SENATE—*Tuesday, January 26, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Reverend Richard C. Halverson, Jr., of Falls Church, VA, will lead the Senate in the prayer to the God of our fathers today.

Mr. Halverson, please.

PRAYER

The Reverend Richard C. Halverson, Jr., of Falls Church, VA, offered the following prayer:

Let us pray:

Father in heaven, Lord of history, God of eternity, it is written:

"To every thing there is a season, and a time to every purpose under heaven; a time to be born, and a time to die; a time to plant, and a time to pluck up that which is planted; * * * A time to weep, and a time to laugh; a time to mourn, and a time to dance; a time to cast away stones, and a time to gather stones together; a time to embrace, and a time to refrain from embracing; * * * A time to rend, and a time to sew; a time to keep silence, and a time to speak; * * * He hath made every thing beautiful in his time * * *."—Ecclesiastes 3:1, 2, 4, 5, 7, 11.

Today, as we assemble, Lord, it would be timely of us to pause to remember a remarkable hero who has passed from our midst, the late Supreme Court Justice Thurgood Marshall.

Lord, by Your sovereign will, the men and women of the Senate have come to the Kingdom for such a time as this. At this moment in history, on the eve of the millenium, they commence a new Congress, with a new administration, of a new generation, in a new world order.

Grant the Senate and its leadership the courage to face change, and patience to endure constancy. Give them grace to include all people, with wisdom to exclude injustice and unrighteousness. Empower them to unite the Nation, with discernment to divide between right and wrong. Enable them to invest for increase, yet to sacrifice with restraint.

And help them, at this time, to work together to find a fair way to care for the health of all our people.

We make this prayer in the name of Christ who, by birth, divided time, who claimed to exist before time, and who promised to return when we run out of time. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon there will be a period for morning business to extend until 12:45 p.m. during which time Senators will be permitted to speak.

At 12:45 the Senate will stand in recess to accommodate the respective party conference meetings. The Senate will return to session at 2:15 p.m., and it is my hope that the Senate will at that time be able to proceed to and confirm the nominations of Madeleine Albright to be the U.S. Ambassador to the United Nations and Clifford Wharton to be the Deputy Secretary of the Department of State.

I understand that they have been approved by the committee and I will endeavor, at 2:15 or shortly thereafter, to gain the Senate's approval to proceed to consideration of those nominations and to complete action on them today.

SENATE RESOLUTIONS 25 THROUGH 32 PROPOSED CHANGES IN THE SENATE RULES

Mr. MITCHELL. Mr. President, today I am introducing eight resolutions proposing changes to the Standing Rules of the Senate. They will be referred to the Rules Committee. I am making these public now in the hope that each Senator will review them carefully and will advise me of his or her reaction to these proposals.

I expect there will be a serious and informed discussion on these proposed changes. I think that will be a healthy thing for all of us. And so I invite every Member of the Senate to review these proposed changes and to give me his or her best advice with respect to them.

The first seven propose individual changes; the eighth combines these seven into one resolution. These changes would, I believe, enhance the day-to-day efficiency of the Senate and significantly reduce delay and deadlock, without reducing the right of the minority or any individual Senator to fully debate an issue. In addition to enhancing the Senate's efficiency, these changes would have the added benefit of producing an improvement in the quality of life in the Senate. This would result from the improvement in the predictability of the Senate's schedule which would flow from such changes.

The first proposal would provide for a limit of 2 hours on debate on a motion to proceed to any legislative calendar item, made by the majority leader, or his designee. Under current circumstances, a motion to proceed, if made outside of the morning hour, is debatable and in many cases requires the filing of a cloture motion. This causes a 2-day delay before the Senate conducts the cloture vote and then, should cloture be invoked, up to 30 hours for debate on the motion itself—utilizing as much as 4 days of the Senate's time debating a motion to proceed that three-fifths or more of the Senate support.

And I emphasize, that is a motion to proceed to the bill, not on the bill itself.

My proposal would provide for 2 hours for debate, equally divided between the majority leader and the minority leader, on a motion to proceed to a bill that has been made by the majority leader, or his designee. This change would not apply to a motion to proceed to any item involving a change in the Standing Rules of the Senate. Such motions would still be fully debatable as under the current rules. In addition, motions to proceed made by Senators other than the majority leader or his designee would still be fully debatable as under the current rules. My proposal is limited to motions made by the majority leader or his designee, because it is the majority leader's responsibility to set the Senate's agenda. This prerogative has been upheld during my tenure as majority leader as it was under the previous three majority leaders, Senators BYRD, DOLE, and BAKER. This change that I am now proposing could enhance the Senate's efficiency as well as its ability to act in a responsible manner in the face of a rapidly changing world. The ability to debate and, if desired, to filibuster would still be preserved, but it would take place during the pendency of the bill itself. As a result, the Senate's debate would be more directly focused on the merits of an issue.

My second proposal closes a glaring loophole in rule XXII governing postcloture situations by requiring a three-fifths vote of the Senators duly chosen and sworn to overturn a ruling of the Chair. The rules currently permit a simple majority to overturn the Chair's ruling. Although it has not occurred yet during my tenure as major-

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

ity leader, a simple majority of Senators could force action on an amendment which may not have been timely filed or even be germane to the clotured item, while the minority would still have to live within the constraints of cloture. This oversight should be corrected.

Another change in the cloture petitions of rule XXII that I have proposed is to provide that committee-reported amendments be considered germane post cloture. This would expand for all Senators the basis of germaneness in the drafting of amendments which they may want to offer after cloture is invoked. Amendments would have to be germane to either the clotured bill itself or to the committee amendments. If a bill was reported with a committee substitute amendment, an amendment could be germane to either the committee substitute or to the text of the bill the committee substitute seeks to replace. This would mean that cloture could be filed directly on a bill regardless of whether the committee amendment or amendments have been adopted or are germane to the underlying bill.

Some may argue that this a short circuiting the process by being able to file cloture directly on the bill regardless of the substance of the committee amendments. My response to that assertion is that if three-fifths of the Senate choose to invoke cloture on a matter, despite the fact that the committee amendment or amendments may not be germane under rule XXII, then this is not short circuiting the process, but streamlining it.

Since I have been majority leader where cloture had to be filed on a committee substitute because it was not technically germane to the bill as introduced under the stringent germaneness requirements under rule XXII, in not one case did the Senate have to invoke cloture on the bill itself. What this means is that opponents who wish to amend a measure on which cloture has been invoked will have an easier time in drafting the amendments due to the broader base as provided by the committee amendment or amendments. If there are several committee amendments that have not been agreed to prior to cloture, then these would remain pending and be dealt with individually, as is normally the case for such amendments. They, too, would provide an expanded basis for the drafting of amendments to the clotured item.

Another modest but useful proposal to rule XXII would provide for the counting of the time consumed by quorum calls against the Senator who suggested the absence of a quorum. If a Senator wishes to filibuster a piece of legislation, that is surely his or her right. However, once cloture has been invoked, that Senator—or Senators—should be required to engage in debate. After all, it is only through informed debate, not by putting in a quorum call and taking one's seat, that one can hope to alter the views of one's colleagues.

At present, in postcloture situations, quorum calls count only against the 30-hour cap, not against the Senator who suggested the absence of a quorum. If three-fifths of the Senate choose to invoke cloture on an item, then Senators are not entitled to up to 1 hour each for debate on the subject. In my opinion, they should use this 30 hours for debate, not for dilatory quorum calls. The insistence on the right to suggest the absence of a quorum and then just to take one's seat in order to use up time under the 30-hour cap has nothing to do with the Senator's tradition of open and instructive debate.

My next proposal would permit the Senate to go to conference with the House upon the adoption of one motion, rather than the three separate motions now required. The usual practice is to request a conference and appoint conferees by unanimous consent immediately upon the passage of the measure by the Senate. However, under current rules, a small minority, down to and including a minority of one Senator, can seriously impede the Senate from going to conference with the House on a measure that the vast majority of the Senate supports. If unanimous consent is not obtained, then three separate debatable and filibusterable motions are required.

They are, first, to insist on the Senate amendments or disagree to the House amendments; second, to request a conference with the House or agree to the House's request for a conference on the disagreeing votes of the two Houses; and third, that the Chair be authorized to appoint the conferees on the part of the Senate.

In the rare instances where agreement cannot be reached on going to conference, the Senate should have the right to decide the issue, if necessary, by a three-fifths cloture vote utilizing one motion. If the opponents of going to conference with the House cannot convince enough Senators of the wisdom of their case to deny cloture, then the Senate's time should not be utilized in debating three separate motions and going through the full cloture process three times on the same issue.

My next proposal would dispense with the reading of a conference report. When the Senate changed its rules in 1985 to provide for the televising of its proceedings, one of the rules changes made at that time was to require that a copy of the conference report be made available to every Senator prior to the calling up of the conference report. However, the ability to demand the reading was not addressed when this rules change was adopted.

So prior to 1985, it was not required that a copy of the conference report be made available to every Senator before the conference report was called up, but a Senator could demand the reading of the conference report. In 1985, the Senate changed the rules to add the requirement that the conference report be made available to every Senator, but did not at the same time abolish the previous requirement that the conference report had to be read at the insistence of one Senator.

So we now have a situation where a copy of the conference report must be made available to each Senator; and, in addition, any one Senator can insist the conference report be read by the clerk. And in the recent session, that occurred on several occasions and many, many hours were consumed by the clerk reading the full conference report, even though each Senator had received a copy of the conference report himself or herself prior to that time.

This reading requirement was used and, therefore, can be used in the future simply to delay the Senate's action on a conference report. Requiring the clerk to read a document which each Senator has in his or her possession prior to that time can hardly be described as upholding the Senate's tradition of unfettered debate.

The last of my proposals is similar to one introduced by a previous majority leader, now the President pro tempore and the Presiding Officer, Senator BYRD. It provides for a motion to require that amendments to a bill must be relevant to that bill if three-fifths of the Senators who vote agree to such restraints. Under my proposal, such a motion would not be in order until the third day of the bill's consideration. There would be 2 hours for debate equally divided between the two leaders on the motion. It would require a three-fifths vote of those Senators present and voting. And, if the motion is agreed to, then any further floor amendments would have to be relevant to the pending legislation or possible committee amendments, if there are any, that have not yet been adopted.

Furthermore, any sense-of-the-Senate or sense-of-the-Congress amendments would have to relate directly to the subject of the pending legislation. This proposal merely restricts amendments to the subject matter of the pending legislation after the Senate has had 2 days to consider the bill.

There would be no time constraints involved, nor would Senators be limited in the number of amendments they could offer. And, unlike cloture, there would be no prior filing requirement. It would simply require the Senate to deal with the subject at hand should three-fifths of those present and voting believe that it is time for such constraint.

Mr. President and Members of the Senate, most Americans are not familiar with the rules of the Senate. There

is no reason why they should be. But most are astonished when they learn that, under the Senate's rules, there is an unrestricted right of amendment and any amendment need not be relevant or germane to the bill being considered. Indeed, as we all know, amendments are frequently presented which bear no relationship whatsoever to the subject matter of the bill being considered.

I do not propose to change that situation. What I am suggesting is that after 2 days of consideration of a bill, if the Senate then wishes by a vote of three-fifths of those present and voting to impose a requirement that further amendments be germane to the matter under consideration, the Senate should have the opportunity to do so without having to go through the full cloture route.

Now, Mr. President and Members of the Senate, to demonstrate the need for a change in the rule covering motions to proceed, to which I referred at the outset of my statement, I have had prepared a table entitled "History of Cloture Motions," and I ask unanimous consent that that table be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MITCHELL. Mr. President, that table shows that in the 26 Congresses from 1919 through 1970, there were a total of 50 votes on cloture motions, that is an average of less than two cloture motions per Congress. But in the 11 Congresses from 1971 through 1992, there were a total of 295 cloture motion votes. That is an average of almost 27 cloture motions per Congress. So, taken on average, from 1919 through 1970, the Senate voted on cloture motions about twice a year.

Since 1971, the Senate has voted on cloture motions on the average of 27 times a year. And the trend is sharply upward. The highest totals are the most recent: 43 cloture votes in the 100th Congress, 48 in the 102d Congress.

Of even greater significance is the proportion of those cloture motions that have had to be filed on motions to proceed to a bill. Our research on those data goes back only to the 95th Congress. But as the table shows, in that Congress there were two cloture motions filed on motions to proceed. Then in the succeeding Congresses, 2, 3, 10, 11, 11, 12, and most recently 35.

Not many years ago, the filibuster or the threat of a filibuster was rarely undertaken in the Senate, being reserved for matters of what were then perceived to be of great national importance. That is no longer the case. The threat of a filibuster is a regular, indeed, practically a weekly, event in the Senate. It is invoked by minorities of as few as one or two Senators and for reasons as trivial as a Senator's travel schedule.

So that everyone fully understands the obstacle course that legislation must run in the Senate, let me therefore sum up.

When a filibuster occurs or is threatened, a cloture motion to terminate debate must be filed. The vote on that motion cannot occur until 2 days after it is filed. So, if a cloture motion were filed today, Tuesday, the vote on it would occur on Thursday. If three-fifths or more of the Senate vote to invoke cloture and to terminate debate, there are then still up to 30 hours of debate on that motion postcloture or, effectively 2 more days. And right now, under the Senate rules, cloture could be required up to six separate times on the motion to proceed to a single bill—on a committee substitute, if there is one, on the bill itself, and then, as I have described earlier, three separate times to get the bill to conference with the House of Representatives.

This is, in my opinion, redundant and unnecessary. My proposal would reduce the requirement for a three-fifths vote from a possibility of six to three times for a bill. There are going to be plenty of people who suggest that three separate filibusters and three separate cloture motions on a bill are too many. But I am suggesting only that we go from a possibility of six to three per bill. That is more than ample protection of the rights of every Senator and the rights of the minority. It does not change the basic nature of the filibuster, nor of the institution of the Senate, and it will, in my view, significantly reduce delay and obstruction. We cannot seriously address the problem of delay and inefficiency in the Senate without addressing these issues.

Mr. President, I have discussed these proposals with the minority leader. There are many things on which we agree. These proposed rules changes are not among them. I recognize and accept that, given our different roles and responsibilities. But I know that we will continue to work closely together to make the Senate a more effective and efficient institution.

Mr. President, I yield the floor.

(The resolutions are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions".)

EXHIBIT 1—HISTORY OF CLOTURE MOTIONS

Congress	Year	Cloture motion votes	Cloture motions on motion to proceed
66th	1919–20	2	
67th	1921–22	1	
68th	1923–24	0	
69th	1925–26	7	
70th	1927–28	0	
71st	1929–30	0	
72d	1931–32	1	
73d	1933–34	0	
74th	1935–36	0	
75th	1937–38	2	
76th	1939–40	0	
77th	1941–42	1	
78th	1943–44	1	
79th	1945–46	4	
80th	1947–48	0	
81st	1949–50	2	
82d	1951–52	0	
83d	1953–54	1	
84th	1955–56	0	
85th	1957–58	0	
86th	1959–60	1	
87th	1961–62	4	
88th	1963–64	4	
89th	1965–66	7	
90th	1967–68	6	
91st	1969–70	6	
92d	1971–72	20	
93d	1973–74	31	
94th	1975–76	27	
95th	1977–78	13	3
96th	1979–80	21	2
97th	1981–82	27	3
98th	1983–84	19	10
99th	1985–86	23	11
100th	1987–88	43	11
101st	1989–90	23	12
102d	1991–92	48	35

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from South Dakota [Mr. DASCHLE] is recognized for not to exceed 5 minutes.

RULES CHANGES

Mr. DASCHLE. Mr. President, let me first commend the majority leader. I had the good fortune to listen to his explanation of these recommended rules changes, and I wholeheartedly endorse them. As one who has had the occasion so many different times to listen to the complaints on the part of my constituents and people throughout the country about the institutional gridlock they continue to view as they watch C-SPAN, I do not think anything would accelerate our opportunity to deal effectively with legislation better and more appropriately than the recommendations made by the leader, and I certainly commend him and offer my support for implementing those changes during this Congress.

HEALTH CARE PRINCIPLES

Mr. DASCHLE. Mr. President, I congratulate President Clinton on the selection of his wife, Mrs. Clinton, as the new task force chair in the White House dealing with health care. Her intelligence, her credibility, her record of accomplishment in Arkansas, and certainly her ear to the President makes her one of the most appropriate people I can think of to deal with this issue and to deal with it as effectively as I know she will.

We face a once-in-a-lifetime opportunity in this Congress to address one of our most pressing domestic policy challenges, the reform of our health care system.

Frankly, Mr. President, I look at this challenge with tremendous anticipation and trepidation—anticipation be-

cause we finally have a leader who is committed to tackling this issue head on, who is willing to use the power of the Presidency to do so, but trepidation because I fear that if we do not do it right the first time, it may be a long time before we have an opportunity to do it again. I hope we can do it right the first time.

For several years, many of us have spoken about the need to discard the incremental reform approaches of previous administration and Congress and craft a comprehensive plan to overhaul our system now.

That now appears to be inevitable. He has stressed, the President has, the need to address health care in a comprehensive way, that we guarantee all Americans coverage under a system that clamps down on skyrocketing costs and reduces the system's onerous paperwork burden. He recognizes the need to address cost and access and allocation, and the tremendous problems we have with regard to the hassle involved in the utilization of our current system.

He has talked about the need to preserve a strong role for the private sector through managed competition and develop a budget for health care, reallocate thousands of resources primarily to primary and preventive care, all crucial ingredients in my view to a successful plan.

While that is encouraging, "the devil is in the details." How we can take these tools and shape them into a workable plan will determine the ultimate success or failure of a health care reform.

If we are to craft a successful health care reform plan, I believe we need to incorporate four key principles. Universal access, allocation, and cost containment can be achieved, as the President has indicated, with the creation of a system which combines managed competition and a global budget. A budget is the alternative to the micromanagement which continues to plague the current system.

Everyone must participate in the managed competition system. We recognize that. Costs are easier to control, and a budget to enforce, when all Americans purchase their insurance through regional cooperatives.

The second principle is fiscal clarity. We have to be more honest about the current costs of health care and what we will pay into the reform system. Most people are confused today, Mr. President, about the obfuscated costs having directly to do with health care. They do not realize that the average family today spends $4,300 on health care. They do not realize it because part of their taxes go to health care. Part of the payroll taxes that they are paying go to health care. Obviously part of the premiums go to health care and clearly much of what they incur as costs in a hospital go to health care received by others.

We have to understand the importance of fiscal clarity if we are going to compare apples and apples and oranges and oranges in dealing with the current system and finally go to a good alternative.

Third, I believe we need a national health board. We need a system that is publicly accountable but protected from the political onslaught of special interests. That means creating a national health board that is public in its mission and certainly not run by politicians. That is how we manage the money supply in this country through the Federal Reserve. Like the Fed, neither Congress nor the President should be able to manipulate the health care system for partisan political gain.

Finally, I believe we need State and regional administration. States, through regional cooperatives, have to be responsible for the day-to-day administration of the system. While the Federal Government can and must endure basic quality and coverage standards, it cannot micromanage the system like we do today. Our country is too large and diverse, and our health care system too important to leave it to a one-size-fits-all Federal solution.

We are mindful of these principles, Mr. President, as we begin this very important task. I hope we can create an understanding of this importance as we continue in our discussions with the White House and with our colleagues in the Congress. If we fail to recognize these points, we may be back here 5 or 10 years from now debating these very same issues all over again.

Working with Hillary Rodham Clinton and the President's task force, working with the House, and our colleagues here in the Senate, let us seize this golden opportunity for reform, and move thoughtfully and expeditiously to do it right the first time.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Utah is recognized for not to exceed 5 minutes

Mr. HATCH. I thank my colleague, the President pro tempore.

(The remarks of Mr. HATCH pertaining to the introduction of S. 184 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

UNANIMOUS-CONSENT AGREEMENT

Mr. REID. Mr. President, I recognize that the time for recess is fast approaching, and there are three Senators on the floor. Senator GORTON has 30 seconds that he wishes. The Senator from Montana has 2 minutes, and I have about 5 minutes. Would the Chair—I did not see the Senator from New York.

Mr. D'AMATO. Mr. President, I would like 2 minutes.

Mr. REID. Will the Chair honor a unanimous-consent request to allow the Senators to speak? In that I am going to be speaking the longest, I make a unanimous-consent request that Senator GORTON may speak for 30 seconds, Senator BURNS for 2 minutes, Senator D'AMATO for 2 minutes, and then I would like 5 minutes.

The PRESIDENT pro tempore. Is there objection?

The Chair hears no objection. It is so ordered.

SPEECH BY MARK HALPERIN

Mr. GORTON. Mr. President, on October 15 of last year at the U.S. Military Academy, Mark Halperin, an award winning novelist, a columnist, and a close personal friend, gave a speech to the cadets entitled "At Rest Between the Wars." It is one of the most remarkable testimonies with respect to the role of the military in our lives as a nation and his as an individual I have ever read.

I ask unanimous consent that at this point Mr. Halperin's speech be printed in the RECORD.

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

AT REST BETWEEN THE WARS

When I was a boy, a period that, according to my wife and daughters, extends to this very day, I used to play on the rows of cannons near the parade ground. I lived on the opposite bank of the Hudson, Croton, and Cold Spring.

And I can tell you on my authority as a local boy that you are sometimes misinterpreted. For example, not too far from here is an emery mine that used to be run by two ancients who loved dynamite and were afraid of shovels. As a result of their loves and fear, our days were punctuated by huge explosions, for which the most common explanation was, "It's the cadets at West Point, in artillery class . . . wasting the taxpayer's money." Well, as you will find out, there are far better ways to waste the taxpayer's money, some less noisy, some even noisier.

This valley itself has seen many battles, beginning almost four hundred years ago, and when the battles were elsewhere its people sent its sons in great number. There are many old soldiers outside these walls, and always have been.

Once, in the Eisenhower years, when I was, as usual, a boy, I was sitting across from two veterans of the Great War, in a railroad car at Harmon, waiting for the connecting train from upriver. When finally it pulled in, a hundred tiny military school cadets surged across the platform and poured into our car like an invasion of extras from *The World of Oz*. They were absolutely mesmerizing. They hopped from seat to seat, squealing like pink-cheeked organ grinder's monkeys. Although only in the first, second, and third grades, these midgets, ladies and gentlemen, were wearing your uniforms. Each and every one of them was guilty of impersonating . . . a cadet.

Seized with the impression that West Point was facing one of the major crises of its history, one of the old men looked at the other, and said, "Ooooooooooh! I sure hope we don't have another war!"

His friend was slightly more sanguine. Perhaps he thought that height has no bearing

on military prowess. After all, think of Napoleon. Still, he asked, "Do you think General MacArthur knows?" to which he received the reply, "Who would have the heart to tell him?"

If only you were misunderstood more often with such good will and affection, but that is not the case, and this I know because I often speak in defence of military virtue, something now seldom understood and almost always maligned.

For someone in my walk of life to take this position, especially now, when it is widely believed that you are no longer needed, when generals and admirals are falling by the wayside, is not the epitome of discretion. But, quite frankly, I don't give a damn.

For even whole nations can be wrong in their sureties. Even whole nations, in a craze of fashion, can squander their carefully nurtured strengths. The American military is now everything to anyone except the one thing that it should be to everyone. It is a well from which to draw money for new social initiatives. It is an adjunct of the DEA. It is a teacher corps. It is a hurricane fighter. It is a battleground of feminism. It is an agency for the environment. In its reduction it is a symbol of the New World Order. It is a peace monitor. It is the solution to the problem of the deficit. It is the first refuge of a budget cutter. It is an electoral scapegoat. It is part of an industrial policy.

Anyone is free to make use of it in any way. The only view of it that raises eyebrows is that it should be none of these things, that its purposes, plain and simple, are to defend the interests of the United States, to be prepared for war, to deter it, and to win it. And this is something you cannot do if you are under strength, under armed, poorly funded, and rearranged to suit the notions and perform the tasks of every special interest group from Bar Harbor to Honolulu.

