jackson, to be United States District Judge for the Eastern District of Missouri, and Joseph A. DiClerico, Jr., to be United States District Judge for the District of New Hampshire.
SR-332

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 2899, to revise the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and proposed legislation to authorize funds for programs of the Rehabilitation Act, and to consider pending nominations.
SD-430

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1993 for the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to examine the uses of telecommunication technologies in education.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Special on Aging
To hold hearings to examine the problems associated with grandparents who are forced to care for their grandchildren due to their own children's inability or neglect.
SD-628

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the condition of credit unions across the United States.
SD-538

Finance
To resume hearings to examine the state of U.S. trade policy, focusing on proposed legislation to open foreign markets to U.S. exporters and to modernize the operations of the U.S. Customs Service.
SD-215

Judiciary
Juvenile Justice Subcommittee
To hold hearings on S. 1002, to make it a Federal criminal offense to leave or remain outside a State for the purpose of avoiding payment of arrearages in child support
SD-226

10:30 a.m.
Small Business
To hold hearings on H.R. 5191, to encourage private concerns to provide equity capital to small business concerns.
SR-428A

1:30 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
Business meeting, to mark up S. 287, for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father, S. 1103, for the relief of the estate of Dr. Beatrice Braude, S. 1181, for the relief of Christy Carl Hallien, of Arlington, Texas, S. 1652, for the relief of land grantors in Henderson, Union, and Webster Counties, Kentucky, and their heirs, S. 1859, for the relief of Patricia A. McNamara, S. 1947 and H.R. 238, for the relief of Craig A. Klein, S. Res. 170, to refer S. 1652 to the Chief Judge of the U.S. Claims Court for a report thereon, H.R. 454, for the relief of Bruce C. Veit, and H.R. 478, for the relief of Norman R. Ricks.
SD-562

2:00 p.m.
Finance
Medicare and Long-Term Care Subcommittee
To hold hearings to examine how Medicare payment policies affect physicians' choice of medical specialties.
SD-215

Judiciary
To hold hearings to review the U.S. response to Japanese competition policy.
SD-226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

3:00 p.m.
Conferees
On H.R. 3033, to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act.
SD-430

5:00 p.m.
Finance
Business meeting, to mark up H.R. 11, to revise the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones for economically and physically distressed areas.
SD-215

JULY 30

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine cosmetic standards and pesticide use on fruits and vegetables.
SR-332

Appropriations
Labor, Health and Human Services, Education Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1993 for the Departments of Labor, Health and Human Services, and Education, and related agencies.
SD-192

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine issues relating to telemarketing fraud.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

10:00 a.m.
Finance
To hold hearings to review the Administration's current policy of extending Most-Favored-Nation status to China.
SD-215

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To hold hearings to examine money laundering activities of CAPCOM and the Bank of Credit and Commerce International (BCCI).
SH-216

2:00 p.m.
Foreign Relations
To hold hearings on commercial military sales to Pakistan.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:30 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on rail highway grade crossing safety, and on S. 2644, to require the Secretary of Transportation to require passenger and freight trains to install and use certain lights for safety purposes.
SR-253

Select on Indian Affairs
To hold hearings on S. 2481, authorizing funds for Indian health programs.
SR-485

4:30 p.m.
Foreign Relations
To hold closed hearings to review military options in Yugoslavia.
S-116, Capitol

JULY 31

10:00 a.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings to examine the U.S. response to the drought in southern Africa.
SD-628

10:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation to conserve exotic, wild birds, including S. 1218, to provide financial assistance for projects for research, conservation, management, or protection of exotic birds, and S. 1219, to direct the Secretary of the Interior to issue regulations requiring the marking of exotic birds and to prohibit a person from importing exotic birds without a license.
SD-406

AUGUST 4

9:00 a.m.
Select on POW/MIA Affairs
To resume hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.
SH-216

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine the structure and activities of Asian organized crime groups in the United States, focusing on the international aspects of organized crime and its connections to the United States.
SD-342

Select on Indian Affairs
To hold hearings on S. 2617, to provide for the maintenance of dams located on Indian lands in New Mexico by the Bureau of Indian Affairs or through contracts with Indian tribes.
SR-485

2:30 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2577, to provide for the exchange of certain Federal lands within the State of Utah, between the State of Utah and the Secretary of the Interior.
SD-366

AUGUST 5

9:00 a.m.
Select on POW/MIA Affairs
To continue hearings to examine unanswered questions and United States efforts with regard to U.S. prisoners of war and soldiers missing in action, focusing on live sightings.
SH-216

10:00 a.m.
Finance
To resume hearings to examine the state of U.S. trade policy, focusing on proposed legislation to open foreign markets to U.S. exporters and to modernize the operations of the U.S. Customs Service.
SD-215

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Veterans' Affairs
Business meeting, to resume markup of S. 2575, to revise certain pay authorities that apply to nurses and other health care professionals, and other pending calendar business.
SR-418

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Kent N. Brown, of Virginia, to be Ambassador to the Republic of Georgia, Richard Monroe Miles, of South Carolina, to be Ambassador to the Republic of Azerbaijan, Mary C. Pendleton, of Virginia, to be Ambassador to the Republic of Moldova, David Heywood Swartz, of Virginia, to be Ambassador to the Republic of Byelarus, Henry Lee Clarke, of California, to be Ambassador to the Republic of Uzbekistan, William H. Courtney, of West Virginia, to be Ambassador to the Republic of Kazakhstan, Stanley T. Escudero, of Florida, to be Ambassador to the Republic of Tajikistan, Joseph S. Hulings III, of Virginia, to be Ambassador to the Republic of Turkmenistan, and Edward Hurwitz, of the District of Columbia, to be Ambassador to the Republic of Kyrgyzstan.
SD-419

AUGUST 6

9:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on high-speed ground transportation.
SR-253

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to revise the Tohono 'Oodham Water Rights Settlement Act of 1982.
SR-485

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2890, to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, H.R. 2109, to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, Massachusetts, in the National Park System, S. 2244, to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict, H.R. 3665, to establish the Little River Canyon National Preserve in Alabama, S.J. Res. 161, to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in D.C. or its environs, and S. 2549, to establish the Hudson River Artists National Historical Park in New York.
SD-366

AUGUST 7

9:30 a.m.
Governmental Affairs
To hold hearings to examine the health risks posed to police officers who use radar guns.
SD-342

AUGUST 11

2:00 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for activities of the Independent Counsel Law of the Ethics in Government Act of 1978.
SD-342

AUGUST 12

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on Indian trust fund management.
SR-485

POSTPONEMENTS

JULY 30

10:00 a.m.
Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To hold hearings to examine how the Middle East is cooperating with environmental concerns.
SD-419

JULY 31

10:00 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings to examine the financial strength of the Pension Benefit Guaranty Corporation (PBGC), which insures retirement benefits for American workers.
SD-215