The forces that would dilute your purpose have been present since the creation. But now they are ascendant: they have risen like rockets. And the reason for this is the collapse and disintegration of the Soviet Union. Even before the echoes of the fall were silenced came the consensus, the certainty, the piety . . . that real war is a thing of the past.

Is it? Not two years ago, the United States led its traditional allies, its former enemies, and then some, almost a million strong, into what was in many respects the greatest single battle in the history of the world. I don't know how many of you have been in the presence of a main battle tank, or, if you have, what you felt. I have an infantryman's view of tanks, what is to say that I've never been exactly comfortable with them. If you're on one side of a village and a tank arrives on the other side, you feel it before you hear it. You feel it in your solar plexus and in the soles of your feet. You would never think that something so massive could be so agile as it smashes through walls and pulverizes brick, the things you thought you could hide behind. And when it slews its gun, the sound of the turret turning is like the sound of death itself.

That's one tank. In the Gulf War, columns of armor rolled across the desert for days and days, so vast and long that the dust they raised could have been seen from the moon.

Twenty years ago, as an overage infantryman in the Israeli army, I got my first taste of tanks, half-tracks, AFV's, and F–4's that passed so low over my head I was afraid my clothes might catch fire. These things always make me snap to attention. I can't put them out of my mind. And I could not put out of my mind the fact that, a few years ago, much of the Soviet harvest went to waste because the rolling stock that would have taken it to market was engaged in moving 70,000 tanks, AFV's, and artillery pieces east of the Urals, where, under the terms of the MBFR Talks, everyone would treat them as if they did not exist. But they're still there.

I cannot put out of my mind the hardships and demoralization of the former Soviet peoples, the hyper-inflation, the dying economy that will go nowhere but down, the half-dozen little hot wars that, like the wars in Spain and Abyssinia, inoculate against the rejection of violence. I cannot put out of my mind the Russian army, still possessed of a vast array of nuclear and conventional weapons, and strategic stores of food and war materiel.

Though it is true that it has been temporarily crippled by the loss of its strategic depth and the rot of its echelons, it is still intact. Many Americans imagine that it has ceased to exist, but it has 50,000 main battle tanks to America's 16,000, 43,000 artillery pieces to our 7,000, and it still produces modern equipment faster than we do. According to the 1992-1993 *Military Balance*, 4,200 main battle tanks have been added to the existing inventories of Russia, Byelarus, and the Ukraine since the demise of the Soviet Union.

If the United States produced this many tanks in a similar period, critics from many quarters would say that this was provocative, dangerous, and insane. They don't know the facts, and they don't want to know them. That is, I believe, because the facts are unpleasant, and the mass hallucination of a permanent peace is, to the contrary, very comfortable.

The Russian army alone is still formidable, and it is built around its memory of compressing into a tight spring that then, shedding its rage, decompressed and threw back Napoleon, Deniken, Kolchak, Hitler. That memory, that capacity, of an army with its back to the wall in the midst of a suffering nation, is, I submit to you, the most dangerous thing in the world today.

What do we see if we look for a counterweight to balance the instability of the shattered East Bloc? We see Europe breaking into smaller and smaller pieces while chasing the illusion that it can achieve political unity by means of an economic program that virtually no one wants. We see chronic unemployment in many countries, alarming debt, monetary chaos, and rapidly expanding fascist parties that may soon claim one voter in ten in the heart of the continent. Underlying all of this is a remarkable institutional instability not seen in so many countries at once since the immediate post-war period.

Deeply absorbed in dismantling its security apparatus, the West responds to the war in Yugoslavia by sending the world's two most deadly ineffective diplomats, Lord Carrington and Cyrus Vance, to hold meetings and have discussions. Cyrus Vance would call a meeting if his pants were on fire. He should have resigned long ago if only because of the atrocities against which he has pitted nothing but self-important impotence.

Positioning himself falsely to the right of President Bush, Governor Clinton recommends air strikes on the Serbs. One has to be very careful in such a place and in a context that can lead to far wider war, but the governor's view of Europe does not admit of this danger, which is why he can blithely ignore it. Even if greater risks did not exist, intervention would be, to paraphrase T.E. Lawrence, like cutting soup with a knife, and, quite simply, we've done enough of that in Vietnam and in Lebanon.

In its unrequited love affair with public opinion, NATO is begging for more responsibility in Central Europe, in the former U.S.S.R., and in the Middle East, while simultaneously and rapidly sloughing off its military capacity. A better initiation to disaster has never been invented.

Taking U.S. forces from Europe—Governor Clinton's's plan is to leave less than 25%, and the administration's not much better—is like lifting the control rods from a nuclear reactor. This false economy removes the customary constraints from forces that can rapidly assume a life of their own. Ethnic troubles are the least of them. The real danger is when countries with unstable politics and weak governments find themselves in a clash of irreconcilable national interests. What makes this prospect merely a thing of the past? Nothing. Clearly, nothing.

I ask you this: Had the United States left behind 10% of its World War One expeditionary forces (that is, about 200,000 men) to garrison Europe during the Twenties and Thirties, would the allies have found it impossible to enforce the disarmament provisions of the Treaty of Versailles? Would Hitler have marched into the Rhineland?

After the Second World War, we made up for this mistake, and our simple resolve worked to keep the peace in Europe for nearly half a century and to contain Soviet expansionism, thus binding the Soviet Union to the logic that brought it down. It could not produce, so to survive it had to conquer. When it could not conquer, it could not survive.

Some people will tell you that it collapsed entirely of its own weight. "All your efforts were wasted," they will say, "your preparations alarmism, your diligence obsession, your expenditures unnecessary, your sacrifices for naught. There was never any danger. You were just snapping your fingers to keep the elephants away."

You have to give these people credit. Long before the disintegration of the East Bloc they did insist that the threat was fiction, or that, to the extent that a threat did exist, it was purely defensive and of your own creation. They told you that the gentle and bewildered Red Army could not have invaded Europe because it was too busy as it, to quote the journal International Security, "repaired barracks, built dining halls, set up military posts, camps, and sports field."

They told you that the Warsaw Pact's 68,000 tanks, twice the number of NATO's actually were a disadvantage, being so diminutive that their operators had to be less than 5'3" tall, and that, because of a satanic lack of ventilation, these midgets, to quote the same journal, "were asphyxiated or went into shock."

But there are even worse ways to die, and I quote: "The automatic loader on the T–72 'grabs crew members and rams them into the gun's breach.'" Those of you who might want to go into armor can forget it. Even at the height of the Cold War there was nothing for you to do, because every time a Soviet tanker entered his vehicle it was like stepping into a Cuisinart.

Apart from the fanciful view of nothreat was another line of thought that managed somehow to co-exist with what appeared to have been perfect confidence in our safety, and that was that we were doomed. "Why fight the tide of history?" we were asked.

For it we did, we were told, there would be no history. There was nothing to worry about, and yet the situation was hopeless. We were just paranoids, but we were facing the inevitability of history. Though the strange luxury and inconsistency of these positions ran together for decades, never for a moment was the threat not real, and never for a moment was it invincible.

Rule of thumb: When generals become colonels, colonels majors, and air force bases industrial parks, the fighting cannot be too far ahead.

Am I saying that war comes after swords are beaten into ploughshares? Yes, I am. I am saying that we are at rest between the wars. I am saying that, God help you, you have a future.

What it will be will depend in large part on the extent to which you are neglected, and I assure you that you will be neglected. I assure that the United States will enter a future war with insufficient weaponry, numbers, materiel, and training—it has happened before—and that because of this some of you in this room may give up your lives.

You will have done so in consequence of the mistaken belief that to hold power is to abuse it. Those who subscribe to such a tenet read history without making distinctions. They think they can abolish war solely by abdication, and are never sufficiently wary of others who see in transcendent acts only opportunities to exploit.

Truly moral but less showy is the impulse not to abolish war but to contain, avoid, and minimize it. This requires, among other things, the willingness and ability to fight, which may seem like a contradiction but isn't. It does illustrate, however, why a uniformly pacific view often creates conditions that lead to war: if you refuse power, as the British and Americans did in the interwar period and as some would have us do now, you will not be able to contain or suppress the anarchic or sometimes purposeful acts that lead to the great wars. In this, as in so many other things, perfection is the enemy of the good.

Once, in Rome, I had a conversation with an American who feared a coup from within your ranks. I thought, how odd. Following the dictates of civilian authority, the military took ten years in Vietnam to lose a war that, risking Chinese intervention, could have been fought to its conclusion in six months. (If you think that's optimistic, I refer you to the Gulf War and remind you that Hanoi is 60 miles from the sea.) For a decade the armed forces accepted failure and death in service of the principles of civilian rule, and then in restaurants in Rome and at dinner parties in Manhattan you are told that you are the main threat to it.

But before you overthrow that principle you will accept virtually anything. You will accept redefinition. You will accept marginalization. You will accept failure. You will even die. For a long time now, popular culture has ridiculed this kind of belief and devotion, and though you risk disillusion and disappointment, do not envy the glib and the uncommitted. Even simple, tongue-tied, anonymous men live better lives than they do, for those who believe in nothing, are nothing.

Having decided that you are not very necessary anymore, the country will now punish you, acting, among other reasons, on its contempt for what it perceives as interservice rivalry. Had this been done at the start, the navy would not have aircraft carriers, because flying was the domain of the army. After the air force split from the army, the army would not have gone into helicopters because it was no longer in the flying business, and the air force would not have because it was not in the business of vertical envelopment. Why should the navy have ballistic missiles, as that's the job of the air force, or is it the job of the army, as the air force is not in the artillery business?

And the marines! What an outrage! They use boats, planes, and armor. They just can't let the rivalry rest. Obviously, they've got to be the first to go.

The same impulse has spawned proposals for consolidating the service academies and civilianizing their faculties, ostensibly because of a lack of Ph.D.'s on the current rosters. It would seem to me that the best way to solve this problem, absent a desire to punish the army, would be to send out even more officers to get doctorates.

I went to college and graduate school in a place that was to Ph.D.'s what the Everglades are to alligators. One of the faculty members, David Riesman, was the Arnold Schwarzenegger of doctorates, having earned four of them. But I found that the professors to whom I gravitated and from whom I learned the most were those whose learning had been annealed in the fire of war—the refugees who had seen their families perish, the field surgeons, the bomber pilots, the resistance fighters, the professor who made his way to class on one leg that was real and one that was of wood.

I sought them out not just because of their calm and their humility, their great wisdom, and all that they had seen and done. I sought them out because they had the light of survival in their eyes.

Your facility is rich in such men. Not all of them may have Ph.D.'s, but my reading of history tells me that the army has done pretty well up to now without indexing itself to the values of the academic world, especially as those values are currently expressed in the merciless rhythm of political correctitude. Critics may say that army teaching army is just another instance of the legacy of war being passed from one generation to another that once again will know war and know in its bones what to do when war comes, and I will say to them, you're goddamned right.

Though some who may not fathom the moral imperative of this may find it embarrassing, the purpose of the military academies is to train officers to lead the armed forces, and the purpose of the armed forces is to win wars and, with that unambiguous capability nothing like a bluff, to deter them.

Let me tell you a little story. I was in a field security group in the Israeli Air Force. I had been in the army, but was transferred into the Air Force, where they made me wear an army uniform. If you think that's confusing, consider that in Hebrew the word for "he" is "who" the word for "who" is "me," and the word for "she" is "he."

I was assigned to a base in the northern part of the country, in a forest that was a major terrorist infiltration route. These terrorists, whom cowardly American newspapers call "fighters" even though they massacre civilians and kill five-year-olds by bashing their heads against rocks, used the forest to good advantage, as the Israelis relied on motorized patrols.

So, on my own initiative and, shall we say, "parallel" to orders, I extended the area of my responsibility, and used to go into the forest at night and in the day, alone, with my Uzi, extra magazines, and two grenades that I was not supposed to have. I had night vision equipment, too: It was called the moon. I worked only periodically and never when the sky was cloudy, but it didn't weigh me down, it was free, and it was beautiful. I remember standing on a mountaintop in the full moonlight, listening to the sound of wild boar moving through the forest below. In the distance I could see the lights of Haifa, and Tyre, and towns in Syria and Jordan. The land was dark, the folds of the mountains black, and the moonlight covered the Mediterranean and the Sea of Galilee with a silent and ghostly sheen.

Once, a few miles from base, near an Arab village called Jish (and when I got past it I'd say, "Jish!"), I ran into one of our armored patrols at about two in the morning. They trained their mounted machine-guns on me, and their arc light, and they said, "What the hell are you doing here?" I said I was doing exactly what they were doing, only I couldn't be heard and seen from two miles away. The commander wanted to know where the others were, and when I told him I was alone he said, "I thought you were an American, and you are. Americans are nuts!" I've never received a finer compliment.

By the way, the one time I took a daylight walk without a weapon, I was five minutes out of the perimeter when I heard the brush move and saw a wild boar emerge onto the road not three feet from me. These things are famous for wiping out whole groups of medieval pikemen and their packs of dogs, and there I was, in my commando sweater, remembering that it took an entire magazine to bring one down and another to kill it.

It had horrible, curly tusks, and it was as big as a Mercedes Benz. I prayed for an air strike, but nothing happened, so I said, "Hi boy! How are you? Jews don't eat bacon." You know what he said? He didn't say anything: he couldn't talk. But I was ashamed, and I decided to give only name, rank, and serial number. The problem was that I could never remember my serial number, I had no rank, and I just wasn't going to tell my name to a pig, so I remembered where I'm from, which is New York, and I said, "Hey! Drop dead!" And, you know what? He did. He had a heart attack, right then. . . . That may be a bit of an exaggeration. He did go away.

One cool blue day, I was walking in the forest, where, as far as I knew, no one from the army ever set foot, when I saw, although they did not see me, an Israeli Arab in full regalia, with a pistol on a Sam Browne belt, and a blonde woman in a bedouin checkered scarf. They were crouching in the brush, sketching the defenses of the base. He was describing to her things that he pointed out and that she then marked down on the paper.

The next thing they knew, I was standing ten feet away, pointing my Uzi at them and commanding them, in Arabic, to raise their hands into the air. But the old man, who had probably lived half a century before the day I was born, was not of the opinion that the game was over. He put his hand on the grip of his pistol, and he held fast.

Now, what was I to do? Every time I turned around I was reprimanded for one thing or another, and there I was, patrolling entirely parallel to orders. I knew what I would do in coming across a team of infiltrators, but this was a lot different, and I had not foreseen anything like it. The woman was undoubtedly a "tourist," and the old man was undoubtedly a citizen who lived nearby. Still, they had come miles through the forest and were sketching the defenses of what was called a "secret base," and what, after all, was my purpose? If he were to fight, I would have to fire a burst, to stop him from put-

69-059 O—97 Vol. 139 (Pt. 1) 38

ting a bullet in me. She was actually holding on to him, standing slightly behind. Was I going to shoot—and possibly kill—two civilians? Certainly the enemy had satellite reconnaissance of our installation, but these people may have been watching the shift changes and the habits of the sentries. She was scared and she was beautiful. He, although he was threatening to shoot me, resembled my father.

I won't say what I did except to tell you that though I didn't harm them, the ending was not pretty. It was shrouded in uncertainty, and I have never come to terms with it. In no way, however, did any of this resemble the hypothetical discussions, occasioned by the war in Vietnam, that I had had with plenty of Ph.D.'s I had had the best training in hypotheticals that you can get, but when the question ceased to be hypothetical and was real, that training proved useless.

Before Congress civilianizes your faculty, it would do well to take a long look at the kinds of problems you will encounter, the difference between what is hypothetical and what is real, and the priceless value of learning from those who have been through the ordeals for which you are destined.

What I know of such things, compared to what they have seen, is nothing, and therein lies a tale that I would like to tell. I am frequently asked how it is that I, an American, served in the Israeli army and Air Force, and not in the military of my own country. The first part of the question is easy to answer. I point out the long tradition of Americans serving in the armed forces of allies—the Lafayette Escadrille; Faulkner in the Canadian Royal Air Force; E.E Cummings and John Dos Passos in the Norton-Harjes Ambulance Corps; the Eagle Squadron; the Flying Tigers. I mention that before I served under another flag I reported to the department of State and formally swore an oath of loyalty to the United States, and to defend the Constitution. And I remind my questioners that Israel fought not only armies trained and equipped by the Soviet Union, but, sometimes, Soviet soldiers themselves. In that period, the United States and Israel worked very closely together; how closely I think is not yet fully a matter of public record.

To the second part of the question, I reply that though the men in my family have served, since our arrival there, with Pershing in Mexico, in the First World War, so many in the Second World War that the welcome home had to be held in a hotel, and that though one cousin, Richard, was a Navy ace in the Pacific, and another, Robert, died in his B-25 in August of 1942, and another, Hank, was wounded twice in Korea, and half a dozen of my uncles served in all the branches in World War Two, and my father came out of the war a major, that despite this tradition in which I was certain I would have a place, I did not serve.

If you think that it is easy to stand here in front of thousands of officers and future officers of the United States Army and explain this, think again. But just as the heart of your profession is your willingness to give your lives in defense of your country, even, as the case has been, as you are mocked, reviled, and dismissed by those for whom you will die, the heart of my profession is to convey the truth, and what good is a profession without its heart?

Let me try to convey, then, what I have come to believe is the truth—or at least part of the truth—of a time that was over before many of you were born. I do so not to gain approval or to attain an end, but in service of illumination and memory, and I hope, as you will see, that you may be able to use the knowledge of my failure to clarify and strengthen your own resolve.

"Everyone" at the Republican Convention this summer was reading a book about Harry Truman. Yes, most of them knew Truman was a Democrat. I'm a Republican, and though I was not old enough to have voted in the election of 1948 except perhaps in Chicago—I was one—I would be proud to have voted for Harry Truman had he been running against anyone other than Abraham Lincoln or Theodore Roosevelt.

My conduct in the Vietnam era can be expressed by stating that although in the Israeli army I had, but for corrective lenses, a perfect physical rating for combat, here I was officially, legally, and properly 4-F. If I were Bill Clinton I would take 10,000 words to explain this and say nothing, but I'm not Bill Clinton, and I can get to the heart of it in eight: What I did was called dodging the draft.

I thought Vietnam was so much the wrong place to fight and that the conduct of the war was so destructive in human terms and of American power, prestige, and purpose that I was justified in staying out. What the existence of the re-education camps and the boat people, and the triumph of containment have taught me is that my political assessment was not all that I thought it was, and I have also come to believe that, even if it had been, I still would not have been released from honoring the compact under which I had lived until that moment, and which I then broke. I did not want to participate in a war the conduct of which was often morally ambiguous. Now I understand that this was precisely my obligation.

So you may imagine what I felt when I came to a passage on page 102 of David McCullough's *Truman*, explaining how Truman had volunteered in the First World War: "He turned thirty-three the spring of 1917, which was two years beyond the age limit set by the new Selective Service Act. He had been out of the National Guard for nearly six years. His eyes were far below the standard requirements for any of the armed services. And he was the sole supporter of his mother and sister. As a farmer, furthermore, he was supposed to remain on the farm. . . .

"So Harry might have stayed where he was for any of several reasons. That he chose to go . . . was his own doing entirely."

Truman had five unimpeachable reasons not to serve, and he tossed them to the wind. Had he tossed them at my class at Harvard, I assure you, they would have been fought over like five flawless versions of the Hope Diamond.

His actions were all the more impressive when it is remembered that the First World War was far more brutal than the war in Vietnam, far more costly, and far more senseless. At least the war in Vietnam was fought in the context of a policy of containment that, later, was to triumph. Even were Vietnam not the best place to make a stand, it was the fact that a stand was made that mattered. In contrast, the First World War was fought almost entirely for nothing. Though it is true that the country was more enthusiastic about it, that just drives home the fact, as did Vietnam, that you simply cannot know how things will turn out, and that a war may be right or wrong, opportune or inopportune, the proper time and place to make a stand, or it may not be, but that this is something to be determined in national debate and not in the private legislatures of each person with a draft card.

The United States might easily have overwhelmed North Vietnam but for the threat of Chinese intervention. Therein lay the checkmate, the nettle that never was grasped, that then became the source of the indecision, the moral ambiguity, and, eventually, our defeat.

We neither made quick work of the North nor extricated ourselves with grace, choosing instead a war of attrition for which we had not the heart. It was not just a tangle of good intentions and bad judgments that put us there in the first place. History put us there. It is understandable, even commendable, that we tried to stay, and also understandable and at times, I think, commendable, that we left. The truth is that the truth is divided.

Vietnam was the most difficult war we have ever experienced, because it required us to justify a continuing horror with an abstract vision of what our perseverance would yield, and we are neither an abstract nor a patient people. In the context of history as we now know it, it seems that, had we persevered, decades of struggle and suffering might have been obviated. But, still, that we were ambivalent did not alter the final outcome. Perhaps the world saw in our ambivalence that we are a nation that seeks not power, but the truth.

Of one thing in this regard, and one thing only, am I absolutely certain, which is that, in not serving, I was wrong. I began to realize this in 1967, when I served briefly in the British Merchant Navy. In the Atlantic we saw a lot of American warships, and every time we did I felt both affection and pride. One of the other sailors, a seaman named Roberts, was a partisan of the Royal Navy, and maintained that it was more powerful than our own. As I was a regular reader of the *Proceedings of the United States Naval Institute*, and had almost memorized *Jane's Fighting Ships*, I quickly, let us say, blew his arguments out of the water.

And then, in riposte, he asked why I was not in uniform. I answered with the full force of the rationalizations so painstakingly developed by the American intellectual elite. Still, he kept coming at me. Although he was not an educated man, and although I thought I had him in a lock, the last thing he said broke the lock. I remember his words exactly. He said: "But they're your mates."

That was the essence of it. Although I did not modify my position until it was too late, I began to know then that I was wrong. I thought, mistakenly, perhaps just for the sake of holding my own in an argument, that he was saying, 'My country, right or wrong,' but it was not what he was saying at all. Only my sophistry converted the many virtues of his simple words from something I would not fully understand until much later.

Neither a man nor his country can always pick the ideal quarrel, and not every war can be fought with moral surety or immediacy of effect. It would be nice if that were so, but it isn't. Any great struggle, while it remains undecided and sometimes even afterward, unfolds not in certainties but in doubts. It cannot be any other way. It never has been.

In the Cambridge Cemetery are several rows of graves in which rest the remains of those who were killed in Vietnam. On one of the many days of that long war, I was passing by as a family was burying their son. I stopped, in respect, I could not move. And they looked at me, not in anger, as I might have expected, but with love. You see, they had had a son.

Soon thereafter, not understanding fully why, I was on my way to the Middle East, in a fury to put myself on the line. And though I did, it can never make up for what I did not

do. For the truth is that each and every one of the Vietnam memorials in that cemetery and in every other—those that are full, those that are empty, and those that are still waiting—belongs to a man who may have died in my place. And that is something I can never put behind me.

I want you to know this so that perhaps you may use it. For someday you may find yourself in a terrible place, about to die from a wound that is too big for a pressure bandage, or you may find yourself in an enemy prison, facing years of torture, or you may find yourself, more likely, as I did, in a freezing rain-soaked trench, at four o'clock in the morning, listening to your heart beat like thunder as you stare into the hallucinatory darkness of a field sown with mines. You may speak to yourself out loud, asking, why am I here? I could have been someplace else. I could have done it another way. I could have been home.

If that should happen to you, your first comfort will be your God, and then you will have—believe me—the undying image of your family, and then duty, honor, country. These will carry you through.

But if, after you have run through them again and again, you have time and thought left, then perhaps you will think of me, and this day at the beginning of your careers. I hope it will be encouragement. For that I was not with you, in my time, at Khe Sanh, and Danang, and Hue, and all the other places, is for me now, looking back, a great surprise, an even greater disappointment, and a regret that I will carry to my grave.

The PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 187 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. Mr. President, if the Chair recognizes me, I would like to be added as an original cosponsor of the legislation introduced by Senator BURNS.

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

Under the order, the Senator from New York [Mr. D'AMATO] is recognized for not to exceed 2 minutes.

GAYS IN THE MILITARY

Mr. D'AMATO. Mr. President, I rise to make a short and direct statement. I am compelled to do so, because I believe in its correctness.

Mr. President, no government has the right to discriminate against any of its own people. Gays and heterosexuals have served in the military in the past with honor, and they will continue to serve honorably together in the future.

Private behavior should not be the issue. The manner in which the job is performed should be the guiding criteria. I know my position will be a controversial one.

I support allowing gays in the military. It is that simple. Thank you, Mr. President.

The PRESIDENT pro tempore. Under the order, the Senator from Nevada is recognized for not to exceed 5 minutes.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 186 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONFIRMATION OF BRUCE BABBITT

Mr. BAUCUS. Mr. President, last week, the Senate confirmed Governor Babbitt as Secretary of the Interior.

I wish to add a few remarks of enthusiastic support for this nomination. Having met and talked with Secretary Babbitt, I believe him to be an excellent choice for the position of Secretary of the Interior.

The new Secretary will oversee an agency that has a direct and critical impact on my home State of Montana.

Montanans use the public domain to graze their livestock; we actively explore and develop the mineral resource on public lands; and we utilize the timber that grows in the national forests.

Montanans also care deeply about the land. We are concerned about the continued viability of threatened and endangered species, and we firmly believe that no one public resource should be exploited.

As Secretary of the Interior, Secretary Babbitt has the responsibility of balancing these many competing interests existing on our public lands. He must be a champion of responsible mining, grazing, and timber extracting. At the same time, he must also advocate conservation, preservation, and recreation.

This can all be summed up in one word: balance. Balancing competing—but not necessarily mutually exclusive—uses is difficult at best. After speaking with Secretary Babbitt, however, I believe he is up to the challenge.

The knowledge and thoughtfulness on these many issues that Secretary Babbitt so clearly possesses will be of great use to him in his new position. I am confident that Secretary Babbitt is a superb choice for Secretary of the Interior. I look forward to working with him.

SOMALI RELIEF EFFORTS

Ms. MIKULSKI. Mr. President, on January 6 the Baltimore Sun published an op-ed piece on Somali relief efforts, by Dr. Robert S. Lawrence of the Rockefeller Foundation.

Dr. Lawrence points out that 80 to 90 percent of world refugees are women and that the refugee programs that work best are those which are designed for and by women refugees.

This is a lesson which can be applied not just to refugee programs but to many other development efforts.

I ask unanimous consent that this article be printed in the RECORD at this point.

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

[From the Baltimore Sun, Jan. 6, 1993]

THE KEY TO RELIEF IN SOMALIA: WOMEN

(By Robert S. Lawrence)

Watch carefully the television pictures tonight of refugees in Somalia and you'll notice something interesting: A large majority of them are women, together with children and the elderly. These groups account for a disproportionate share of Somalia's refugees.

This is nothing new. Women typically account for between 80 percent and 90 percent of refugee populations. Now, as American troops establish operations throughout Somalia, they need to apply a lesson learned painfully in other relief situations. For their efforts to succeed, they must work closely with local women.

Doing so is not always easy, especially in cultures where men expect women to be deferential. But experience in the world's trouble spots shows it is nearly impossible to make relief operations successful without involving local women at every turn.

I recently chaired a conference organized by the Institute of Medicine of the National Academy of Sciences that examined the special health-care needs of women refugees. Experts at the meeting agreed that the best way to ensure that the refugees actually get food is to put women in charge of distributing it. When men are given this responsibility, there is a much greater chance the supplies will be diverted to military forces.

The food itself must be prepared with women in mind. Food that is sufficiently nutritious for men may be inadequate for pregnant and lactating women, and for their children. Meals must offer ample amounts of protein, calcium, iron and vitamins. While any food is better than no food, long-term feeding programs should try to include fruits and vegetables.

Relief workers and refugee women also must be able to prepare the food properly under difficult conditions. Experienced relief workers speak of "crazy beans" that often are donated for refugees. These beans must be cooked an entire day. They are useless and a cruel hoax for refugee women who lack water, firewood and cooking implements.

Refugee women usually take the lead in caring for everyone else, especially for children and the elderly. But first the women themselves must be physically and mentally up to the task. A woman who is seriously ill or too overwrought by grief to function cannot care for herself, much less for anyone else.

So basic health services are essential for refugee women, and they must be provided in a way that accommodates the women's daily routines and religious beliefs. Women may not take advantage of a health clinic if it is far from where they gather water, cook food and perform other chores. They also may stay away if the center is staffed only with men. The need for female health-care providers is especially acute in Muslim countries such as Somalia.

Mental-health problems are less obvious than starvation, but refugee women often need mental-health services urgently. In Bosnia, some young women refugees were held captive by soldiers and raped repeatedly for weeks at a time before being released. Others witnessed the capture or murder of their husbands, brothers and children. Some of these women, understandably, are now incapacitated by depression. They need help.

Many relief workers already know from long experience how important it is to give

local women a prominent role in relief operations. The United Nations High Commissioner for Refugees has initiated a promising program, called "People in Planning," that encourages relief workers to study the traditional gender roles of refugees and to incorporate this information in their plans.

The United Nations and private relief organizations cannot assist refugees, however, unless they have been invited by the host country. With few exceptions, the country is run by men and the situation has degenerated so badly that "women's concerns" are dismissed as dispensable while lives are at risk. That view is common but wrong.

The power of host-country authorities can be seen in Bosnia, where a million people need international assistance to survive the harsh winter. Relief workers there are operating under tight constraints imposed by local officials, just as they did in similar situations in Thailand, Hong Kong, Jordan, Honduras and elsewhere.

All Americans can take pride in the bravery and compassion shown by our forces in Somalia. But the lesson of other refugee situations is clear. To accomplish the most good, we must work closely with the local experts: women.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,175,229,095,992.95 as of the close of business on Friday, January 22, 1993.

Anybody even remotely familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

Mr. President, on a per capita basis, every man, woman, and child in America owes a debt of $16,254.95, thanks to the big spenders in Congress for the past half-century. Merely paying the annual interest on this massive debt amounts to an average of $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 an average of $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

NOMINATION OF BRUCE BABBITT TO BE SECRETARY OF THE INTERIOR

Mr. MITCHELL. Mr. President, I was pleased to support the nomination of Bruce Babbitt to be Secretary of the Interior. His training as a geologist, his knowledge of natural resources issues, and his experience as attorney general and Governor of Arizona make Governor Babbitt well qualified to head the Department of the Interior.

The Secretary of the Interior is charged with the protecting and ensuring the sustainable development of much of this Nation's natural resources. The Secretary is responsible for protecting this Nation's threatened and endangered species; for conserving nearly 91 million acres in this country's 485 national wildlife refuges; for preserving the scenic, cultural, and natural resources of our National Park System; for soundly managing over 270 million acres of public lands in the Western States; and for fulfilling the trust responsibility of the United States to native Americans.

The demands placed on our Nation's natural resources and the challenges facing the Department of the Interior are unprecedented. More than ever, America's rich natural heritage needs sound stewardship so that it will be available for future generations to use and enjoy. I am confident that Governor Babbitt has the knowledge, experience, and leadership to provide that stewardship. I strongly supported his nomination.

TRIBUTE TO HAM WILSON

Mr. HEFLIN. Mr. President, Ham Wilson recently retired from his position as government affairs director at Alabama's largest institution of higher education, Auburn University. He served as the school's chief lobbyist beginning in 1985, when former president, James E. Martin, established the position to ensure a permanent presence for Auburn at the Alabama State House. Prior to that, he earned a great reputation statewide as the chief executive officer of the Alabama Cattlemen's Association.

I ask unanimous consent that an article from the Montgomery Advertiser on the life and career of Ham Wilson be included in the RECORD at the conclusion of my remarks. At a time when the term "lobbyist" has come to evoke such unkind sentiments from some members of the public, Ham Wilson's story offers a positive inside view of the business at the State level. I commend it to my colleagues, congratulate Ham for a job well done, and wish him all the best for a happy, healthy retirement.

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

AU SAYS GOODBYE TO SMILING LOBBYIST

(By Mary Orndorff)

Former Gov. John Patterson recalled recently how his old friend Ham Wilson coaxed him into the cattle business, starting with one angus heifer.

Then Mr. Wilson followed up the deal by lobbying him with visions of expansion.

"And then I found myself up to my ears in cows," said former Gov. Patterson, now the proud owner of about 30 brood cows and a bull at a farm in Tallapoosa County.

Through the terms of eight governors, two Auburn University presidents and bushels of legislators, E. Hamilton "Ham Wilson roamed the halls outside the chambers of the Alabama Legislature, talking beef and budgets. Now, more than 40 years later, the lobbyist is hanging up his spurs.

First as chief executive officer of the Alabama Cattlemen's Association and most recently as Auburn University's lobbyist, Mr. Wilson became an expert at sowing the financial seed with lawmakers.

And he always made sure the crop came in.

He made his reputation as a lobbyist with the Cattlemen's Association, for whom he built an "almost untouchable" grassroots network, one colleague said. It's said the association rarely sought legislation, but what it had on the books was near sacred.

But, Mr. Wilson said, for all his strong cattle industry ties, his career highlight has been working for the past seven years for the land grant university from which he graduated in 1943.

"I knew they were talking about a full-time lobbyist, but I never had any idea it would be me," Mr. Wilson said in a recent interview at his downtown Montgomery office.

Former Auburn President James E. Martin hired Mr. Wilson in 1985 to establish a permanent Auburn presence at the Alabama State House.

"We knew we needed someone who really understood the system and had worked in the area, and then someone made the comment, 'That sounds exactly like Ham Wilson,'" Dr. Martin said recently.

So what did a Greenville native, World War II veteran and former executive vice president of the nation's largest cattle group have that Auburn wanted?

"I was just one of a kind, if you really want to know," Mr. Wilson said, laughing as he reached to gnaw on a his unlit cigar.

Dr. Martin was a bit more specific.

"He knew people all over the state," the former president said. "Ham" Wilson just doesn't meet a stranger."

Officially known as Auburn's director of governmental affairs, the 71-year-old is retiring today, but no one seems convinced he will disappear completely, even Mr. Wilson himself.

"I'll rest a little bit, and probably help Auburn a little bit until we can get somebody else broken in," Mr. Wilson said of his immediate retirement plans.

Surrounded by walls lined with awards, honors and large framed pictures of the Loveliest Village on the Plains, Mr. Wilson can't help but smile, a characteristic for which he is famous.

The other most common description of Mr. Wilson has nothing to do with the notion of lobbyists sneaking deals in smoky back rooms with handsome gifts to lawmakers.

Former Gov. Patterson, now an Alabama Court of Criminal Appeals judge, described Mr. Wilson as a go-getter and a professional.

They were neighbors in the 1950s, became colleagues in state government and have been friends ever since, Judge Patterson said.

"He is a political person the likes of which rarely comes along. Everyone likes him. He's honest, and you can bank on what he says. That's what makes a good lobbyist," the judge said. "I hate to see him hang it up."

Part of Mr. Wilson's Auburn job was riding the fence surrounding the Special Education

Trust Fund budget, eyeing the one-third share traditionally set aside for higher education.

The annual battle for Alabama universities, colleges and school systems for state funds was his number one and most time-consuming priority.

"Ham is a straight shooter, and if he tells you something, it's the truth", said Henry Hector, executive director of the Alabama Commission of Higher Education. Mr. Wilson is one of several lobbyists who sat down with the commission when creating the funding formulas for higher education.

Dr. Hector recalled a time last year at one such meeting where an error in the formula was spotted that could have cost Auburn millions of dollars, but instead of turning it into a turf battle, Mr. Wilson kept things on the lighter side.

"Ham took it, smiled, and said, 'Here we go again, Auburn contributing to the resources of the state,'" Dr. Hector said.

When Mr. Wilson took the job during the 1985–86 school year, Auburn was appropriated about $72.7 million, plus $12.8 million for Auburn University at Montgomery. In the current budget year, Auburn received almost $129 million, plus $13.2 million for AUM.

The $56.7 million increase during Mr. Wilson's tenure indicates a certain amount of success.

This year, the Auburn system is asking for almost $225 million total, a 58 percent increase.

Fellow lobbyist Bob Geddie of Montgomery said the lobbying business has changed over the years, from Mr. Wilson's "almost untouchable" grass-roots network to a more urban-oriented influence.

Since funding formulas were established for the university budget system, the game also has become more gentlemanly, he said.

But, even with the changes, "(Mr. Wilson) was respected and had a lot of credibility," Mr. Geddie said.

Part of his success was due to preparation and earning the confidence of the legislators, Mr. Wilson said. "That'll get you a long way, but I was kind of lucky—I not only knew the lawmakers, I knew their mamas and daddies."

The legislative bent apparently passed down to Mr. Wilson's namesake, Ham Wilson Jr., a former legislator and current lobbyist for the Alabama Rural Electric Association and the State Troopers Association.

"He was always talking about the legislature. It was a part of our growing up," the younger Mr. Wilson said recently. "He was more than a lobbyist, he was personal friends with the legislators and had long-term relationships with those folks."

When asked how his father—who always looks forward to getting up in the morning for work—will handle retirement, his namesake said, laughing, "He won't."

Mr. Wilson and his wife of 45 years, Louise, have one daughter, Nancy. She is owner and operator of Nancy Blount Inc., a women's clothing store on Zelda Road. Her husband, Bill Blount, is chairman of the Alabama Democratic Party.

State Rep. Taylor Harper, D-Grand Bay, chairman of the House Ways and Means Committee describes the lobbyist as an optimum gentleman.

"He just knows everybody. He has a way about him, and he always watched out for Auburn without reservation," Rep. Harper said.

In appreciation for that unwavering support of Auburn and his work with the Cattlemen's Association, the 500-seat livestock arena at Auburn's main campus was named for him.

Auburn President William V. Muse's seven-member search committee is meeting but probably won't have a new director until after the first of the year.

"Because of the increasing complexity of legislative issues, especially in budgetary matters and higher education, we have been fortunate to have Ham Wilson representing Auburn's interests in Montgomery," Dr. Muse said. "He will be sorely missed."

TRIBUTE TO JAY W. MURPHY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Jay W. Murphy, one of the Nation's leading labor arbitrators and teachers of labor law, who died on December 16. Jay was a resident of Tuscaloosa, AL, where he had served on the faculty of the University of Alabama School of Law for 34 years beginning in 1947. Upon his retirement, he became a full-time arbitrator and mediator, and throughout his career arbitrated cases in industries ranging from agriculture to textiles, shipbuilding, health care, and transportation. At the time of his death at the robust age of 81, Jay was in the midst of arbitrating a case involving a Tennessee firm.

Jay was very much in demand as a problem solver because he was so well known for his fairness, ability to reach a just solution, zest for life, wide-ranging interests, an engaging personality complete with a self-effacing sense of humor, compassion, intelligence, and warmth. And those are only a few of the many positive accolades attributed to him by the scores of friends and associates he leaves behind. I think someone put it best, albeit simply, by saying Jay was a man of great character in a characterless time.

Jay Murphy was born in 1911 in rural Illinois, joined the merchant marine as a youngster, and earned his bachelor's degree from the University of Illinois. He later took his two law degrees at George Washington University here in the Capital. While at GW, he worked as a research analyst for the Civilian Foreign Intelligence Agency before joining the University of Alabama as an associate professor of law. During his tenure at Alabama, he spent some time abroad. He and his wife, Alberta Brown Murphy, served as visiting lecturers at the Seoul National University, helping to establish the institution's graduate school of law. While in Korea, the couple authored two books, "Legal Education in a Developing Nation" and "Legal Professions in Korea."

As a professor, Jay taught the Constitution as a living instrument that guaranteed rights, including equal rights, and free expression to students who came from a culture in which the Constitution only applied to some. His ideas were thought provoking and challenging, but his manner and style were so open that it was very difficult for those opposing his views to confront him directly. He and Alberta were well-known civil rights activists dating back to the early 1960's. Jay authored numerous law review articles on issues of civil rights and constitutional law, and was a member of the Alabama Advisory Board of the U.S. Civil Rights Commission and one of the first directors of Tuscaloosa's ACLU chapter.

Jay's interests were always wide ranging, and included biology, ecology, astronomy. He was particularly interested in some of the deep philosophical concepts originating from astronomy. He was an avid reader, not only of material within his own areas of expertise, but in fields such as science, literature, and history as well. He was a true liberal thinker in the very best sense of the term—innovative, open minded, unbound by convention, and totally committed to individual liberty for all under the Constitution. I don't think anyone who knew him would disagree with the statement that he was one of the truly delightful human beings on Earth.

Mr. President, I extend my very best to Alberta Brown Murphy and her family in the loss of their uncommonly revered loved one, Jay Murphy. His legacy and memory will always be cherished by the many of us fortunate enough to have known him.

TRIBUTE TO REPRESENTATIVE JOHN L. BUSKEY

Mr. HEFLIN. Mr. President, the people of Alabama were saddened early in December by the tragic and untimely death of one of its outstanding State legislators, Representative John L. Buskey. Representative Buskey, a Democrat, had been a member of the Alabama House of Representatives since 1983, serving the voters of north and west Montgomery.

In addition to his legislative duties, Representative Buskey was a member of the American Library Association, the Montgomery Area United Way, and the Alabama Democratic Conference. He was also on the council of deans and the Alabama State University faculty senate. He had served as director of that university's Levi Watkins Library and Learning Resources Center since 1977. The late lawmaker, who held academic degrees from both Alabama State and Atlanta University, was a moderator of the First Congregation Christian Church in Montgomery.

Upon Representative Buskey's death, Alabama House Speaker Jimmy Clark remarked that his long-time colleague was always eager to listen and learn, a soft-spoken man who always greeted others with a smile and a firm handshake. As a testament to this observation, Representative Buskey had only recently been named vice chairman of the National Conference of State Legislature's redistricting committee—an

appointment appropriately deemed the highest honor given to an Alabama legislator during the last 30 years. I know he will be missed by all those associated with State government in my home State.

Mr. President, I ask unanimous consent that an editorial printed in the December 6, 1992, edition of the Montgomery Advertiser commenting on the life and work of Representative John Buskey appear in the RECORD following my remarks. I extend my sincerest condolences to John's wife Essie and her family in the wake of their tremendous loss.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Montgomery (AL) Advertiser, Dec. 6, 1992]

ALWAYS RESPECTED: STATE WILL MISS REPRESENTATIVE JOHN BUSKEY

They did not always agree with him, but state Rep. John L. Buskey of Montgomery had the respect of the members of the Alabama Legislature.

After Rep. Buskey's tragic death Thursday in what police call a "domestic incident" at his home, a wide range of fellow House members praised the Montgomery Democrat.

House Speaker Jimmy Clark said Rep. Buskey was involved in almost every important project in the House of Representatives. "He was a well-rounded person and he always had something to offer," said Speaker Clark. "He was even-tempered and always helped when we got in a bog."

A House maverick and close friend of Rep. Buskey since college days, Rep. Alvin Holmes called him a "great legislator . . . able to get things done there when others couldn't because he would work quietly behind the scenes."

A reporter who covered the Montgomery legislative delegation in the early '80s remembers Buskey as a quiet lawmaker who worked at his House duties, but always had time to explain a vote or parliamentary procedure.

He went to the Legislature in 1983, filling a vacancy left when Rep. Charles Langford moved to the state Senate. In 1986 he faced opposition from black Democratic and white Republican opponents and handily defeated both.

Buskey's loyalties were intense. He stuck with college chum Joe Reed's Alabama Democratic Conference, splitting politically but amicably with his brother James of Mobile—also a state representative—when James became a member of the rival Alabama New South Coalition.

Reed, Rep. Buskey's neighbor, one of the first on the scene after the shooting, called him his best friend: "We lost a real leader in this state and in this city."

At the time of his death he was among the most powerful members of the Legislature, serving on the Ways and Means, Judiciary and Sunset committees.

Rep. John Buskey worked actively in the Legislature for the interests of his constituents and especially for education, both at the grade school and the college level. He was a consummate gentleman, and like his wife, Essie Buskey, assistant superintendent of education for Montgomery County schools and an Advertiser & Journal Woman of Achievement, he contributed positively to this community in manifold ways.

The Advertiser has been against Rep. Buskey on some issues, but we have been for him on more. But for or against, like his House and Senate colleagues we always respected him.

He will be sorely missed, and we grieve for his dear wife Essie and her family over the whole tragic situation.

MADGE MULLINS WILBANKS' ESSAY

Mr. HEFLIN. Mr. President, shortly after last year's elections, one of my constituents, Madge Mullins Wilbanks, wrote an uplifting essay conveying her views on the importance of voting and how the electoral process is an expression of our unique role as Americans.

Just as most of us were, Ms. Wilbanks, was heartened by the dramatic increase in voter awareness of the participation in the 1992 elections, and eloquently expresses her thoughts on this encouraging development in her essay, published in the November 8 editon of the Clanton Advertiser.

I ask unanimous consent that Ms. Wilbank's piece be included in the RECORD following my remarks. I hope my colleagues enjoy it as much as I did.

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

WRITER IS ENCOURAGED BY HEAVY TURNOUT IN ELECTION

(By Madge Mullins Wilbanks)

At the signing of the Declaration of Independence in Philadelphia, Pennsylvania, on July 4, 1776, one of the famed founding fathers of this nation said, "We must all hang together, or assuredly we shall all hang separately." This signer of the declaration that proclaimed the right of the early patriots was Benjamin Franklin (1706–1790), a man who along with the other early patriots as Jefferson, Washington, Adams, Madison, Hamilton, Patrick Henry and hundreds of thousands of fellow patriots knew the mandated necessity of togetherness in pulling the colonies into a union, into a togetherness in which they would find an abiding strength and courage for the task ahead of forging a new nation. Whether or not these extremely wise and patriotic patriots knew how their beloved colonies would grow into the greatest and largest democracy in the world may never be known but, as stated, they were very wise men who believed in their cause of liberty, of freedom, and that these must be found through a forged bond of togetherness.

In reading history and in learning of the tales of that early American era when the United States was so very young, there is an overpowering and all consuming excitement of patriots working together for a common cause, in pulling together at all cost for the well-being of accomplishments that would enhance the small beginnings of that earliest of times into a future of which they and their following generations could ever be proud. There was a courage that was bright and glaring as a shining star to guide the pioneer spirit of those early days into the coming together of a nation whose greatness is without limit and where every possible dream for every early patriot, early pioneers, and generations to follow could be fulfilled.

As freedom was gained in 1783 and again in 1812 and through ensuring wars as gallant men and courageous women fought that togetherness of life in the United States of America could prevail there was kindred spirit that could not and would not be allowed to burn out. With freedom ringing loudly, the right to express oneself and the beliefs of oneself openly in free elections gained momentum and the land grew and its people with it until our beloved country was a beacon to all as exemplified by the Statue of Liberty in New York harbor. The cherished right and privilege to vote one's own convictions became precious as countries around the world were observed who lacked this great gift of freedom, this vote for freedom. There was an un-matched thrill of being able to vote for the first time as a young person! There was the immense joy of becoming an American citizen and having the right to vote for the first time!

Then, somewhere along the way of time and years an apathy set in and in far too many cases and in too many passing years the right to vote to lay better claim to the togetherness bred early in this nation became less of a beacon and the light seemed to dim and grow faint. Some people became so lethargic and apathetic that they chose not to exercise the right to vote for which their forebearers had fought—and died—and there was a time of grief for freedom and the togetherness that had made the United States of America the democratic hope of the world.

However, in this election year of 1992 just past something absolutely wonderful happened! You could feel it! The air was singing once again with partiotism and the American people's interest in their country and in exercising their right to vote and determine what they thought would be the best choice for this country was rekindled. It was as if all the old soot on all the antique lamps of yore had been wiped clean with the sparkling magic and all the lights burned brightly once again with the magnificant caring of a people with renewed hope, rekindled interests, and that together this American people, a people from all walks of life and of all races, religions, and creeds, could and WOULD care enough to vote, to express their birthright out of a renewed birth as gargantuan in 1992 as it had been in 1776 and record crowds of Americans flooded the voting places and expressed their renewed belief in their beloved country. Once again they hung together so that they would prevail as in the days of Benjamin Franklin when the country was just beginning.

It would seem the magical spell has been cast and that togetherness even in this modern world of brilliance of technology can still and, most humbly and gratefully, appreciate the one after one individuality that welded together will forever remain the hope of the world and the brightly shining beacon to lighten a path of courage and of strength and of character of faith to reach to the darkest corner on the face of this earth. As Thomas Wolfe, the famed Southern writer of Asheville, North Carolina, spoke so eloquently, "This, Seeker, is the promise of America." An America that turned out to vote its heart out in its belief in its land, its people, its way of life—a life of strength through togetherness and excitement as new beginning even in this late fall of 1992.

TRIBUTE TO FRANK ROGERS

Mr. HEFLIN. Mr. President, I want to take a moment to congratulate and

commend an outstanding law enforcement official in my home State for the totally professional and excellent job he has done for the community he serves. The chief deputy sheriff of Jefferson County, AL, where Birmingham and most of its suburbs are located, for the past 10 years has been Frank Rogers, and he will be retiring this month. His distinguished law enforcement career has spanned 43 incredible years.

Frank is the second-highest ranking officer in the Jefferson County Sheriff's Department. All but a few months of his career have been spent with this department.

Frank also serves as a State legislator, representing much of northwestern and western Jefferson County, including Warrior, Brookside, Graysville, Adamsville, Forestdale, Mulga, Edgewater, and a portion of Gardendale. Prior to his first election in 1990, he was the sheriff's department legislative liaison.

Frank began police work when he was only 21 years of age, joining the Birmingham Police Department as the youngest officer on the force. About 4 months later, he left for the sheriff's department as a radio dispatcher. Having worked his way up through the ranks, in 1973 he helped establish the internal affairs division and was named its commander. Frank has always said that this was one of his favorite accomplishments. He was appointed chief deputy in 1983.

Again, my congratulations to Frank for his many contributions over the decades to the cause of law enforcement. He is an outstanding public servant. I extend my very best to him in all his future endeavors.

JACKSONVILLE STATE UNIVERSITY'S NCAA CHAMPIONSHIP

Mr. HEFLIN. Mr. President, Jacksonville State University's football team, which began playing the sport in 1903, won its first ever National Collegiate Athletic Association Division II National Championship last year. The Gamecocks defeated defending national champion Pittsburg State of Kansas 17–13 in Florence, AL, on December 12. This was an especially gratifying victory for the Jacksonville, AL, school, since it was the final opportunity for them to win the national crown in their present division. The Gamecocks will be moving to Division I–A ranks after a 2-year compliance period beginning this year.

Jax State had played for the national championship in football three times previously, but all three times had come up short. In 1977, under Coach Jim Fuller, the Jaxmen lost to Lehigh 33–0 in the playoffs. Twelve years later, with present coach Bill Burgess at the helm, Jacksonville State dropped a 3–0 title game decision to a Mississippi College team it had defeated rather handily earlier in the year. In 1991, they lost to the Gorillas of Pittsburg State 23–6 in the championship contest. Playing their third title game in the past 4 years, Jax State finally got the monkey off its back by edging the same club in a December game that went down to the wire.

A member of the Gulf South Conference since the league was formed in 1971, Jacksonville State University has won nine conference crowns, more than any other team in league history. The 1992 appearance in the NCAA Division II playoffs was the Gamecock's tenth, which ranks them second only to North Dakota State for the most playoff appearances. In addition, Jax State is the only team to have advanced at least as far as the quarterfinal round in each of the past five seasons. By winning the football championship, Jax State became the only school which has won national championships in the three major college sports—football, basketball, and baseball. The Gamecocks also captured NCAA national crowns in women's gymnastics in 1984 and 1985.

Of course, behind every championship caliber team is an excellent coaching staff, and Bill Burgess of Jax State is a great example. He directed his teams to undefeated regular seasons in 1989 and 1991. Over the last five seasons, Burgess coached teams have compiled an astounding 56–8–1 record. His winning percentage of nearly 73 percent is the best of any of Jax State's football coaches. A Birmingham native, he is a 1963 graduate of Auburn University, where he played for the legendary coach Ralph "Shug" Jordan. He is a three-time Gulf South Conference Coach of the Year, and was recently honored by Kodak and Chevrolet as the NCAA Division II National Coach of the Year.

Mr. President, I am proud to congratulate Coach Burgess and his players on Jacksonville State University's exciting victory and much deserved football championship. Their winning spirit and commitment to friendly but fierce competition are testaments to the outstanding heritage and tradition that is college football in the State of Alabama.

I ask unanimous consent that a proclamation issued by Jacksonville Mayor George Douthit designating December 12–19, 1992, "Coach Bill Burgess and JSU Gamecock Football Week" be printed at this point in the RECORD.

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

OFFICE OF THE MAYOR OF JACKSONVILLE, AL—PROCLAMATION

Whereas, Jacksonville State University Gamecock Football Team has always been a source of pride to our community; and

Whereas, Coach Bill Burgess and the members of his coaching staff have worked diligently and tirelessly to inspire and lead the team in an outstanding season; and

Whereas, the entire Gamecock Football Team has demonstrated a great deal of natural ability, an outstanding spirit of dedication, enthusiasm, and hard work; and

Whereas, the culmination of this has been brought to our attention and to the attention of the nation in the team's achievement of the title of NCAA Division II Champions on Saturday, December 12, 1992;

Now, Therefore, I, George Douthit, Mayor of the City of Jacksonville, as an expression of our appreciation and admiration to the team and coaches for their fine efforts and victories, do hereby proclaim the week of December 12–19, 1992, as "Coach Bill Burgess and JSU Gamecock Football Week" in the City of Jacksonville, Alabama.

TRIBUTE TO DR. CHARLES A. "SCOTTY" McCALLUM

Mr. HEFLIN. Mr. President, the University of Alabama at Birmingham has grown since the 1940's from a small extension center of the University of Alabama to a full- and equal-contributing partner in the three-campus system. Just last year, in its annual ranking of American colleges and universities, U.S. News & World Report named UAB the top up and coming universities in the country. The medical school and hospitals located here have for many years now enjoyed reputation as among the finest in the world.

To a large degree, the rapid growth and phenomenal success of the urban campus of nearly 20,000 students are the direct results of a gentleman named Charles A. "Scotty" McCallum. On June 30, 1993, Dr. McCallum will relinquish his title as president of UAB after a 41-year career that began with an internship at University Hospital. Undeniably, Scotty has made a permanent, positive impact on the life of this university and the State of Alabama. As the chancellor of the University of Alabama system, Dr. Philip Austin, put it upon the announcement of the upcoming retirement, Scotty has guided UAB to international prominence in medical research while building upon its position as a first-class academic institution.

It is widely known that UAB is Alabama's largest one-location employer, with an economic impact on the area exceeding $1.5 billion. Between 1987 and 1992, UAB's annual revenues increased about 75 percent. One of the first challenges facing Scotty when he became president in 1987 was to complete the institution's first major fundraising campaign. Completed in 1989, that drive raised $67 million against a goal of $55 million. UAB's endowment is now $90 million, compared to $40 million 6 years ago.

The institution now ranks among the top 35 universities in the Nation in Federal funding for research and development, with more externally funded research done here than at all other State-supported universities in Alabama combined. During Scotty's tenure, enrollment at UAB grew 17 percent in the face of declining numbers of high school graduates and a general level of

decreasing enrollment at many institutions of higher education. He made increasing both the quality and diversity of the student population at UAB and enhancing its role in community development top priorities of his term as president.

Charles McCallum took his D.M.D. degree in 1951 from the Tufts University School of Medicine. He first went to UAB that same year for his internship-residency in oral surgery at University Hospital and Hillman clinic. Six years later, he earned his M.D. degree from the University of Alabama School of Medicine. He completed his training at UAB as an intern and resident before being appointed to the faculty in 1958 as an instructor in the Department of Oral Surgery. He rose through the faculty ranks to professor of dentistry and served as chairman of the Department of Oral Surgery from 1958 through 1965, and as dean of the School of Dentistry from 1962 until 1977. He was vice president for health affairs and director of the medical center for 10 years beginning in 1977. He was named acting president in 1986 and president the next year, succeeding Dr. S. Richardson Hill as UAB's third president.

As an oral and maxillofacial surgeon and as an administrator with broad experience in health and higher education, Scotty McCallum is often sought by interested national and international groups for his advice and counsel relating to his various fields of knowledge. He is a former president of the American Association of Dental Schools, among several other professional medical associations. His national assignments have included service on the National Advisory Dental Research Council of the National Institute of Dental Research and on the American Dental Association's Council on Dental Education and Commission on Accreditation. In spite of extensive commitments to his profession and to administration, Scotty still participates actively in teaching and patient care. Amazingly, he also found the time to serve successfully last year as general campaign chairman for the United Way of Central Alabama, enjoying a 2-percent increase in pledges. This, at a time when contributions to United Way nationally were down about 2 percent.

Mr. President, we are, indeed, fortunate that Dr. Charles McCallum chose to devote so much of his time, energy, and expertise in the fields of education and medicine to UAB and Alabama. I join all of his friends and colleagues throughout the State in expressing our thanks for an impeccable job, and in wishing him all the best in his future endeavors. We hope that UAB will remain in his agenda for a long time to come.

RETIREMENT OF JANE McMULLAN

Mr. INOUYE. Mr. President, today, I rise to express my deep gratitude and congratulations to Jane McMullan on her retirement after 31 years of service to the U.S. Senate.

Ms. McMullan, born and raised in the State of Georgia, began her service to this body in 1962 as a staff member for the late Senator Richard B. Russell. In 1970, while chairman of the Senate Committee on Appropriations, Senator Russell gave recognition to Ms. McMullan's abilities and rewarded her tireless service by appointing her to the staff of the appropriations Committee.

It was another giant of the Senate, John C. Stennis, who named Jane to the position of professional staff member on the committee. Chairman Stennis had worked closely with Jane and had recognized the untapped potential which she had and which has, ever since, greatly benefited the committee.

Under the leadership of Chairman ROBERT C. BYRD, Jane McMullan has served a committee which has faced increasingly difficult challenges. Chairman BYRD has turned to her frequently for advice and counsel on defense spending issues. During my time as chairman of the Subcommittee on Defense Appropriations, Jane has had weighty responsibilities. She has been the professional staff member who had the action on some of the most challenging issues to come before the subcommittee. Her responsibilities included the review of military personnel, health, and quality of life issues and virtually all of the programs involving the National Guard and Reserve components of our military force.

Mr. President, as chairman of the Defense Appropriations Subcommittee, I will miss Jane McMullan's good counsel and seasoned judgment. I know my colleagues will also feel a great loss. Indeed, I believe that with the retirement of Ms. McMullan, the Senate itself loses an irreplaceable wealth of institutional memory and knowledge. This Senate—its character and its history—has been shaped by the loyalty, respect, and hard work of people such as Jane McMullan.

I wish Jane all the best and I hope she fully enjoys a well deserved rest, although I expect I will have to call her whenever a problem in the CHAMPUS Program arises.

Mr. President, I know all of my colleagues join me in wishing Jane McMullan the very best in the years to come. We thank her for her many years of distinguished service.

REGARDING RECYCLED PAPER SYMBOL

Mr. FORD. Mr. President, I would like to point out to my colleagues that the first issue of the CONGRESSIONAL RECORD for the 103d Congress which was received Wednesday, January 6, bears the universal recycled paper symbol and a legend indicating that it is "printed on recycled paper containing 100 percent postconsumer waste."

I think we have every reason to be proud that the daily record of our proceedings is being printed on paper that is composed entirely of material recovered from the waste stream.

I would encourage my colleagues who are utilizing recycled papers for their hearings and correspondence to utilize this same symbol with an appropriate description of the percentage of its recycled content.

TRIBUTE TO OSCAR ANDERSON, JR.

Mr. HATFIELD. Mr. President, during my years in public service, I have been privileged to travel through just about every community in Oregon. These cities and communities differ in size, geography, and climate, but they all share one thing in common: In each one, you can find people who are there when their community and their neighbors need them.

In Reedsport, OR, one of those people was Oscar Anderson, Jr. Oscar passed away on December 21, 1992, and I wanted to take a minute to pay tribute to this outstanding civic leader.

Oscar lived in Reedsport most of his life—and, in many ways, his life was the betterment of the Reedsport area. Oscar was a member of the Reedsport Volunteer Fire Department for a remarkable 38 years. Oscar's service to his community also included terms on the Reedsport City Council, the Port of Umpqua Commission, and the Salmon Harbor Management Commission. I have often believed that it is at the local government level where the true day-to-day work of democracy is accomplished.

Oscar served his country in the U.S. Army, and he was very proud of the fact that, as a child, he was in Honolulu on December 7, 1941. Both Oscar and I were privileged to attend the Pearl Harbor 50th anniversary commemoration in December of 1991.

As they remember their loving son, husband, and father, I hope that Oscar's family will take solace in the words of Oliver Wendell Holmes, who said, "To live fully is to be engaged in the passions of one's time."

Oscar Anderson, Jr., lived fully, because through his commitment to his community, his State, and his Nation, he made a difference in the passions of his time.

TRIBUTE TO XUAN CHI DIEP OF CHARLESTON, SC

Mr. THURMOND. Mr. President, I rise today to express regret at the passing of an outstanding citizen of Charleston, SC, Mr. Xuan Chi Diep. Mr.

Diep was a man of character, courage, and compassion, and he will be greatly missed by a large circle of friends and admirers.

Mr. Diep, a native of Vietnam, earned a degree in medieval and renaissance French literature from the Sorbonne, in Paris, and a degree in economics from the University of Paris. He moved to South Carolina in 1971 to teach French at the College of Charleston, and almost overnight became a significant force for good in the Charleston community.

In addition to his academic talents, Mr. Diep was an entrepreneur who enjoyed a great deal of success in the business world. However, even as his responsibilities and interests multiplied, he never forgot the importance of helping others. He became a veritable wellspring of assistance to civic and charitable organizations in the Charleston area, and he was always there with a sympathetic ear and an open pocketbook for those in need.

Mr. Diep took a special interest in the welfare of the Vietnamese community in South Carolina, and he provided assistance to a large number of Vietnamese refugees, ranging from serving as an interpreter to providing cultural information to these new immigrants. In fact, his many acts of kindness earned him the fond nickname of "The Vietnamese Godfather."

In addition to his other activities, Mr. Diep was named honorary French consul in Charleston in 1989. He was a member of the board of directors of the Smithsonian Museum of Natural History, the Gibbes Museum of Art, the Charleston Symphony Orchestra, and the Charleston Interfaith Crisis Ministry, and a number of other organizations benefited from his time and talent.

Mr. President, Xuan Chi Diep brought to South Carolina not only his considerable knowledge and personal resources, but also a well-developed social conscience and a noble and generous spirit. His warmth and kindness, his integrity, and his unfailing respect and love for his adopted country and community endeared him to everyone he met. His death is a tremendous loss to our great State, and we will miss him.

My wife Nancy and I would like to extend our deepest sympathy to Mr. Diep's mother, Mien Nguyen Diep of Paris, France, his brother, Dr. Mong Hung Diep of St. Brieuc, France, and the rest of his fine family. Mr. President, I ask unanimous consent that an editorial from the Charleston Post and Courier be inserted in the RECORD following my remarks.

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

[From the Charleston (SC) Post & Courier, Dec. 17, 1992]

CHI DIEP: A FIGURE TO REMEMBER

Born half a world away in an ill-shadowed land then known as French Indochina, brought up and educated in France and England, Chi Diep was a Charlestonian by choice.

When he died here this week at 55 he had resided in Charleston for nearly 20 years. In that relatively brief span he made more friends than most of us do in a lifetime.

First he taught French literature at the College of Charleston. He later became an entrepreneurial businessman, specializing in placing European capital in American ventures.

Deeply conscious of what he perceived as his duty to his adopted city—the character and beauty of which he never tired of praising—he found time for volunteer work for an impressive list of civic and charitable causes.

He was friend and mentor to scores of refugees from Vietnam less worldly and fortunate than he. He served as French consul in Charleston. His avocations ranged from equestrian sports to cosmopolitan cuisine.

In whatever role, his tri-culturality, a quick and imaginative mind impeccable manners and a gentle sense of humor made him a figure to remember, a friend to value.

He was at once a reminder to our old seaport of its French heritage, and a good-will ambassador bringing better knowledge and understanding of the peoples and prospects of a new day in Southeast Asia.

Both individually and symbolically, he will be missed.

TRIBUTE TO MRS. ESTHER FERGUSON OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I rise today to pay tribute to a wonderful lady who is my dear friend—Mrs. Esther Ferguson of Charleston, SC. Mrs. Ferguson is a woman of character, compassion, and courage, and she has dedicated her life to helping others.

Esther grew up in the Pee Dee town of Hartsville, SC. In her youth, she had to overcome many obstacles, including a learning disability and having to assume much of the responsibility for caring for her family. Although she met each challenge with determination and perseverance, Esther was devastated when she had to drop out of high school after her junior year.

Leaving high school did nothing to diminish Esther's desire to succeed. Realizing the importance of education, she struggled to earn her high school diploma, and went on to earn a bachelor's degree in political science and art history from the University of South Carolina.

After graduating from college, Esther went to work as a researcher for the American Health Foundation in New York City. She lived in New York for some 20 years, putting her talents to work for groups as diverse as the National Organization of Women; the American Philharmonic Orchestra and the Harvard Business School. Yet she always remembered the lessons of her youth and tried to help those in need of assistance.

True to form, Esther even met her future husband, Jim Ferguson, at a drug-abuse agency where they were both working. Following Jim's retirement as chairman of the board and CEO of General Foods, the couple moved to Charleston, SC. Esther immediately became an invaluable part of the community. The Spoleto Festival, the James Island Outreach and the Charleston Symphony Orchestra have all benefited from her efforts on their behalf. She has been politically active and has held many fundraising activities for the Republican Party.

Perhaps Esther's most important contribution has been in the area of education. In 1986, she put her first-hand knowledge of hardship to work by founding the National Dropout Prevention Center at Clemson University, a program dedicated to helping at-risk youths complete high school.

The program is in place in 400 schools throughout the Nation, and has helped countless students to succeed. Town and Country magazine recently recognized Esther's contributions by presenting her with their Generous American Award, and I would like to join them in commending Esther for her many accomplishments on behalf of others. By the way, the former high-school dropout is now the proud possessor of three honorary doctorates.

Mr. President, Esther Ferguson is a lovely and gracious lady, who has devoted herself to making this world a better place. As the many who have benefited from her generosity will agree, she has succeeded in helping humanity in many ways. We are proud to claim Esther as a South Carolinian and glad to have her resume her residency in her native State.

THE LIFE OF THURGOOD MARSHALL

Mrs. BOXER. Mr. President, the Nation lost a titan in 20th-century American history when Thurgood Marshall died. Even before President Lyndon Johnson appointed him to our Nation's highest Court, Thurgood Marshall had distinguished himself as Solicitor General of the United States and as a judge on the U.S. Court of Appeals for the Second Circuit. But even before he became one of only a handful of African-Americans on the Federal bench, Marshall distinguished himself as the head of the NAACP legal Defense and Educational Fund by patiently laying the legal groundwork that eventually resulted in the seminal Brown versus Board of Education Supreme Court decision.

Anyone who has read the accounts of Thurgood Marshall's career knows that he literally put his life on the line as an NAACP attorney. Even before a trial would take place, Marshall often traveled to the hometowns of his plaintiffs as a way of thanking them and ac-

knowledging the risk they assumed in legally challenging Jim Crow. By definition, his job with the NAACP placed him within reach of those who would do him harm; but he also never forgot that the brave people who chose to participate in the struggle for equality would have to continue living under the authority they challenged. For many people, particularly African-Americans, Thurgood Marshall was the very embodiment of the NAACP. For many others, he represented the finest in the legal profession.

Thurgood Marshall was not simply a witness to history, he was a part of it. He helped shape it. We would be in error if we only thought he fought for African-Americans. Thurgood Marshall helped strengthen the civil liberties of all Americans. His work was critical to the liberties all Americans enjoy today. He would want us to remember that we must not only fight to create change but that we must fight to maintain it as well.

One can only imagine how much the world he saw as a little boy growing up in the Baltimore of 1908 had changed by the time he stepped down from the Supreme Court of 1991. A large part of that change has his signature on it. I think we can confidently say that Thurgood Marshall, to use his words, "Did what he could with what he had."

TRIBUTE TO RALPH ORMS

Mr. MCCONNELL. Mr. President, I rise today to express my sadness over the recent loss of an outstanding Kentuckian who passed away during our extended recess, and to remember his many contributions. Ralph Orms served his State and community tirelessly in his position as the long time president of the Kentucky Fraternal Order of Police and as a sergeant in Louisville's police force. He was a devoted family man, a loyal friend, and an extraordinary law enforcement official. Mr. President, in memory of my friend Ralph Orms, please insert my remarks from his memorial service. Also insert the remarks by Ralph's childhood buddy and my friend of long standing Mike McDaniel into the CONGRESSIONAL RECORD.

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

REMEMBERING RALPH

Ralph Orms and I first became friends in the fall of 1956. We were classmates in Mrs. Bloyd's fifth grade at Hazelwood Elementary School. The Dodgers were in Brooklyn and Ike was in the White House.

We were both products of a working class neighborhood, and by the time we were nine years old, most of our teachers had relegated us to factory work.

It was in elementary school that Ralph learned an important lesson: he would combine an Alfalfa-like smile with the ability to ask questions for which he already knew the answer. Thus he charmed our teachers, and they in turn made deals with us. They graded us on esoteric scales such as our abilities not to complain about squaredancing on Fridays and our abilities to make chromatic murals depicting a unit of study. Ralph was a master at both.

At Hazelwood Baptist Church Ralph learned to quote scripture, and we all know he did this well.

In junior high Ralph learned to become a tough negotiator. Being a Yankee fan, (I worshipped the Dodgers) Ralph was unflinching in his resolve not to trade his Mickey Mantle baseball card for less than 30 common players.

At Beechmont Little League Ralph learned to be competitive. And he WAS competitive.

While at Manual High School, an institution he revered. Ralph decided a paper route and a 1956 Chevrolet were high priority issues, and so he traded his innocence and his childhood fantasy of playing for the Yankees. In exchange he received the credo his father Woody had taught him—that a law enforcement officer not only must provide for his family but must strive constantly to improve the policeman's lot in life. To this end Ralph not only marched in that parade, as Mark Twain once said, he carried a banner.

And so I was closest to Ralph when we reveled in the glory of youth, before baseball admitted it was a business, before a woman became his best friend, before a president was assassinated, before the summer became oppressive, and before work became an obsession.

What then is Ralph's legacy? To the police fraternity he loved so well, the answer is obvious. He set a standard of professionalism upon which only people of HIS stature will be able to improve.

To his sons, I offer this simple fact: your father crammed 80 years of living into 46.

To Brian, who is quite a writer, and who may earn his living that way, I ask you to research your father's life. I promise you therein lie the elements of an American novel.

To Chuck, who was named after his father's favorite ballplayer, and who plans a career in marketing, I ask you to consider that your father had a gift for building consensus and for selling ideas. I promise you that you have inherited this gift. Use it to your advantage.

And to Donna Sue, his sister, I remind you that you are the official keeper of Ralph's secrets (as well as a few of mine). As you tell the stories of our childhood, tell them with humor and with warmth, remembering that to him the past was always precious.

Finally, to all of us who were touched by the life of Ralph Orms, let us never forget that his most special gift to us was the personification of the Kipling ideal: that he talked with crowds and kept his virtue, and he walked with kings and kept the common touch.

MIKE MCDANIEL.

DECEMBER 1, 1992.

MEMORIAL SERVICE FOR CHARLES RALPH ORMS

It is a solemn honor to join with all of you today in remembering the life and spirit of Charles Ralph Orms.

The Book of Proverbs says that, "A man's gift makes room for him, and brings him before great men." Those words are especially appropriate to Ralph Orms' life and remarkable career in law enforcement.

Ralph's special gift was his ability to work with people: to organize them, to bring people together; and get them to do things which Ralph knew would benefit the larger community.

As a result, Ralph accomplished a tremendous amount in a relatively short time. Many give him credit for improving the criminal investigations unit of the Louisville Police Department; and he was one of the leading forces behind Louisville's successful Drug Abuse Resistance Education program, in which police officers counsel students on the dangers of illegal drugs.

But Ralph's special gift with people found its greatest expression in his work with the Fraternal Order of Police. Ralph was a leader on every level of this organization—local, state, and national—and sometimes all three at once.

In this capacity, Ralph dedicated himself to the needs and concerns of his fellow police officers: making sure they received fair and adequate pay for their work; protecting their rights in grievance investigations; and ensuring that police officers' families would be taken care of, should they have to give the ultimate sacrifice.

It is a tribute to Ralph's remarkable gift that he achieved so much success with these goals, despite the hardships of the political process. I had the privilege of working with Ralph on one of his top priorities: a national Police Officers Bill of Rights. We came close to passing it this year, and I will continue to fight for it, in Ralph's memory.

It is also true to say that Ralph's gift with people brought him before great men. You couldn't enter Ralph's office without seeing the personally signed photographs of President George Bush, Vice President Quayle, and Oliver North—all of whom Ralph counted as friends.

But the real VIP's in Ralph's life, aside from his own family, were the men and women on the beat: the "unknown soldiers" who put their lives on the line every day, to defend our streets and homes and families.

General Norman Schwartzkopf said, "It doesn't take a hero to order men into battle. It takes a hero to be one of those men who goes into battle."

Police officers like Sgt. Ralph Orms, and the thousands of others he represented, are that kind of hero, in the very best sense of the word. They are the ones who go into battle, facing death constantly, sacrificing the comforts of family and home for long hours and tough working conditions.

Ralph understood that the battle never really ends for police officers. There are no ticker-tape parades; no heroes' welcomes. For that reason, one of his most cherished projects, achieved this year, was building a Law Enforcement Officer's Memorial in Jefferson County. I'm sure that every time I see that memorial, I'll think of Ralph and all the things he did for his fellow police officers.

In this way, we remember one of the finest of Kentucky's finest, a man with a gift that made room for him and brought him before great men: Sgt. Ralph Orms.

TRIBUTE TO DR. HARON J. BATTLE

Mr. LUGAR. Mr. President, I rise today to pay tribute to Dr. Haron J. Battle, an exemplar Hoosier educator, who touched thousands of lives during his 58 years of devoted service as a teacher, counselor, and community leader in Gary, IN.

Dr. Battle began his remarkable career in 1934 as a junior high school math teacher. After serving in the

Army engineering battalion during World War II, he returned to Gary to work as a guidance counselor, assistant principal, and, in 1965, assistant superintendent of schools. Dr. Battle was appointed to several statewide educational posts and advisory boards, including the Vocational Educational Advisory Board and the Indiana University Northwest Advisory Board. Dr. Battle also developed and implemented several innovative citywide programs to improve the Gary educational system.

Upon his retirement, Dr. Battle dedicated his time to furthering the growth of the Gary Educational Development Foundation, which he helped found in 1975. I have the distinguished honor of visiting Gary's finest high school students each years at the government/economic forum, a successful product of the foundation. Under Dr. Battle's nurturing, the foundation has grown from an initial $28,000 to $1.7 million in assets.

Dr. Battle was selfless in his service to the Gary community. As a result, he was inducted into the Steel City Hall of Fame, and named Sagamore of the Wabash by former Indiana Governor and Secretary of Health and Human Services Otis Bowen. Please join me in saluting this model American citizen, whose presence will be sorely missed by those who will carry on his good work on behalf of the community he called home.

STATEMENT IN SUPPORT OF THE CONFIRMATION OF BRUCE BABBITT FOR SECRETARY OF THE INTERIOR

Mr. DECONCINI. Mr. President, I rise today in strong support of the confirmation of my good friend Bruce Babbitt for Secretary of the Interior. President Clinton made a wise decision in his choice of Bruce Babbitt to head the Department of the Interior, and I commend my colleagues for confirming him so expeditiously.

As a fellow Arizonan and long-time friend, I had the pleasure of introducing Bruce at his confirmation hearing Tuesday, Jan. 19, 1993, before the Committee on Energy and Natural Resources. I said then, and I will say again, how well qualified Bruce is for this particular job. A great deal of territory in the West is composed of public lands under the jurisdiction of the Department of the Interior. This is particularly true in Arizona. Bruce's extensive experience in water and natural resource issues and as Governor of Arizona have prepared him well to be Secretary of the Interior.

Bruce is from a pioneer Arizona family. He was raised in Flagstaff, AZ, where his family built a ranching and trading business dating back to the 1880's. He served the State of Arizona as attorney general from 1974 to 1978 and as Governor from 1978 to 1986. Bruce has a long-standing interest and solid background in natural resources and Indian issues that will greatly aid him as Secretary of the Interior.

Mr. President, Bruce's record as attorney general is an indicator of his tenacity. His determined stance on tough cases earned him a reputation for perseverance. He personally prosecuted the Don Bolles case which was the most widely publicized criminal case in Arizona history.

As Governor of Arizona, he further cemented his impeccable reputation. It was in that office that Bruce achieved his reputation as an effective and thoughtful policymaker. Among his achievements was the enactment of landmark ground water legislation which still serves as a benchmark for other States. One of his strongest attributes is his exceptional ability to bring divergent interests together. During his tenure as Governor, he worked well and effectively with a Republican legislature. He brought all of the parties in Arizona together to negotiate a compromise for the very contentious Orme Dam controversy. This compromise evolved into the plan six component of the central Arizona project. The Orme Dam settlement demonstrates his penchant for getting potential opponents together to work out solutions. President Clinton, as Governor of Arkansas, was known for his ability to solve difficult and drawn-out disputes through negotiation and compromise. Bruce's style of inclusion and mediation fits well with Clinton's philosophy.

Since leaving the governorship in 1986, Bruce has remained active in natural resource and water issues. He because president of the League of Conservation Voters and serves on the board of directors of the Grand Canyon Trust. As a member of that board, he fought for legislation regulating the flows of the Glen Canyon Dam in order to protect the Grand Canyon. A few of my colleagues have expressed concern over Bruce's role with these groups, particularly the League of Conservation Voters. Mr. President, I want to assure every member of this body that as Secretary of the Interior, Bruce will treat all issues before him in a fair and balanced manner. as he emphasized at his confirmation hearing, he will not use his position of Secretary of the Interior to serve any particular group but to serve the interests of the American public.

Bruce Babbitt is an excellent choice to serve as Secretary of the interior. I have no doubt that he will use his stewardship wisely. I applaud my colleagues for concurring with the unanimous recommendation of the Committee on Energy and Natural Resources and confirming Bruce Babbitt.

Mr. President, Arizonans wholeheartedly support the confirmation of Bruce Babbitt as secretary of the Interior. I ask unanimous consent that several articles from Arizona newspapers commending President Clinton's selection of Bruce Babbitt to head the Department of the Interior be printed at this point in the RECORD.

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

[From the Arizona Daily Star, Dec. 27, 1992]

SECRETARY BABBITT: GOOD NEWS FOR INTERIOR, ARIZONA, THE NATION

In picking Bruce Babbitt to be his secretary of the interior, President-elect Clinton didn't merely make Arizonans happy, he found, as he said, "a person perfectly suited" for the job.

Proof of that can be found in Babbitt's hard-won passage of an Arizona water policy that, for the first time, recognized that precious resource as something more than a property right. Babbitt's persistent negotiating skills, and pressure from Interior Secretary Cecil Andrus, who had ground-water reform in Arizona the price of continued funding for the Central Arizona Project, made that legislation possible.

The CAP threat, Arizonans learned later, was something Babbitt and Andrus had together concocted to keep negotiations on track.

The end product is a set of regulations that assures "safe yield," with conservation, importation and reuse replacing water pumped from any of Arizona's threatened aquifers.

Passage of the 1980 ground-water act, midway through Babbitt's first elected term, was his crowning achievement, but by no means his only one.

He governed Arizona well for nine years—a liberal Democrat who gained respect and support from the state's business community and Republican legislative leaders.

His progressive leadership in a traditionally conservative state on issues like welfare, day care, medical care for the indigent and protection of the environment make him a perfect match for the administration about to take office.

In fact, he and Bill Clinton, as charter members of the Democratic Leadership Council, have helped shape each other's thinking on those and other issues.

Environmentalists, angered in the past at the pro-development policies of Interior Secretary James Watt and disappointed in their continuation under Manuel Lujan, are cheering Clinton's choice for Interior.

Babbitt is an avid outdoorsman whose idea of a great vacation is to traverse the Grand Canyon rim to rim. A geologist as well as a lawyer, Babbitt's appreciation of the natural world will be invaluable.

The timber industry, ranchers, and oil and mining interests are nervous. They prefer an Interior Department that favors development, and warn of a "wilderness lockup" by the man who is president of the League of Conservation Voters.

But Bruce Babbitt can be, as Clinton said, "tough enough to stand up to powerful interests, and skillful enough to integrate economic interests."

Arizona has much at stake in Interior Department decisions—its native people and lands, national parks, conservation and reclamation projects. The new secretary won't need to learn about the problems of Grand Canyon air pollution and river scouring, land disputes on the Hopi and Navajo reservations, and payback schedules for the CAP.

That doesn't mean those problems will vanish, only that their solutions will receive fair consideration by someone who knows them intimately.

Bruce Babbitt is a good pick, for Arizona the nation and the global environment.

[From the Phoenix Gazette, Dec. 27, 1992]

BABBITT AT INTERIOR

Given the enormous challenges Arizona faces over the next few years, including the critical financial status of the Central Arizona Project, the state should count itself extremely fortunate with former Gov. Bruce Babbitt as the nation's next Interior secretary.

Obviously, we know and respect him. By general consensus, Babbitt transformed the governor's office from a passive observer of public policy to an activist legislative and policy advocate. His legacy of solid appointments and generally progressive policies remain a standard for his successors.

As the new Interior secretary, Babbitt can't bail out the Central Arizona Project; Arizona must accept a new financial arrangement to salvage its Colorado River allotment. But Babbitt, part of a pioneer Arizona family, a lifelong student of history and an important contributor to the CAP, does offer a sympathetic ear to our state.

Babbitt is steeped in Western water lore and law. He was a force in devising Arizona's landmark Groundwater Management Code. He became a national leader in Western states' land and policy issues.

Many ranching, mining and developer interests are already grim, concerned that he is too much the product of environmental groups that supported his appointment. True enough. Babbitt will have a national constituency now. He will be responsive to the environmental themes that helped lift Bill Clinton to the White House.

But Babbitt has also shown that he is a persistent, patient negotiator. He is, above all, an innovative, far-sighted thinker and serious student of the public interest, able to think about realities 10, 20 or 30 years in advance. That is no small advantage for the man in charge of the federal government's vast holdings.

In the short term, Arizona must confront strong political challenges, especially in Congress, with a delegation relatively junior and not particularly well-positioned to defend frontal assaults on water, Indian land disputes and other issues. If Arizona is to enter into political combat, we're lucky that a native son enjoys the confidence of the commander-in-chief.

[From the Arizona Republic, Dec. 25, 1992]

ARIZONANS ALL IN TUNE ON BABBITT

(By Ed Foster)

Arizona leaders and environmentalists were humming the same tune Thursday; Bruce Babbitt is a heckuva choice to run the U.S. Department of the Interior.

Republicans and Democrats alike said Babbitt's environmental and economic expertise, along with his experience as Arizona's governor, add up to an unbeatable combination.

Sen. Dennis DeConcini, D-Ariz., described Babbitt as "extremely well-qualified."

"This appointment comes at a critical juncture for Arizona," he said.

"The knowledge and experience Bruce Babbitt possesses on water issues will help us resolve the difficult questions we are facing with the Central Arizona project."

Sen. John McCain, R-Ariz., called Babbitt the best possible choice for the job.

"With his knowledge and experience, it can easily be said that Bruce Babbitt is the most qualified individual available to fill this position in the Cabinet," McCain said.

GOP Gov. Fife Symington expressed strong support for Babbitt in an informal meeting with reporters Wednesday. He reiterated that Thursday.

"Bruce's extensive knowledge and experience with land, water, power, conservation and Native American issues will made him an excellent secretary," he said. "Arizona and the West will benefit greatly by having one of its own overseeing the department that impacts us all."

Phoenix Mayor Paul Johnson said that Babbitt "understands the important balance between the environment and jobs."

Rep.-elect Sam Coopersmith, D-Ariz., made the same point, adding, "Bruce Babbitt has developed an appreciation and respect for Native American sovereignty that has been missing from the Interior Department."

Meanwhile the Environmental Defense Fund said Babbitt's commitment to environmentalism is unquestioned.

"His experience in ending smelter pollution in the West will serve the nation well in the Department of Interior," the fund said in a statement. "By selecting Babbitt as secretary of the interior, President-elect Clinton and Vice President-elect Gore are sending a powerful signal about their commitment to economic growth linked to strong environmental protection."

Paul C. Pritchard, president of the National Parks and Conservation Association, called the nomination "a new era in publiclands management."

"We are elated by this appointment," he said. "I can think of no one better qualified to address the serious issues facing the Interior Department."

TRIBUTE TO REV. DAVID KIDD

Mr. SASSER. Mr. President, I rise today in recognition of 20 years of achievement by my good friend in Nashville, TN, the Reverend David Kidd.

David recently celebrated his 20th year as minister of the Hillsboro Presbyterian Church, 5820 Hillsboro Road, Nashville, TN.

David and his wife, Pam, arrived in Nashville from the hills of Kentucky in 1972. He came to a church with some 50 members. Since that time, David has built Hillsboro Presbyterian into a thriving church with more than 550 members supporting 30 outreach programs locally, nationally, and internationally.

David and Pam Kidd have been as active in their community as they have in their church.

I count them among my closest of friends and I hope my colleagues in the Senate will join me in congratulating David Kidd on 20 years of service to the Hillsboro Presbyterian Church and wishing him all the best in the years ahead.

AUDREY HEPBURN

Mr. KENNEDY. Mr. President, last week, the world lost a great movie star and a great advocate for the world's children with the death of Audrey Hepburn. Ms. Hepburn will be remembered for her brilliant career in films, and she will also be remembered for her tireless commitment to children in recent years as a UNICEF Goodwill Ambassador. Just months before her death, she was working in Somalia to bring attention and assistance to the suffering children of that war-ravaged nation.

UNICEF's executive director, James P. Grant, spoke for all of us when he said:

> Audrey Hepburn's passing is a painful and irreplaceable loss for her family and friends, for children everywhere and for UNICEF, the organization to which she devoted so much time in the last four years of her life. Moved by a profound love of children, she set repeatedly aside the comforts of home to visit some of the most deprived and often forgotten people of this planet, for whom she became an effective voice. Her eloquent and deeply moving appeals on their behalf helped raise not only funds but the conscience of the world community.

DOUBLE STANDARD AGAINST ISRAEL

Mr. MOYNIHAN. Mr. President, the members of the international community must decide whether they want the United Nations to be an organization of law or prefer to use it as a vehicle for pursuing an all but lawless vendetta against Israel regardless of the requirements of the charter. There is talk of seeking to impose sanctions against Israel because of its temporary expulsion of persons believed to be members of terrorist organizations. Secretary-General Boutrous Ghali has even hinted that there is a double standard when it comes to Israel. In this he is correct, but it is a double standard against Israel, not in its favor.

Mr. President, who proposed that sanctions be imposed against Syria and Jordan when they killed thousands of Palestinians in 1970 and 1971? Who spoke of sanctions when Kuwait permanently—not temporarily as Israel has done—expelled not hundreds, but hundreds of thousands of Palestinians from Kuwait in 1991? Where in the Middle East other than in Israel could the temporary expulsion of persons accused of terrorist ties be appealed to an independent supreme court? What other state in the region would acknowledge that certain persons were expelled in error and readmit them? Why do the other states in the region refuse to permit assistance to reach these Palestinians if not to inflame the situation? Who speaks of adopting a Security Council resolution condemning the terrorist murders perpetrated by extremist Palestinian groups as a threat to peace? Clearly there is a double standard—one against the only democracy in the Middle East.

Simply put, Mr. President, there is no legal case for sanctions against Israel under the U.N. Charter. The cavalier analogies being made between the temporary expulsions of 400 Palestinians and the situations in Bosnia and Iraq are so absurd that they raise the question of the good faith of those who offer them. Iraq invaded a sovereign state. It did not threaten international peace; it committed a breach of international peace. It subsequently slaughtered Kurds and Iraqi Shi'ites in droves, causing a massive panic-stricken exodus of refugees which poured across international borders provoking a severe threat to the peace.

Likewise, in Bosnia a recognized sovereign state has been the subject of a brutal campaign of unimaginable violence which amounts to genocide. To date the international response has been woefully inadequate, but it is beyond peradventure that there is an unassailable legal case for sanctions to be imposed under chapter VII of the U.N. Charter.

There is no comparable case to be made against Israel. Thus, the members of the United Nations must ask themselves, do we want the United Nations to be a forum where the rule of law and the language of the charter prevails, or do they prefer to pursue a vendetta against Israel regardless of the rules of the charter? When the United Nations overwhelmingly revoked the resolution equating Zionism with racism it was a hopeful sign that the former view would prevail, that the law of the charter would be followed. Today, the United Nations faces another test. If its members wish for the charter to have any impact on violent ethnic conflict around the world, they will resist the siren song of those who wish to impose illegal and unjustifiable sanctions on Israel.

RECESS UNTIL 2:15 P.M.

The PRESIDENT pro tempore. Under the order previously entered, the Senate will now stand in recess until the hour of 2:15 p.m. today.

Thereupon, at 12:51 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The senior Senator from North Carolina [Mr. HELMS].

Mr. HELMS. I thank the Chair.

Mr. President, last week I offered a four-pronged package of legislation addressing some of what I believe to be our Nation's most pressing social problems. Specifically, the package included legislation to: First, restore the rights of 1.5 million unborn Americans destroyed every year; second, restore the right of our children to pray voluntarily in schools; third, restore the supremacy of the individual over government-imposed quotas; and, fourth, treat AIDS as a public health issue rather than one of civil or political rights.

Once we turn to the next legislative day, as the Chair well knows, the Senator will find this package of legislation on the Senate Calendar where it will sit, ready for consideration by the Senate at any time.

Today, Mr. President, I intend to offer a second package of legislation, this time addressing some of our other problems facing this Nation and the State of North Carolina.

I will again ask for second reading on much of the package so as to assure that these items will similarly be placed on the Senate Calendar. I am aware that there will be an objection, as there should be.

Specifically, this package includes legislation to: First, help restore the confidence of the American people in their Government by providing a starting point toward reforming the Senate Ethics Committee; second, improve the Federal tax system by replacing the current structure of graduated tax rates and special interest deductions with a flat-rate tax, and by repealing some of the more onerous provisions of the Tax Code; and, third, to redress some longstanding problems North Carolinians who live in Swain County and the Outer Banks region have had with the Federal Government.

I am going to say more about each proposal later, Mr. President, but at this time I ask unanimous consent that a summary of the legislation I am offering today be printed in the RECORD at this point.

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

LEGISLATION INTRODUCED BY SENATOR JESSE HELMS, JANUARY 26, 1993

(1) Reform the Ethics Committee: Adjusts the Senate Select Committee on Ethics' membership to provide that at least two of the members should be retired Federal judges, at least two should be former members of the Senate, and that all six should be private citizens.

(2) Flat Tax: Amends the Internal Revenue Code to replace the current tax system of graduated tax rates and special interest deductions with a 10% flat tax on the earned income of individuals. Also, repeals the income tax on corporations and estate and gift taxes.

(3) Halt Importation of Goods Made By Chinese Slave Labor: Prohibits the importation of Communist Chinese products manufactured with the use of slave labor. Requires all importers of products made in Communist China to certify that the products were not made by slave labor.

(4) Repeal 20% Withholding on IRA's: Repeals the mandatory 20% tax withholding on withdrawals made from IRA's and pensions and offsets any loss to the U.S. Treasury created by the repeal with corresponding reductions in Foreign Aid.

(5) Swain County Settlement: Provides for the full settlement of all claims of Swain County against the United States stemming from a 1943 agreement between Swain County and the Department of the Interior.

(6) Oregon Inlet: Instructs the Department of Interior to issue permits to the Army Corps of Engineers so that jetty construction may begin to stabilize water currents in Oregon inlet.

(7) Eliminate the Requirement that Federal Agencies Purchase Prison Made Goods: Amends the Federal criminal code to prohibit any governmental purchase of furniture and other prison-made products not meeting quality standards required of private sector products.

(8) One Time Tax Exclusion: Amends the Internal Revenue Code of 1986 to permit a taxpayer to quality for the one-time income tax exclusion of gain from the sale of a principal residence even if the taxpayer's spouse already took advantage of the exclusion before marrying the taxpayer.

(9) One Time Tax Exclusion: Provides for a one time exclusion on gains from the sale of a principal residence to help pay for nursing home care.

(10) Service of Process in Bankruptcy Proceedings: Amends rule 7004(b) of the Bankruptcy Rules to require that service of process in a bankruptcy proceeding be accomplished by certified or registered mail in those instances it is made upon a Federally-insured depository institution.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, I send a Senate resolution to the desk and ask it be given a first reading.

The PRESIDENT pro tempore. Is this a Senate resolution or a Senate joint resolution?

Mr. HELMS. It is a Senate resolution.

The PRESIDENT pro tempore. The clerk will read the resolution.

The legislative clerk read as follows:

A resolution to amend Senate Resolution 38 which establishes the Select Committee on Ethics to change the membership of the select committee from Members of the Senate to private citizens.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think it would be safe to wager that the vast majority of Senators agree that a drastic overhaul of the Senate Ethics Committee is——

The PRESIDENT pro tempore. Would the Senator allow the Chair to interrupt him for a moment?

Mr. HELMS. Certainly.

The PRESIDENT pro tempore. Was it the Senator's intention to ask consent that the Senate resolution be considered?

Mr. HELMS. I will do that at this time so it can be objected to.

I ask for a second reading.

The PRESIDENT pro tempore. There is no second reading of a Senate resolution. That was why the Chair asked the distinguished Senator whether or not this was a Senate resolution or a Senate joint resolution.

Mr. HELMS. It is a Senate resolution.

The PRESIDENT pro tempore. So there is no second or third reading of Senate simple resolutions. If they are

objected to they go over on the calendar of motions and resolutions over, unlike joint resolutions where objections may be made to the second reading.

Mr. HELMS. Very well.

The PRESIDENT pro tempore. The time of the Senator from North Carolina has expired.

Mr. HELMS. Mr. President, if there is no other Senator seeking recognition, I ask that I be permitted to proceed.

The PRESIDENT pro tempore. Without objection——

Mr. KENNEDY. Mr. President, I have no objection to proceeding for a short period of time. I did want to make a statement. If it was the desire of the Senator to proceed for a short period of time——

The PRESIDENT pro tempore. May the Chair observe that the Senate is operating during a period for the transaction of morning business with statements permitted therein not to exceed 5 minutes each.

Mr. HELMS. Mr. President, I was intending to consume a little more time than that, but I shall not do that in the interest of other Senators being recognized if they so wish. The distinguished Senator from Massachusetts says he has no objection, but there may be other Senators coming to the floor who might, so therefore I ask only that consent be given to my proceeding for no more than 10 minutes.

The PRESIDENT pro tempore. Is there objection?

The Chair hears no objection. The Senator is recognized for not to exceed 10 minutes.

Mr. HELMS. I thank the Chair and I thank the Senator from Massachusetts.

SENATE ETHICS COMMITTEE

Mr. President, as I had just said moments ago, it would be safe to wager that the vest majority of Senators agree that a drastic overhaul of the Senate Ethics Committee is imperative. I am confident that every Senator who has ever served on that committee is in agreement.

The purpose of the Senate resolution I am offering today is merely to get the ball rolling—to provide a starting point, if you please—toward reforming the Ethics Committee so that there will never be a repeat of the disastrous Keating Five situation that dragged on for months on end and cost the Senate a high degree of public confidence.

Mr. President, I was a member of the Ethics Committee throughout that ordeal, and I certainly imply no criticism of anyone who participated in the Keating Five proceedings. The fault was in the system, not in those who were trying to make the system work.

The Senate resolution which I am offering today is certainly no end-all beall, as the saying goes. It is, as I have said earlier, merely a starting point. It is identical to Senate Resolution 190 which I offered in the 102d Congress.

Mr. President, this resolution simply proposes to adjust the committee's membership of six members to provide that at least two of the members should be retired Federal judges, at least two should be former Members of the Senate, and that all six should be private citizens.

Three of the six members will be selected by the majority leader and three by the minority leader. Each member will serve 6 years, except when initial appointments are made, at which time the terms will be staggered. Committee members will serve without compensation—but will be entitled to reimbursement for travel and per diem expenses in accordance with the rules and regulations of the Senate.

Now, Mr. President, let me emphasize again that this proposal is a starting point, no more, no less. But it is important that we do get started in reforming the Ethics Committee so that there can be an improvement in the manner in which the committee conducts its business.

The American people expect us to use the power entrusted to us for the public good and never for our own benefit or the benefit of a few. Likewise, the American people have a right to expect that Senators who abuse this power will be held accountable for their actions in a swift and just manner.

The Senate Ethics Committee took almost 2 years to consider the Keating matter—it voted to commence its preliminary inquiry on December 21, 1989, and transmitted its report to the Senate on November 19, 1991. Since then, there has been a growing chorus—from all across the political spectrum—calling for reform of the Ethics Committee.

Earlier this month, the Washington Post published an article by Helen Dewar in which she outlines some of the problems of the committee—and some of the proposed solutions. Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, I also ask unanimous consent that the full text of the resolution be printed at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. HELMS. Once more, for the purpose of emphasis, I do not consider this resolution to be the final word. There will be and should be other ideas for reforming the Ethics Committee, ideas that no doubt will enhance and improve upon the suggestions I have made in this resolution.

EXHIBIT 1

[From the Washington Post, Jan. 3, 1993]

SENATE ETHICS PANEL AT A CROSSROADS—PACKWOOD CASE POSES NEW TEST FOR DISCIPLINARY PROCESS

(By Helen Dewar)

It is one of the Senate's most high-profile and prestigious-sounding committees, caught up in the swirl of some of the most compelling issues of the day. But among constituents and legislators, it has become the object of ridicule, scorn, rage and insulting jokes. Senators will do almost anything to avoid serving on the panel; once on it, they have been known to go begging among colleagues in hopes of recruiting others to take their place.

The Senate Select Committee on Ethics, even more than its House counterpart, gets no respect.

There are many senators, as well as outside critics, who believe it never will, unless it is radically overhauled, perhaps even put in the hands of outsiders, such as former senators or retired judges.

As it grapples with complaints that Republican Sen. Bob Packwood of Oregon made unwanted sexual advances to a number of women, the committee finds its collegial, legalistic and secretive ways tested as never before by the public clamor for more integrity, openness and accountability in government.

With the six-member panel having lost its chairman, vice chairman and possibly other members just as it must decide whether to pursue a full-scale probe of Packwood, many believe that change will come sooner rather than later.

Pressure for change has been intensified by the committee's decision last year not to investigate allegations that Democratic Sen. Brock Adams of Washington made improper sexual advances to eight women and its 1987 approval of a business transaction involving Republican Sen. Phil Gramm of Texas that was recently made public in newspaper reports.

The Adams case is moot because he decided not to seek reelection, a circumstance that some members have cited as the main reason the committee decided not to pursue the case. But former ethics chairman Terry Sanford of North Carolina, who was defeated for reelection, is reviewing the Gramm decision. The panel also is weighing a complaint of sexual impropriety against Democratic Sen. Daniel K. Inouye of Hawaii.

"It [the committee] is an institutional dinosaur, and it's only a matter of time before evolution takes its toll," says an influential Democratic senator who may take an active role in reform efforts. "It's only a matter of time before the pressures of the day bring about a real change."

Dissatisfaction with the committee transcends party and ideological lines. "We need to do something to reassure the public we're not a bunch of folks sitting in a back room doing favors for each other," says Sen. Jesse Helms, the conservative North Carolina Republican who served on the panel for the past decade.

Within the Senate, service on the panel is regarded as a kind of legislative purgatory, with its long hours of distasteful work making members feel like nagging nannies and political pariahs. Outside the Senate, the committee is widely portrayed as a sham designed to shield members from their own misdeeds while lulling the public into believing that the institution is policing itself.

Members acknowledge that the panel's high level of secrecy fuels public distrust,

but say it is necessary to protect those who are unfairly accused.

Although the House ethics committee has periodically run into heavy criticism, the House has done more than the Senate to update and strengthen its ethics rules and procedures. Larger and less clubby, the House also seems to reconcile itself more easily to peer review.

Both within and outside the Senate, there is mounting concern that the system, designed in simpler times, is collapsing under new burdens reflecting evolving social values, political practices and ethical standards. In the process, many believe it may be contributing to public cynicism about government in general and Congress in particular.

"It's not that their ethics [are] worse" than those of most citizens, says Dennis Thompson, who specializes in governmental ethics at Harvard University. The ethical behavior of most senators is "probably better. But there is a perception that it's worse, and members of Congress simply don't appreciate how much appearances [of unethical conduct] matter with people."

As a result, some senators believe it may be impossible for them to judge colleagues evenhandedly without further eroding confidence in the institution or capitulating to popular demands for a pound of political flesh, many lawmakers contend.

"Maybe it's an impossible assignment to try to sit in totally dispassionate judgment on people we literally live with," says Republican committee member Trent Lott of Mississippi.

"There are just innumerable things that are wrong with senators judging senators," says Democratic Sen. Howell T. Heflin of Alabama, former chairman of the committee. "You censure someone, and the next day you're seeking their vote. There are just too many inherent problems with senators judging senators."

The verdict from outside the Chamber is even harsher. "With its lack of political will and the general reluctance of people to judge their own peers, the process has not served to enforce the law and has served more as a shield than as a way of upholding the integrity of the institution," says Fred Wertheimer, president of Common Cause.

Once preoccupied by charges of financial misdeeds that drew little attention outside the home states of senators under investigation, the panel is being drawn increasingly into high-profile, emotion-laden controversies involving issues that touch the daily lives of most Americans.

The "Keating Five" case put a human face on the collapse of the savings and loan industry during the late 1980s. The case involved five senators who were accused of intervening improperly with federal regulators in behalf of thrift executive Charles H. Keating Jr. The failure of his Lincoln Savings and Loan cost taxpayers $2.6 billion.

Only Democratic Sen. Alan Cranston of California, who retired at the end of the last Congress, was found guilty of breaking Senate rules and reprimanded by the committee, escaping a more serious censure vote by the Senate. The others—Demoractic Sens. Dennis DeConcini of Arizona, Donald W. Riegle Jr. of Michigan and John Glenn of Ohio and Republican Sen. John McCain of Arizona—were given milder reproaches.

The verdict led to a joke that referred to the government's efforts at the time to apprehend Panamanian Gen. Antonio Manuel Noriega. According to the joke, which spread rapidly through Congress, the good news was that Noriega had been arrested and brought back to the United States. The bad news was that he would be tried by the Senate ethics committee.

But senators say the committee had a duty to resist outside political pressures when they threaten a person's right to due process. "There was no way for the Keating Five case to come out right politically unless all five senators had been expelled," argues former committee vice chairman Warren B. Rudman, a New Hampshire Republican.

Adds Lott: "Your obligation is to the Senate, to the senator and to the public, in that order, and sometimes you cannot fulfill all those obligations."

The Packwood case also touches many public sensitivities.

The Senate Judiciary Committee's handling of Prof. Anita F. Hill's charges of sexual harassment against Clarence Thomas during his Supreme Court confirmation hearings last year hit a nerve that remains raw. Now another harassment case has come before another all-male committee. But that is changing. Democratic Sens. Dianne Feinstein of California and Carol Mosely-Braun of Illinois have been named to Judiciary and sources say at least one woman will be joining the ethics panel.

In light of the Thomas-Hill case, many voters appear skeptical that the case against Packwood will be thoroughly probed. In a recent Washington Post poll of Oregon voters, a plurality said they thought the ethics committee would "sweep the matter under the rug" rather than conduct a full investigation.

In declining to consider the Adams case, the committee relied officially on legal points that do not appear to apply to Packwood. But the committee's customarily heavy reliance on narrow points of law—all members of the current committee are lawyers—raises pertinent and difficult questions.

Among them: Is the committee looking only at legal trees and ignoring the ethical forest? Are senators to be denied due process simply because they are senators? Should they be held responsible for meeting standards that have changed since the offense? Or were the standards always there and only now put into play by an outraged public? And what are the standards, anyway?

Although the Senate has disciplined members since its earliest days, it did not set up an ethics committee until scandal forced it to do so in the mid-1960s; further modifications came after Watergate in the 1970s.

The Senate has a catchall rule banning "improper conduct which may reflect upon the Senate," along with a code of conduct and an encyclopedic collection of ethics rulings. But unlike the House, it has not produced an easy-to-follow manual. "The ethics rules need to be made more specific and codified . . . and continually updated," Heflin says.

The Senate also has set up a procedure for handling complaints about sexual conduct, but it was put into place only last year. New Democratic Sen. Patty Murray of Washington, who helped write a plan for the Washington state Senate that included counseling for senators and their staffs, has suggested a more clearly defined policy for the U.S. Senate, saying it would help senators as well as their employees.

To shield the committee from partisanship, rules call for it to be composed of three Democrats and three Republicans. Generally, the chairman and vice chairman—one from each party—try to act in concert. But the committee sometimes split along partisan lines in dealing with the Keating Five, and the Senate floor often echoed with partisan recriminations.

In one of its most important functions, the ethics committee issues advisory opinions—about 1,000 a year—when members or staff workers are in doubt about a planned course of action. Given the murkiness of Senate rules, advisory opinions are encouraged as a way of avoiding trouble.

But the Gramm case illustrates the limitations of the advisory system. The committee told Gramm he committed to ethical breach when a Texas contractor absorbed what Gramm has described as cost overruns on work done on his Maryland vacation home. Gramm, however, did not tell the committee that he had interceded with federal regulators, albeit routinely, in behalf of another of the contractor's business interest: a failing savings and loan.

Reform proposals aim at two goals: bringing outside influence to bear on the process and spreading the burden of the job.

Common Cause proposes more extensive use of outside counsel. Others, such as Heflin and Rudman, would set up one panel to investigate the facts and another to hear evidence and rule. But among the dozen senators and academics interviewed for this article, most were drawn to the idea of turning the ethics problem over to a panel of outsiders, such as retired judges and former members. Some favored different or rotating panels for each case.

"Frankly, I think there is a growing consensus that we have to do something major . . . and that probably means going outside the Senate," says a senator close to the Democratic leadership.

Others, such as Lott, are not yet convinced. Lott says he questions whether former judges might apply judicial standards too narrowly to legislative work and wonders whether former senators would pose the same problems of partisan bias that sitting senators must wrestle with.

Senate Majority Leader George J. Mitchell of Maine has been discussing the situation with colleagues, one of whom describes him as "very concerned" and anxious that the Senate not appear to be insensitive to its ethics problems.

"We've got to consider options for change because we're going to have more and more situations that prove difficult," especially as the Senate moves to include itself under laws that it applies to everyone else, says Republican Sen. Nancy Landon Kassebaum of Kansas, a former ethics committee member.

"People are watching", notes Murray.

EXHIBIT 2

S. RES. 33

Resolved, That (a) subsection (a) of the first section of Senate Resolution 338, agreed to July 23, 1964 (88th Congress, 2d session), is amended to read as follows: "(a)(1) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to in this resolution as the 'Select Committee') consisting of 6 members all of whom shall be private citizens. Three members of the Select Committee shall be selected by the Majority Leader and 3 shall be selected by the Minority Leader. Each member of the Select Committee shall serve 6 years except that the Majority Leader and the Minority Leader when making their initial appointments shall each designate 1 member to serve only 2 years and 1 member to serve only 4 years.

At least 2 members of the Select Committee shall be retired Federal judges, and at least 2 members of the Select Committee shall be former members of the Senate. Members of the Select Committee may be reappointed.

"(2) The Select Committee shall select a chairman and a vice chairman from among its members.

"(3) Members of the Select Committee shall serve without compensation but shall be entitled to travel and per diem expenses in accordance with the rules and regulations of the Senate.".

(b) Subsection (e) of the first section of Senate Resolution 338 (as referred to in subsection (a)) is repealed.

Mr. HELMS. Mr. President, I am going to try to consolidate a few other pieces of legislation, and let me send en bloc, if the Chair will permit—and I ask unanimous consent that I be permitted to do it—submit en bloc a series of bills and it be considered in my unanimous consent that I have asked for first reading on each.

The PRESIDENT pro tempore. Will the Senator again state his request?

Mr. HELMS. I am sorry; I did not understand.

The PRESIDENT pro tempore. Will the Senator again kindly state his request?

Mr. HELMS. I wish in the interest of time to offer several bills, and it be considered that in offering these bills en bloc, I am also asking that a request be considered to have been made by this Senator for first reading for each.

The PRESIDENT pro tempore. The Chair would inquire first of all, so that the Chair might have a better understanding of what the Senator's intention was in respect to the first simple resolution that was introduced, was it the desire of the Senator from North Carolina that that resolution be referred to a committee?

Mr. HELMS. No, Mr. President. And the question is a good one because I am not sure I stated my intent clearly enough. What I would like to have happen to that particular bill, regardless of what the record may show, is that it be withdrawn and I ask for a first reading.

The PRESIDENT pro tempore. The Chair would state that if indeed that first resolution was a simple resolution, under the rules simple resolutions do not receive three readings. Only joint resolutions receive three readings.

Mr. HELMS. Let me ask them for immediate consideration because as the Chair understands what I want is for the resolution to go on the calendar after the expiration of this legislative day.

The PRESIDENT pro tempore. Very well. If there is an objection, the resolution would go on the Calendar of Motions and Resolutions Over, Under the Rule, which motions and resolutions would be eligible for coming before the Senate at the close of morning business on the next legislative day.

Mr. HELMS. I am assuming that the distinguished Senator from Kentucky will register an objection to a second reading.

The PRESIDENT pro tempore. There is no second reading of a simple resolution. The Senator, I believe, has in mind the operation of rule XIV on joint resolutions and bills, wherein if there is an objection to the second reading, then that bill or resolution goes on—then it goes over for 1 legislative day.

Mr. HELMS. So what the Chair is saying that simply asking for immediate consideration, to which there would be an objection, will accomplish what I want; is that correct?

The PRESIDENT pro tempore. It will put a simple resolution on a different calendar. It puts a simple resolution on the Calendar of Motions and Resolutions Over, Under the Rule, which is a different calendar from the General Calendar.

Mr. HELMS. OK. As the saying goes, I will buy that.

The PRESIDENT pro tempore. Does the Senator make a request?

Mr. HELMS. What does the Chair suggest I do further now?

Mr. FORD. Mr. President, I will just make a unanimous consent that the distinguished Senator's resolution be placed on the Calendar under Resolution and Motions Over, Under the Rule.

The PRESIDENT pro tempore. If the Senator makes a request for immediate consideration, the objection would have an effect.

Mr. FORD. Would it be satisfactory just to go ahead and place it on the calendar?

The PRESIDENT pro tempore. If that is the Senator's request.

Mr. FORD. I make that request, Mr. President.

The PRESIDENT pro tempore. Without objection, the resolution offered by the Senator from North Carolina will go on the Calendar under Motions and Resolutions Over.

Mr. HELMS. I thank the Chair.

Mr. President, may I be recognized?

The PRESIDENT pro tempore. Will the Senator from Kentucky restate his request?

Mr. FORD. I ask unanimous consent that the resolution of the distinguished Senator from North Carolina be placed on the calendar.

The PRESIDENT pro tempore. Without objection, the resolution offered by the Senator from North Carolina [Mr. HELMS] will be placed on the General Orders Calendar.

Mr. FORD. The President is correct.

Mr. HELMS. Mr. President, I thank the able Senator from Kentucky. I will say to him that this is what we get for being on our feet in the Senate when the master Parliamentarian of all time is in the chair. I always learn something from my distinguished friend, who, I might add, is a native of North Carolina. He became a citizen of West Virginia some years later. But we are proud of him in North Carolina as well.

Mr. President, I send to the desk——

The PRESIDENT pro tempore. There is a pending unanimous-consent request before the Senate.

Mr. HELMS. I thought the Chair had already ruled.

The PRESIDENT pro tempore. There is a request by the Senator from North Carolina before the Senate.

Mr. HELMS. Yes, it was proposed earlier in debate.

The PRESIDENT pro tempore. Will the several bills and resolutions be introduced en bloc?

Mr. HELMS. Yes.

The PRESIDENT pro tempore. Will the Senator restate that request?

Mr. HELMS. In that case, rather than go through repeating the entire request, I will go very quickly through my bills.

FLAT TAX

Mr. HELMS. Mr. President, I send to the desk a bill and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the bill for the first time.

The bill was read for the first time.

Mr. HELMS. Mr. President, let me make a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. HELMS. I just sent the bill to the desk, and I believe I asked for first reading. Is the rest of the action on the bill automatic, and if so, what will occur to the bill next?

The PRESIDENT pro tempore. The rest of it is automatic in that the bill will be referred to a committee.

Mr. HELMS. In that case, I ask for second reading.

The PRESIDENT pro tempore. Is there objection to second reading?

Mr. FORD. I object, Mr. President.

The PRESIDENT pro tempore. Objection having been heard, the bill will go over until the next legislative day for the second reading.

Mr. HELMS. Now we are on track, Mr. President. I appreciate his listening.

Mr. President, during my two decades in the Senate, I have made clear my belief that it is imperative for Congress to overhaul the Federal income tax system. The Internal Revenue Code of 1954 is a disaster. It is a burdensome set of laws that is widely regarded—and rightly so—as unfair and unworkable. Politician after politician promises to do something about the Tax Code but nothing ever gets done—except that the taxpayer has less and less of his own money to spend.

Several years ago, I had the privilege of visiting with Jim and Karen Quick a delightful young couple from Greensboro, NC. At that time, Karen was a 12-year veteran of the Internal Revenue Service.

I have spoken before the Senate of Karen's award-winning essay on tax policy entitled "Tax Simplification: Let's Play Flat Ball." To refresh my colleagues' memories, in her essay, Karen compares U.S. tax laws to a frustrating ball game with constantly changing rules and few winners.

"Americans are tired of playing Bracketball," she writes. "One of the most infuriating aspects of 'Bracketball' is the constant movement of the goal line. When the players get near it, the officials move it." The solution she proposes is "a simple, fair, effective game called 'Flatball.'"

Mr. President, I ask unanimous consent that a copy of Karen's essay be printed in the RECORD at the conclusion of my remarks, and I recommend that Senators take the time to read and consider her thoughts.

Mr. President, the convoluted nature of the Nation's tax laws has caused the American people to lose faith in their Government. Most are convinced—and rightly so—that the complexity of the tax laws may be a disguise for unfairness and inequity.

That is why, Mr. President, I had mixed feelings about the Tax Reform Act of 1986. On the one hand, Congress made a significant improvement by lowering the tax rates and reducing the number of brackets. On the other hand, many provisions were included simply to raise revenue in order to keep the bill revenue neutral—changes based neither on logic nor on sound tax policy. The net result left our tax laws even more complicated and created a number of problems for various sectors of the economy.

Mr. President, the key to sustained and vigorous economic growth lies in the adoption of policies aimed at reducing marginal tax rates and stimulating investment in the private sector of our economy. The current tax system offers little hope of attaining these ends. On the contrary, the system we have now tends to penalize productivity and encourage tax evasion.

That is why I have concluded that a flat rate tax is the only fair solution to the problem created by the existing tax system and I am today introducing a 10-percent flat tax bill. The concept is fair. It is proportionate and it will work simply.

This is not a new idea, but it is an idea which can and will be a starting point for a continued comprehensive study of our ever-complex Tax Code. The bill is similar to legislation I offered in the 97th, 100th, 101st, and 102d Congresses.

First, my bill would eliminate the income tax on corporations. Congress must recognize the economic reality that corporations don't pay taxes—people do. Corporations simply pass their tax bills on to consumers in the form of higher prices and to workers in the form of reduced wages. This burden falls most heavily on the poor because the poor spend a larger percentage of their income on consumer goods.

The corporate income tax is also passed on to shareholders in the form of reduced dividends and reduced corporate savings and investment. Since pension plans are major shareholders, the corporate tax can drastically reduce potential pension benefits to workers.

Obviously, Mr. President, reduced corporate savings and investment have a negative impact on economic growth and thus reduce employment opportunities. This constitutes a further hidden tax on American workers.

Perhaps most importantly, Mr. President, elimination of the corporate income tax will promote efficiency in the market because all businesses will be placed on a level playing field. Tax considerations will no longer affect business decisions. Furthermore, elimination of this cost to business will also make U.S. business more competitive in the world market thereby encouraging new exports and creating new jobs.

Second, this bill reforms the income tax on individuals and by so doing, will reduce the amount of tax paid by most Americans. The bill would eliminate all current deductions, credits, and exemption of $10,000 per taxpayer—to be adjusted annually for inflation—and impose a 10-percent tax on all earned income.

Mr. President, the exemption from taxation of the first $10,000 of earned income for each taxpayer will provide relief for low-income individuals while also providing an incentive for individuals to enter the work force. The flat 10-percent rate eliminates the disincentive for one to increase his or her income that results with a highly progressive system.

The bill defines "earned income" as the compensation one receives for performing work. It includes wages, salaries, fees, and fringe benefits. It does not include passive income—such as capital gains—interest income, and dividends. Furthermore, while fringe benefits are taxable, the bill eliminates valuation problems by valuing all fringe benefits at the actual cost to the employer of providing the benefits.

Mr. President, implementation of a 10-percent flat tax will have a profound effect on the economy in several ways. First, it will promote growth by increasing incentives for work, investment, and production through low marginal rates. The increased savings will push interest rates down and thus reduce the cost of capital.

Second, it will stimulate economic growth through the elimination of tax on capital gains. This will encourage investment and expansion of capital funds, which will lead to more businesses and more jobs.

Third, by elimination the tax on dividends, a flat tax will eliminate the penalty for investing in stock and will stimulate greater capital availability for economic growth. Fourth, a flat tax brings greater efficiency to the economy by eliminating preferences in the Tax Code that interfere in economic decisions.

Finally, it will simplify the income tax system and enhance its fairness and equitibility. If we can simplify the income tax system so that every American can fill out his or her income tax on the back of a post card, we would put an end to the huge and burdensome tax avoidance industry.

Our tax system has become so complex, economically counterproductive, outmoded, and riddled with exceptions that it's no wonder that the American people are losing faith in their Government. There is something Orwellian about a government that subjects its citizens to rules that are too complex for them to understand.

Mr. President, it's time to stop applying piecemeal, short term remedies, such as modification of the fringe benefits provisions, and to adopt a new tax system based on equity, efficiency, and simplicity. The legislation I am introducing today would do just that. In fact, I cannot imagine what could be more fair to the American people than a flat 10-percent tax.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD together with the essay mentioned earlier.

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

S. 188

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 "Flat Tax Act of 1993".

SEC. 2. REPEAL OF TAXATION OF CORPORATIONS.

The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) section 11 (relating to corporate income tax),

(2) section 55 (relating to alternative minimum tax) to the extent it applies to corporations,

(3) section 511 (relating to unrelated business income tax),

(4) section 531 (relating to accumulated earnings tax),

(5) section 541 (relating to personal holding company tax),

(6) section 594 (relating to alternative tax for certain mutual savings banks),

(7) section 801 (relating to tax imposed on life insurance companies),

(8) section 831 (relating to tax on certain other insurance companies),

(9) section 852 (relating to tax on regulated investment companies),

(10) section 857 (relating to tax on real estate investment trusts), and

(11) section 882 (relating to tax on income of foreign corporations connected with United States business).

SEC. 3. 10 PERCENT INCOME TAX RATE FOR INDIVIDUALS.

Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) IN GENERAL.—There is hereby imposed on the income of every individual a tax equal to 10 percent of the excess of the earned income of such individual for the taxable year over the exemption amount for such year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—

"(A) IN GENERAL.—The term 'exemption amount' means for any taxable year, $10,000 increased (for taxable years beginning after December 31, 1993) by an amount equal to $10,000 multiplied by the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(B) COST-OF-LIVING ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI for October of the preceding calendar year, exceeds

"(II) the CPI for October of 1992.

"(ii) CPI.—The term 'CPI' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(C) ROUNDING.—If the increase determined under this paragraph is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next highest multiple of $10).

"(2) EARNED INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'earned income' means—

"(i) wages, salaries, and other employee compensation,

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year, and

"(iii) the amount of dividends which are from a personal service corporation or which are otherwise directly or indirectly compensation for services.

"(B) EXCEPTIONS.—The term 'earned income' does not include—

"(i) any amount received as a pension or annuity, or

"(ii) any tip unless the amount of the tip is not within the discretion of the service-recipient.

"(C) FRINGE BENEFITS VALUED AT EMPLOYER COST.—The amount of any fringe benefit which is included as earned income shall be the cost to the employer of such benefit.".

SEC. 4. REPEAL OF SPECIAL DEDUCTIONS, CREDITS, AND EXCLUSIONS FROM INCOME FOR INDIVIDUALS.

Chapter 1 of the Internal Revenue Code of 1986 is amended by striking out all specific exclusions from gross income, all deductions, and all credits against income tax to the extent related to the computation of individual income tax liability.

SEC. 5. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B of the Internal Revenue Code of 1986 (relating to estate, gift, and generation-skipping taxes) is hereby repealed.

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 5 shall apply to estates of decedents dying, and transfers made, after the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

TAX SIMPLIFICATION: LET'S PLAY FLATBALL

(By Karen Quick)

Americans are tired of playing Bracketball. Who wants to keep playing this "tax game" which has unfair, complicated rules: an unlimited fourth quarter with no timeouts; and is affiliated with an inefficient association at the point of bankruptcy? Complaints are commonplace; motivation is low; and initiative is almost nonexistent. It is a confusing and biased game. The players are involuntarily drafted for participation despite their physical conditions. Their contracts automatically renew annually requiring longer and longer playing periods. The more influential athletes manage to gain preferential treatment from the promoters and officials. Some are allowed to sit the bench for extensive periods of time and some are even paid not to show up at all. Needless to say, this does little for team morale and enthusiasm. This favoritism puts an unnecessary burden on the rest of the team. The few remaining dedicated players, who show up for all the practices come rain or shine and who give it their best shot, look forward to high scores. It gets to be a tough game as these dedicated players are forced to compensate for the "bench sitters" and "game cutters." There is a noncommittal attitude spreading among the ranks. Partly to blame is the large staff of inconsistent coaches who have different ideas of how the game is to be played. More and more of the officials are using poor judgment to call the plays. Many illegal substitutes, illegal blockings, and intentional fouls go uncalled. A lot of bloody noses result. Nobody, including the promoters and officials, seems to know how the game is to be played. One of the most infuriating aspects of Bracketball is the constant movement of the goal line. When the players get near it, the officials move it. There are strong rumors circulating in the locker rooms that a players' strike is in the works. They are tackling an enormous task in their efforts to change to a simple, fair, efficient game called "Flatball."

This fictitious analogy of our current system of American taxation may be somewhat exaggerated in pointing out the inherent problems. Yet, it brings to light the need for simplicity, fairness, and efficiency in our system of taxation. Such a tax reform referred to above as "Flatball" would not only provide needed revenue, it would also stimulate the economy, lighten the administrative load, and improve compliance. The most noteworthy result would be a boost to those precious intangibles; morale, motivation, and ingenuity.

To better understand the need for tax reform, some brief background information on the definition and history of American taxation will be given first. Numerous indictments of the current income tax system will follow. The last section will contain workable methods of sound income tax reform.

DEFINITION OF TAXATION

"The art of taxation consists of plucking the greatest number of feathers from a goose with the least amount of squawking."[1] This popular saying equates the unpleasant task of collecting taxes with the plucking of feathers. It implies the need for an economically balanced method that is viewed by the populous as simple, fair, and efficient.

What is a tax and why is it levied? "Tax" is defined as a compulsory contribution levied upon persons, property, or businesses for the support of government.[2] This basic definition makes no implication that taxes are imposed to resolve all the nation's financial and social problems. The tax laws were not intended to legalize social engineering as a government business. In a July 8, 1981 Wall Street Journal article by Christopher Conte, the following quotation from Senator Hatfield was given: "By attempting to solve every social and economic problem through the tax code, we have put a greater burden on the average taxpayer."[3] Taxes are not defined as a vehicle to be used to subsidize special interest groups regardless of their merits. The meaning is clear and simple. Taxes are collected to pay the necessary military and civil expenses[4] that provide goods, services and order without stifling economic growth or human ingenuity.

HISTORY OF AMERICAN TAXATION

Chief Justice John Marshall stated in 1819 during the famous case of McCulloch v. Maryland "the power to tax is the power to destroy." The power to tell the citizenry how much money they must pay to make their government work must be jealously guarded.[5] The writers of the Constitution were very much aware of this fact. They knew one of the major causes of the War of Independence was the imposition of taxes by the British Parliament on the colonies without their consent.[6]

In the United States, the first income tax was enacted in 1861 to help finance the Civil War. It allowed a $600.00 exemption and levied a 3% charge on incomes below $10,000 and a 5% charge on incomes above that level. In 1864, the rates were increased to 5% and 10%.[7] Tax receipts peaked in 1866 when income tax accounted for about 25% of federal revenue. In 1871, Representative Dennis McCarthy of New York expressed the view of the income tax opponents in these words, "unequal, perjury-provoking, and crime-encouraging, because it is at war with the right of a person to keep private and regulate his business affairs and financial matters." Senator John Sherman of Ohio responded with these remarks: "When you come to examine the income tax you will find that it applies, it is true, to only about 60 thousand people; but they do not pay their proper share of other taxes. WHY? Can a rich man with an overflowing revenue consume more sugar or coffee or tea, or drink more beer or whiskey, or chew more tobacco, than a poor man? You tax tobacco at the same rate per pound, whether it is the tobacco for the wealthiest or the poorest. * * * But when in a system of taxation you are compelled to reach out to many objects, you must endeavor to equalize your general results. * * * Therefore, when it is complained that the tax on an article consumed is unjust upon the poor, because the poor have to consume a greater proportion of their income in its purchase than the rich, we answer that to countervail that we have levied a reasonable income tax upon such incomes as are above the wants and necessities of life. That is the answer and it is a complete answer; because, if you leave your system of taxation to rest solely upon consumption, without any tax upon property or income, you do make an unequal and unjust system."[8] These words of Sherman and other supporters of an income tax failed to gain a renewal of the tax. Thus, the income tax law expired in 1872[9] because it was con-

sidered an invasion of privacy with socialistic tendencies.[10]

Between 1873 and 1893, members of Congress introduced 68 different income tax bills. In 1894, a 2% income tax on incomes over $4,000 was finally passed with much controversy. But the U.S. Supreme Court declared the tax unconstitutional and in violation of Article 1, Section 2, Paragraph 3 which says that all direct taxes must be levied among the states in proportion to their population. Congress circumvented the Supreme Court's decision by proposing a constitutional amendment on July 12, 1909.[11] The well-known sixteenth amendment was ratified on February 29, 1913 by 42 states.[12] This removed the constitutional hurdle and gave Congress the authority to tax incomes from whatever source derived; without apportionment among the several states and without regard to any census or enumeration."

After more than 40 years from the expiration of the Civil War income tax, the first legal income tax was enacted under the leadership of President Woodrow Wilson.[13] It granted a $3,000 exemption for single persons and a $4,000 exemption for married couples. The graduated rate began at 1% on the first $20,000 of taxable income and ranged to a top rate of 7% on taxable incomes over $500,000. Net profits of corporations were taxed at a flat rate of 1%. Only about 0.4% of the population filed tax returns in 1913. All federal receipts amounted to about 2.6% of GNP.[14]

The next 40 years was just as stormy for the income tax. From 1913 to 1954 the income tax was part of America's struggle for survival through war and depression. By the time WWI had ended, three separate tax bills had increased tax rates nearly tenfold and exemptions had dropped significantly. But only 8% of the population paid taxes. President Warren G. Harding's Secretary of Treasury, Andrew Mellon, argued persuasively for tax reduction to foster economic growth. He stated: "Any man of energy and initiative in this country can get what he wants out of life. But when that initiative is crippled by legislation or by a tax system which denies him the right to receive a reasonable share of his earnings, then he will no longer exert himself and the country will be deprived of the energy on which its continued greatness depends. On the other hand, a decrease of taxes causes an inspiration to trade and commerce which increases the prosperity of the country."[15]

With a large part of the population tired of war and taxes, Mellon's proposals gained ground. In 1921, the maximum tax rate was cut from 77% to 58% and in 1926 it was finally cut to 25%. Credit is given to Mellon and his support for tax cuts that spurred the economic boom of the 1920's. A get-rich-quick attitude pervaded the scene and many people had their shirts riding on the stock market.[16] This speculative fever prevented sound financial decisions and resulted in a rocky financial structure. Frantic transactions were prevalent. "Even the professional analyst of financial properties was sometimes bewildered when he found Co A holding a 20% interest in Co B, and Co B an interest in Co C, while C in turn invested in A, and D held shares in each of the others. But few investors seemed to care about actual worth. . . ."[17]

Until the Great Depression of the 1930's, Americans practiced the notion of a limited role for federal government with correspondingly low taxes. Except for periods of war or recession, revenues from exercises and customs were sufficient to finance those activities widely regarded as federal functions. But when the Great Depression took hold, President Herbert Hoover sponsored tax increases in a vain effort to balance the budget that reduced personal allowances and pushed the top tax bracket from 25% to 63%.[18] The economy was too weak to provide sufficient revenue. Increased rates just made matters worse. Taxes were now spent on human needs as well as national defense. When World War II broke out, millions of Americans went back to work and taxes were increased. Before the war was over, rates exceeded 90% and three-fourths of the population had to pay income taxes. A "class tax" had been replaced by a "mass tax."[19] After World War II, rates were not greatly reduced. This was the first time marginal peacetime rates, even for the middle classes and corporate businesses, exceeded 40% and even 50%. The role of government had become more involved creating a much larger establishment requiring continuously larger revenue for its ever-increasing expenditures.[20] With the acceptance of a larger government establishment, people realized high tax rates were inevitable. The Internal Revenue Code of 1954 preserved high tax rates ranging from 20% to 91%. It laid the foundation for the slow downhill slide to our current complicated, unfair tax system.

The end of the 1950's ushered in a new business term "tax planning" (a euphemism for tax avoidance) and a new profession appeared on the scene—"tax consultant." A reform introduced by President Kennedy lowered the top rate to 70%. Another tax cut, in 1969, lowered the top rate for salary income to 50%.[21] In 1981, legislation was passed to enact President Reagan's three-year 25% across the board tax cut that reduced the range to 11%-50% for all types of income[22] and introduced inflation indexing.[23] These reductions only slightly modified the progressivity of the income tax system and preserved the unfair tax expenditures and loopholes.

Tax revenue from federal, state, and local governments amounts to approximately one-third of the Gross National Product. About 35% of all government revenue is collected by the state and local levels. It is in the form of individual income taxes, corporated income taxes, sales taxes, property taxes, and various fees and charges.[24] Recent dramatic events such as Proposition 13 in California and Proposition 2½ in Massachusetts have brought some needed reform. Although reforming state and local government taxes is an important controversial subject, this paper will focus on the federal tax policies that the generate about 65% of all government receipts.

What are the sources of federal revenue? Nearly one-half is derived from individual income taxes. This category amounted to 49% of all federal receipts in 1982. This percentage has been as low as 12% in 1940 and stayed around 45% during the 1960's and 1970's. The fastest growing category in the federal system is the social security taxes that provided about 34% of the total revenue in 1982. Corporate income taxes as a share of federal receipts steadily dropped throughout the 1970's. In 1982, this category generated about 8% of the revenue. Excises provided approximately 5%; estate and gift taxes brought in barely over 1% and other miscellaneous charges were just under 3% of the total receipts.[25]

Federal income taxes for individuals have increased from about $120 billion in 1974 to about $300 billion in 1982. During this same period, corporate income taxes stayed relatively flat at about $50 billion causing a decline in their share of overall federal receipts. To provide sufficient revenue for the current level of government operations, a simplified tax system would have to be capable of generating approximately $350 billion if both the individual and corporate income tax structures were overhauled.[26]

The proposal that will be recommended in this paper would replace the existing individual and corporate income taxes leaving the other aspects of the federal tax structure intact.

Why is a tax reform needed? The answer to this queston could easily exceed 2,000 pages which is the approximate length of the Internal Revenue Code. Only the main indictments against the current income tax system will be covered in this paper. The four main dimensions to the inefficiency of the present system encompass economic barriers, complexity, stifled intangibles and administrative difficulty.

Going back to the basic definition of taxation, we are reminded that the reason for the collection of taxes is to support the government as it provides necessary goods, services, and order without sifting economic growth or human ingenuity. Our current income tax system fails to meet the fundamental purpose of its existence. It produces too little revenue. The United States government spends more on defense and domestic programs than it collects in tax revenue. Federal taxes were from a level of 3% of the Gross National Product in 1929 to about 19% in 1932. However, government spending amounted to approximately 24% of the Gross National Product in 1932. Chronic deficits over the last two decades not only offend the notion of good fiscal housekeeping, but also injure the economy and create unnecessary distortions.[27] In fiscal year 1982, after the enactment of a large budget reduction, the federal budget still had a deficit for the 13th straight year and for the 19th time in the last 20 years. Deficits have grown in recent years at such a rate that three-fourths of the 486 billion dollars in deficit accumulated from 1962-1982 resulted since 1974. From fiscal year 1946 through 1960, deficits as a percent of Gross National Product averaged about 0.4%. Over the next ten years the deficit equivalent averaged 0.8% of the Gross National Product. But over the next eleven years, the average magnitude of the deficit rose to 2.4% of the Gross National Product.[28]

Budget deficits reduce the growth of productive capacity when the economy is operating at a high level of employment. Deficits absorb over one-half of national savings leaving less savings available for investments in productive expansions. To maintain high levels of investment, the United States must borrow from abroad. If present trends continue, the United States could easily become a net debtor to the rest of the world.[29]

Because deficits force the government to compete for available savings, interest rates remain artificially high. These high rates discourage purchases of long-term assets such as housing. They also overvalue the dollar causing a competitive disadvantage for the United States in the world market.[30]

Closely tied to the problem of persistent, chronic deficits is the accusation that the federal government has become bloated, disorganized, wasteful, and inefficient. Is the federal government too big? Donald Lambro, Washington correspondent of Untied Press International, would shout an emphatic "yes"! Mr. Lambro concludes, "Americans have more government than they need, more than they want, and more than they can afford. Like a riderless locomotive whose

throttle has been pulled wide open, the federal government is running out of control."[31] This paper will not attempt to address the issue concerning the excessiveness of the federal government. An organized and efficient use of income taxes directly relates to the amount of revenue needed and the existence of a balanced budget.

Another economic indictment against the current tax system is that increased earnings with progressive rates cause "Bracket Creep." Inflation pushes income into higher marginal tax rates making the overall effect of "Bracket Creep" worse. Millions of Americans face high marginal tax rates that were intended for those with much higher incomes. The Treasury Department reported that in 1965 a family of four earning a median income had a tax rate of 17% which increased to 24% in 1980. For families with twice the median income the rate almost doubled from 22% to 43%. This increase was due to the progressive rate structure and inflation. "Bracket Creep" is leaving many families with less real purchasing power after taxes.[32]

For the last 29 years, each time family income rose by 10%, government receipts increased approximately 15%.[33] High marginal tax rates affect people's incentive to produce additional earnings. It impacts upon the worker's decision to work overtime or to go play tennis. The higher the marginal rate, the cheaper the price of leisure. High rates reduce capital formation and economic growth.[34] Professor Arthur Laffer illustrates the relation between taxes and incentives with the "Laffer Curve." He restates the concept of diminishing returns. "At some point, additional taxes so discourage the activity being taxed, such as working or investing, that they yield less revenue rather than more. There are two rates that yield the same amount of revenue: high taxes on low production; or low taxes on high production. * * * There is, however, at any one time, some rate that allows the government maximum revenue and yet does not discourage maximum production."[34] Congressman Jack Kemp in his book entitled, An American Renaissance, gave the following illustration: "Consider the baker who is taxed 20% on the first loaf of bread, 40% on the second loaf, 60% on the third, 80% on the fourth, and 100% on the fifth and who can produce only one loaf per day. His objective would be to increase his output and increase his income. His rewards for pushing forward on the frontiers of baking technology are reduced again and again for each additional loaf he bakes. When he is at the level of four loaves—or at the margin, the 100% tax rate—all incentive to increase his baking productivity ends because if the baker were to produce a fifth loaf of bread, it would be taxed entirely away."[36]

A fourth economic indictment against the present tax system is that hoopholes and tax shelters are allowing many Americans to avoid their fair share of the tax burden. Since 1979, there has been a rapid increase in the number of tax preferences and in their revenue loss. According to the Joint Committee on Taxation and the Congressional Budget Office, there were 104 tax preferences in effect in the fiscal year 1982. These preferences caused the tax base to shrink to less than one-half of the 1982 national income. In 1981, these 104 preferences cost $229 billion in lost revenue.[37] According to the IRS publication, Statistics of Income for 1981, the category of itemized deductions alone reduced adjusted gross income by 24% that year or by $254.4 billion. Interest expense was the single largest itemized deduction claimed in 1981 amounting to $108.7 billion.[38] Senator Bill Bradley of New Jersey gave an example of the largest syndicated tax shelters in history. He included it in his book entitled, The Fair Tax, Chapter 3 appropriately subtitled, "True Tales of Amazing Tax Shelters." The example follows: "The largest syndicated tax shelters in history allows the partners to purchase 45,000 old billboards for $485 million and depreciate them over the 15-year write-off period for real estate. When the billboards are sold, they will generate a long-term capital gain taxed at preferential rates. Each investor must put up $150,000, so this shelter is only available to the big hitters. However, each was promised net tax benefits over a six-year period worth $181,950; that is the tax benefits exceeded the original investment. Is this what the President meant by supply-side economics? Obviously not. No economic growth results from simple reshuffling the ownership of 45,000 existing billboards."[39] With this example it is easy to see how families who reported income in 1981 of more than $1 million paid an effective rate of only 17.7% through the use of tax shelters.[40]

In order to manipulate transactions to avoid tax, some keen minds had to connive the schemes. Out of the approximate 46,000 active tax professionals needed to interpret the complex tax law, several thousand specialize in tax shelters.[41] Think of the talent and time expended in this tax shelter industry. It is sad to admit but our income tax system has created an industry devoted to the inefficient use of investment capital. Our tax system encourages people to lose money for tax purposes and it encourages special interests to lobby for more and more selective relief.

To better understand the existence of tax preferences, we must recall the squeeze of inflation and the pain of high tax rates. Many groups have lobbied for selective relief before their elected representatives. The most powerful and influential got an exclusion, deduction, or credit to suit their special interest.[42] Legislators keep succumbing to the pressures of the lobbyists who keep repeating the little ditty made famous by Senator Russell Long of Louisiana; "Don't tax you, don't tax me, tax that fellow behind the tree."[43] President Reagan even abandoned his clean bill principles to join the crowd supporting special interests before the passage of the Economic Recovery Tax Act of 1981. A New York Times editorial said; "Greed and politics are running wild on Capitol Hill, and the Nation's great economic difficulties, which were supposed to be the object of budget and tax reductions, are recklessly ignored."[44] Once again the well-being and, prosperity of the nation lost out to the flawed logic of special interest groups. When will the legislators stop playing Santa Claus to influential lobbyists?

Evidenced by a newspaper article as recent as June 7, 1986, the Senate Finance Committee still insists on playing Santa Claus. The Greensboro News and Record article stated the Committee was proposing to give away more than 170 "toys" to special interest beneficiaries, such as "cellular telephones," "strawberry square," and "Channel." Senator Howard Metzenbaum of Ohio said, "There is blatant concealment in this bill. * * * We're still trying to find all the special provisions that are hidden in those 2,847 pages." Senator Metzenbaum listed 16 specific provisions that warranted further study. What about the remaining 154 special interest provisions?[45] Another article, one week later in the same newspaper, gave some specifics on one of the loopholes that had been proposed by the Senate. Unocal of Los Angeles was to forego paying up to $50 million of federal taxes because they had incurred a $4.4 billion debt fighting off an attempted takeover. This loophole was killed by Senator Metzenbaum's amendment but what about the remaining loopholes?[46] The whole legislative process seems to "degenerate into a scramble to see who can get the largest slices of a shrinking pie." Nobody wins in this sport of mutual plunder. Real economic expansion through fair and simple tax reform is the surest remedy for this diversive sport.[47]

Taking into consideration the high tax rates of our progressive structure, the high level of inflation, and the large number of unfair tax preferences, is it any surprise that the underground economy in the United States is growing so rapidly? A fifth indictment against the present tax system is that it encourages tax evasion. "Sheep may stand still while they are sheared, but taxpayers do not."[48] An estimated 25 million working Americans engage in both legal and illegal activities to hide all or a portion of their income from taxation. The magnitude of this problem is described by Sylvia Porter in the following manner: "A veiled economy more vast in scope than most of the individual economies of most other countries on this globe lies underneath the in-the-open economy in which tens of millions of us in the United States live. An immense proportion of all the transactions that occur in our country take place in this underground—but they are untraced in any fashion, thus uncounted, unreported and most significant, untaxed. You yourself may well be a part of it, without even being aware that you are."[49] The Internal Revenue Service estimated the 1981 loss of revenue from legal activities to be $74.7 billion. In addition, the Internal Revenue Service estimated a $9 billion tax evasion from illegal activities such as drug traffic and prostitution.[50] Some experts think the legal and illegal sources of income that do not appear in the Gross National Product is much higher than these Internal Revenue estimates. Some analysts claim that unreported income in the United States is close to a trillion dollars. For every four dollars of legal income reported, there is another one hidden from view.[51]

Why is tax cheating so prevalent? People are very dissatisfied with unfair loopholes that favor special interest, poor fiscal policies that contribute to inflation, steep graduated rates that cause "Bracket Creep" during inflationary times, government waste, and the unresponsiveness of the tax legislators to the national interest.[52] The cure for these ills is not cheating. The solution is a complete overhaul of the federal income tax system. This would not only boost the Gross National Product but remove some of the incentives to join the underground economy. Less participation in the underground economy would increase the tax base already riddled with unfair, excessive loopholes, and reduce the burden on taxpayers.

A sixth economic indictment against the current system of taxation is the disincentives and distortions it causes on saving, investing, working, and prices. High marginal tax rates discourage every productive activity. The incentives to take a risk, accept added responsibilities, and expand our Gross National Product, are dulled when a big hunk of the prize goes to somebody else.[53] "When individuals bear the full cost of their actions and are able to reap fully the gains that occur from their activities, they use re-

sources wisely. When I bear the full cost of food, clothing, telephone service, recreation facilities and thousands of other items, you can be reasonably sure that I will conserve on my use of these items. I will not consume them unless I value the services that they provide more than the cost of the provision. Similarly, when I am able to reap the full benefits of my productive activities, you can be sure that I will undertake even unpleasant tasks when the benefits (usually personal income) exceed the costs. When individuals bear the full cost and reap the full benefits, they will use resources in a wealth-creating manner. They will engage in positive-sum economic activity. * * * Problems arise when a sizable share of the benefits or costs emanating from economic activity accrues to nonparticipating parties. High marginal tax rates make it possible for individuals to enjoy tax deductible items at a fraction of their cost to our economy.* * * However, deductibility does not reduce the cost to society of the valuable resources used to produce these commodities."[54] The marketplace is far more efficient in allocating resources and setting prices than the Internal Revenue Code. The present system makes us less competitive in the world economy and prevents us from reaching our economic potential as a nation. A tax deduction is of little benefit if there is no income to subtract it from.[55]

The tax laws interfere with business decisions in an unwise, haphazard way. High marginal tax rates make consumption cheap and encourage debt instead of equity. This causes saving to decline and in turn reduces investment which is the foundation for future economic growth.[56] This disincentive is aggravated by inflation which pushes people into higher marginal tax brackets even though their pre-tax income does not change.[57] Tax policy distorts income during real economic growth and inflationary periods causing consumption to become cheaper and saving more expensive.[58] "The current tax code distorts investment decisions so that economically desirable investments often appear less attractive than those where tax incentives inflate profitability. Section after section tells new investors what lines of business to enter, tells existing corporations how to go about their work, and puts a heavy tax on the profits of successful and productive corporations. The whole system makes no economic sense."[59] To improve incentives and reduce investment distortions, a tax system is needed with a much broader base that permits a low tax rate.

The second main dimension to the inefficiency of the current tax system is the complexity of the Internal Revenue Code. The legal complexity makes comprehension, compliance, and administration difficult. Transactional complexity encourages individuals and businesses to engage in complicated maneuvers to avoid taxes.[60] The lack of simplicity makes the uniform application of the tax laws difficult to achieve. It also imposes a high cost of taxation.

"It was a bizarre trial, a tax protest case. The defense lawyer didn't have a chance, but his closing argument was a humdinger. It went like this: The lawyer hefted the Internal Revenue Code and leaned on the jury box. 'I wish this book could talk,' he said plaintively. 'I wish this book could talk because it would crawl over this rail, it would crawl up into your laps, it would look up at you and it would cry, 'Nobody understands me.'"

The above segment was taken from a May 13, 1983 Wall Street Journal article by Caryl Conner, who was a speechwriter in the Carter White House. In her article entitled "Offering Incentives to Tax Evaders," she realizes the essential function of the Internal Revenue Code is to raise revenue but it creates tax evasion by its complexity and "revenue hemorrhage." She is critical of the Code's ambiguity, chaos, loopholes, social engineering, and unenforceability.[61] Let's not take Mrs. Conner's word for it, let's go right to the source—Section 1302."Definition of Averageable Income; Related Definitions" states:

(a) Average Income.—

(1) In general.—For purposes of this part, the term "averageable income" means the amount by which income for the computation year (reduced as provided in paragraph 2) exceeds 120% of average base period income.

(2) Reduction.—The taxable income for the computation year shall be reduced by—

(A) The amount (if any) to which section 72(m)(5) applies; and

(B) The amounts included in the income of a beneficiary of a trust under section 667(a).

(b) Average Base Period Income.—For purposes of this part—

(1) In general.—The term "average base period income" means one-fourth of the sum of the base period incomes for the base period.

It is surprising less than one-third of those eligible to reduce their tax computation by income averaging actually do so?[62] In short, Section 1301 means that if a person has a lot more income in 1984 than he (she) had in the past four years, then income averaging may lower the tax amount. Phrases such as "averageable income" and "base period income" are contained in this Code Section. The word "income" is also used. Nowhere in the two thousand pages of the Internal Revenue Code is the word "income" defined. Since tax is imposed on "income," it would be logical to expect a definition in the beginning of the Code. Congress threw darts all around the bullseye with definitions of "gross income," "adjusted gross income," "taxable income," "earned income," "unearned income," "ordinary income," "averageable income" and others.[63]

Tax law terminology is difficult to understand but the problem is aggravated by the use of such long sentences. A sentence in Section 170(b)(1)(A) contains 379 words; another sentence in Section 7701(a)(19) has 506 words. The Connecticut statute forbids the use of sentences longer than an average of 22 words and no sentence can be longer than 50 words.[64] To comprehend the exact meaning of some of these long Code sentences, the reader would need to construct flow charts. What kind of grade would the English high school teacher of those tax legislators give her ex-students on clarity and sentence structure?

The application of tax law is not uniform. In an attempt to understand and fairly apply the more than 2,000 pages of basic tax law, there are about 10,000 pages of tax regulations and thousands of pages of interpretations and judicial opinions.[65] Even with all this research material available, most taxpayers do not understand the tax laws. Judges do not interpret the laws uniformly. Consider the two separate cases of a Minnesota state trooper and a New Hampshire state trooper. The argument was that since the state was his employer, all the highways were the "premises" of his employer. Since he was required to eat at restaurants on the highway, the means were "furnished for the employer's convenience on his premises." The Minnesota state trooper won the court case. Unfortunately, the state trooper in New Hampshire fared worse. The court there stated that it did not go along with this "metaphysical concept" concerning the state's territory being the "premises" of the employer. The court further stated that the meals must be "furnished in kind." With the same facts, two different states had two different rulings.[66]

Former Commissioner of the Internal Revenue Service, Jerome Kurtz, stated the Service was aware of 3.8 million taxpayers who underreported their 1979 income but an astonishing 2 million overstated their income. In addition to the confusing, verbose language of the Code, the taxpayer has to contend with complicated, lengthy forms. People turn to commercial tax preparers, IRS employees, and certified public accountants for help. Facing up to the complexity of the Code, it is understandable that these assistors and preparers do not always get the right tax amounts. Certified Public Accountants have the best record for accuracy but they are a very expensive source of help. In 1981, about 41% of all filers had their returns prepared by tax professionals with a price tag of over $1 billion.[67] To obtain a true picture of the cost of taxation, the time spent collecting and recording data must be considered as well as the time spent filling out the various forms. Taxpayers must also fund the operations of the Internal Revenue Service. Its budget grew from about $2 billion in 1978 to approximately $3 billion for 1983. Lumping all these direct and indirect costs together, taxpayers bear between $9 and $10 billion for preparing and verifying their taxes, above what they pay in income taxes.[68]

The tax laws are complex and ambiguous. They need to be reformed to impose a low flat rate on a much broader base. The laws could be simple if there were no exceptions.

The third dimension of the inefficiency of the present tax system is the negative impact upon human intangibles. In some way, all the previously discussed indictments have a stiffling effect upon those precious intangibles. When disincentives and dissatisfaction are high, morale and initiative are low. This puts a damper on human ingenuity which is one of the greatest source of improved productivity. History has proven reward, not deprivation, to be the best method for motivating people to be aspiring, risktaking, and enterprising. Congressman Jack Kemp, in his book entitled An American Renaissance, summarizes the way our current tax system operates. Human ingenuity "isn't just amazing inventors like Edison or dramatic managerial innovators like Henry Ford. Improvements in efficiency spring from millions of creative workers, supervisors, and managers whose intimate knowledge of their tasks leads to new methods of improving products or saving costs. From this vast pool of dispersed knowledge, a market economy draws people who gamble that they have a better idea about how to provide more or better goods with fewer or cheaper resources. But they won't take those risks unless they will be rewarded if they succeed. By continually removing the incentives which reward achievement, we have created a system which taxes the imagination, ingenuity, and enterprise of the American people.[69]

The last dimension to the inefficiency of the present system of taxation is administrative difficulty. The economic barriers, excess burdens, unfair rules and repressed intangibles pose problems in collection and enforcement. Complexity, combined with inflation

and high marginal rates, encourage tax avoidance and evasion. These factors increase the administrative burdens. The Internal Revenue Service employed about 85,000 people in 1983, which was about the same number as in 1979. During this same period, returns being audited because of tax shelter issues increased from 183,000 to 335,000.[70] The proportion of returns examined in 1984 was only 1.3%.[71] Administrative expenditures of the Internal Revenue Service dropped from 0.54% of revenue collected in 1975 to 0.41% in 1981 before reaching 0.48% in 1984. Over this same period, the ratio of IRS employees to total returns filed declined by 19%.[72] With taxpayers devoting more time and resources in avoidance techniques, administrative costs must increase to ensure proper compliance.

An income tax reform removing special deductions, credits and allowances would simplify enforcement. Compliance costs could be utilized more effectively if the tax system had a broad base with a low flat rate. Internal Revenue Service could concentrate on unreported income without being bogged down with verifying a proliferation of credits, exclusions, allowances and deductions. With understandable rules and low rates, a sense of fairness would be present that would foster voluntary compliance.

Having reviewed the numerous inefficiencies of the American income tax system, it is refreshing to present some workable recommendations for sound tax reform. The simplification proposals set forth in this paper will suggest fundamental changes to tax laws, forms, and procedures for the individual and corporation income taxes.

Tax legislators, accountants, administrators, most other taxpayers, and even some of the guilty tax evaders want tax reform. They just cannot seem to agree on how to reform the tax laws. Some people have even developed a strong dislike for the phrase "tax reform." They cannot help but recall the numerous changes made in prior years that started out as tax simplification measures but resulted in another lost battle for efficiency and fairness.

An Internal Revenue employee shared her astonishment at the size of one estate tax return that was about two inches thick, complete with index tabs. The next day she realized that estate return was not so long compared to other tax returns that were filed in the Greensboro District of the Internal Revenue Service. Tax returns had been received that individually filled the contents of a cardboard box one foot deep. It is time to raise the confidence of all taxpayers in the income tax system. True tax reform without loopholes, steep rates, and complicated rules is urgently needed.

How could true federal income tax reform be achieved? The basic steps to true reform follow:

a. Abolish loopholes
b. Broaden the tax base
c. Change to a low, flat rate
d. Deduct a personal allowance
e. Exempt an amount for each dependent
f. File simplified forms 1040 and 1120

What are the goals of sound tax policy? After implementation of the above tax simplification, the following would result:

a. Administrative ease
b. Boosted intangible
c. Conserved resources
d. Dynamic economy
e. Efficiency
f. Fairness

To achieve these goals for individual income taxes, the following tax law changes are recommended:

1. Repeal all individual adjustments to income, exclusions, deductions, and credits (except withholding and excess FICA credits). Depreciation would be allowed at a rate that provides an adequate cushion for inflation but would not favor one asset over another.

2. Include employee compensation, such as wages, salaries, tips, pensions, bonuses, prizes, fringe benefits, workman compensation and the market value of non-cash items.

3. Exclude employee reimbursements for business expenses and employer provided medical benefits.

4. Include income (loss) from business activities and any other income sources.

5. Allow a personal allowance of $6,000.00 for married taxpayers; $4,500.00 for head of household status, and $3,000.00 for single status.

6. Allow dependent allowances of $1,000.00 each.

7. Apply a low, flat rate against taxable income.

8. File on simplified form 1040.

9. Require residential leasor information. (Space is provided on form 1040)

10. Require withholding at the source whenever possible.

The individual income tax return, form 1040, would be used primarily to report employee compensation, dividends, interest, capital gains (losses), and the net income (loss) from sole proprietorships, partnerships, and small business corporations. Rents, royalties, and other sources of individual income would be included on form 1040. The personal and dependent allowances would provide a floor so that the poorer families would pay little or no income tax. After combining all sources of income and subtracting the allowance(s), taxable income would remain. If the amount was positive, then the flat rate would be applied to arrive at a total income tax.[73]

The goals previously listed could be achieved by implementing the following major revisions to the corporate income tax structure:

1. Gross revenue would be reduced by ordinary and necessary business expenses provided such items were included in receipts.

2. Business expenses would include the cost of purchases of goods and services used for business purposes during the tax year.

3. Dividends paid to shareholders and reported on their returns would be excluded on the corporate return. Federal income tax would be withheld on dividends which would be reflected on the 1099-DIV forms sent to shareholders.

4. Depreciation and amortization would be allowed at a rate that provides an adequate cushion for inflation but would not favor one asset over another.

5. Exemptions and exclusions, such as the capital gain exclusion, would no longer be allowed.

6. Tax credits would be repealed. This includes investment tax credit, jobs credit, research and development credit, and business energy credit.

7. Tax would be computed on the simplified form 1120 using the same low, flat rate assessed on the individual income tax return.

8. If negative income resulted, the loss would be carried forward and interest income allowed. There would be no limit to the amount of the loss of the number of years carried forward.[74]

The underlying foundation for income tax reform for individual and corporate incomes is a much broader base with a low flat rate. The most unfair aspect of our current system is the large array of complicated loopholes that haphazardly and uneconomically grant selective relief. A wise economist commented several years ago, "Taxpayers using loopholes are a lot like a crowd of people standing tip-toed watching a parade. They are all very uncomfortable on their toes, but no one can stand flat on his feet because he would lose his view. Yet, if they all could agree to get off their toes together, they all would see just as well, and they would feel much better too."[75] Loopholes must be abolished in order to restore a sense of fairness and to encourage economic growth.

The flat rate income tax system would be fine tuned for maximum efficiency. The lowest possible rate would be applied against a broad tax base to provide sufficient revenue to fund the fiscal budget. (A temporary source of revenue to pay off the accumulated deficits will be discussed later.) A low flat rate of 10% on a very broad base has been proposed by Senator Jesse Helms.[76] Robert Hall and Alvin Rabushka first published in the Wall Street Journal their proposal for a flat tax that closely fits the consumption tax concept.[77] They are confident that a low, flat rate of 19% on individual and corporate incomes would generate more revenue than the current system and would, thus, take less time to balance the federal budget. The recommendations outlined in this paper conform to the rules of comprehensive income taxation instead of consumption taxation. The flat rate would be lower than 19% because the base would be broader. The flat rate could hover around 10% and generate sufficient revenue to fund an efficient federal government operation.

To clean up some of the results of poor fiscal housekeeping, the flat rate could be increased. But to interfere as little as possible with saving, investing, and working decisions, a temporary source of revenue could be implemented. A national retail sales tax on nonessential, luxury goods could supplement the income taxes collected. These funds would be earmarked for paying off the accumulated deficits. Implementation would be faster and more efficient if the states were used as administrative agents. The rates should be set high enough to cover existing state retail sales taxes. This supplemental tax system could be a powerful tool to wipe out the accumulated deficits. The importance of previously discussed problems, such as reduced investments, economic distortions, and high interest rates have serious repercussions on the entire nation. Whether these deficits are funded by a slightly higher flat tax or a national retail sales tax is not as important a decision as the need to pay them off.

With simpler and fairer laws, the costs that taxpayers bear to prepare, verify, and pay their income taxes would be greatly reduced. The removal of loopholes and the expansion of the tax base would also reduce administrative costs. A low, flat tax would restore a sense of fairness that would make administration much easier. It would improve the integrity of the administrators which is the heart of voluntary compliance.

One of the key concepts to efficient tax administration is withholding at the source. Wages, pension, interest, dividends, etc., would be subject to the low flat rate. Using a withholding chart, the payer would retain and remit the income tax to the Internal Revenue Service via the quarterly employment tax return (form 941). The recipient would be issued an information document such as W-2 or 1099 showing the total income and withholdings. If the recipients had only

wage and salary income, it could be possible that they would have the correct amount remitted to IRS and would not have to file a 1040 form. They would, however, be required to claim the correct filing status and number of dependents on their withholding certification (form W-4). This form would be updated annually and could require copies of birth certificates for each dependent. Annual wage statements, forms W-2, would still be issued.

Former IRS Commissioner Mortimer Chaplin estimated the following percentages of income types go unreported:

1. 35–50% of royalty and rental income
2. 30–40% of all self-employed income
3. 17–22% of capital gains
4. 8–16% of dividend and interest income.[78]

The flat tax proposals would help compliance in the last category by requiring withholding at the source. Payers of royalty income would also be required to withhold at the source. Payers of residential rental income would submit an information form stating the amount and recipient of the rental income. Individual payers would be provided space on their form 1040 to give this information. A large amount of capital gain income results from real estate and stock transactions. Consideration could be given to the collection at the local government level for the income tax on real estate sales at the time the deeds are recorded. The seller could present documentation of the basis. It could be compared to the sales price to obtain the withholding amount for income taxes. When corporations sell stock, they could also compare the basis to the selling price and withhold the appropriate amount of income taxes at the flat rate. Withholding at the source and better utilization of information documents, would improve compliance.

With the repeal of loopholes, IRS would no longer utilize resources to verify a mass of deductions, exclusions, and credits. They could concentrate on sources of unreported income, the proper filing of returns, and the prompt payment of all taxes. With the implementation of the flat tax supplemented by a national retail sales tax on a temporary basis, the folks at IRS would find the laws easier to understand and enforce. Tax simplification would also improve public understanding of the tax laws and boost public confidence. Tax administrators would smile as they noticed the taxpaying public moving toward a model state of voluntary self-assessment.[79]

The proposed tax simplification set forth in this paper would establish a fair and efficient income tax system. A redirection of efforts and capital would produce real growth. A growing, efficient economy would raise national output, stimulate human intangibles, and increase the standard of living. The American dream is not a scramble for a larger piece of a shrinking pie. In the words of Congressman Jack Kemp, "We must have economic growth * * *, which means we must press ahead to gain the necessary tax * * * reforms that will permit growth. We want to excite the elusive but vital qualities of human ingenuity and effort. Qualities important not only to an economy increasingly dominated by sophisticated services, but to the well-being and happiness of our nation's people. Ingenuity is discovered only through effort, an intangible substance which certainly means more, much more, than putting in hours. After all some people manage to retire on the job. Effort encompasses such things as a continual eagerness to acquire new knowledge and skills, a willingness to accept new responsibilities, to take the risk of initiating change. Effort can only be measured indirectly, by results, and the results are not only measured by personal prosperity but by the enrichment of community life as well."[80]

FOOTNOTES

[1] Robert E. Hall and Alvin Rabushka, The Flat Tax (Standard, Calif.: Hoover Institution Press, Stanford University, 1985), p. 1.

[2] Sidney I. Landau, ed. in chief, Doubleday Dictionary (Garden City, N.Y.: Doubleday and Company, Inc., 1975.

[3] Christopher Conte, Wall Street Journal, 8 July 1982.

[4] Hall and Rabushka, The Flat Tax, p. 1.

[5] Patricia C. Archeson, Our Federal Government How It Works, An Introduction to the United States Government, 4th ed. (New York: Dodd, Mead, 1984), p. 11.

[6] Ibid., p. 17.

[7] Hall and Rabushka, The Flat Tax, p. 19.

[8] Senator Bill Bradley, The Fair Tax (New York: Pocket Books, 1984), p. 70.

[9] Ibid., p. 71.

[10] Hall and Rabushka, The Flat Tax, p. 19.

[11] Ibid., p. 20.

[12] Senator Bill Bradley, The Fair Tax, p. 24.

[13] Ibid., p. 74.

[14] Hall and Rabushka, The Flat Tax, p. 20.

[15] Senator Bill Bradley, The Fair Tax, p. 75.

[16] Ibid., p. 77.

[17] Ibid., p. 78.

[18] Hall and Rabushka, The Flat Tax, p. 21.

[19] Senator Bill Bradley, The Fair Tax, p. 80.

[20] Dan Brawley, The Subterranean Economy (New York: McGraw-Hill, 1982), p. 4.

[21] Hall and Rabushka, The Flat Tax, p. 5.

[22] Ibid., p. 21.

[23] "Tax Foundation's Tax," Features 30 (March 1986): 2.

[24] Hall and Rabushka, The Flat Tax, p. 7.

[25] Ibid., p. 7.

[26] Ibid., p. 8.

[27] Henry J. Aaron and Harvey Galper, Assessing Tax Reform (Washington, D.C.: The Brookings Institution, 1985), p. 7.

[28] John W. Elwood, "Balancing the Federal Budget and Limiting Federal Spending: Constitutional and Statutory Approaches," September 1982. Congress of the U.S. Congressional Budget Office, Washington, D.C., p. 9.

[29] Aaron and Galper, Assessing Tax Reform, p. 8.

[30] Ibid., p. 8.

[31] Donald Lambro, Fat City: How Washington Wastes Your Taxes (South Bend, Ind., 1980), p. xv.

[32] Hall and Rabushka, The Flat Tax, p. 23.

[33] Jack Kemp, An American Renaissance: A Strategy for the 1980's (New York: Harper & Row, 1979), p. 100.

[34] Fairness and the Reagan Tax Cuts. Hearing before the Point Economic Committee Congress of the U.S. 98th Congress Second Session, 12 June 1984 (Washington, D.C.: U.S. Government Printing Office, 1984), p. 8.

[35] Kemp, An American Renaissance: A Strategy for the 1980's, p. 50.

[36] Ibid., p. 52.

[37] Bradley, The Fair Tax, p. 87.

[38] Hall and Rabushka, The Flat Tax, p. 25.

[39] Bradley, The Fair Tax, p. 25.

[40] Ibid., p. 12.

[41] Ibid., p. 26.

[42] Ibid., p. 49.

[43] Ibid., p. 56.

[44] Ibid., p. 58.

[45] Greensboro News and Record, 7 June 1986. Washington AP.

[46] Greensboro News and Record, 14 June 1986, Washington AP.

[47] Kemp, An American Renaissance: A Strategy for the 1980's, p. 79.

[48] Fairness and the Reagan Tax Cuts, p. 52.

[49] Jerome Tuccille, Inside the Underground Economy (New York: Signet, 1982), p. 68.

[50] Joseph A. Pechman, ed., Options for Tax Reform, (Washington, D.C.: The Brookings Institution, 1984) p. 21.

[51] Tuccille, Inside the Underground Economy, p. 69.

[52] Pechman, Options for Tax Reform, p. 21.

[53] Bradley, The Fair Tax, p. 48.

[54] Fairness and the Reagan Tax Cuts, p. 54.

[55] Bradley, The Fair Tax, p. 51.

[56] Fairness and the Reagan Tax Cuts, p. 6.

[57] Ibid., p. 10.

[58] Ibid., p. 7.

[59] Ibid., p. 35.

[60] Aaron and Galper, Assessing Tax Reform, p. 42.

[61] Caryl Conner. "Offering Incentives to Tax Evaders." Wall Street Journal, 13 May 1983.

[62] Bradley, The Fair Tax, p. 19.

[63] Michael Savage, Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask (New York: Dial Press, 1982), p. 3.

[64] Brawly, The Subterranean Economy, p. 42.

[65] Bradley, The Fair Tax, p. 18.

[66] Savage, Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask, p. 34.

[67] Bradley, The Fair Tax, p. 26.

[68] Robert E. Hall and Alvin Rabushka, Low Tax, Simple Tax, Flat Tax (New York: McGraw-Hill, 1983), p. 6.

[69] Kemp, An American Renaissance: A Strategy for the 1980's, p. 54.

[70] Internal Revenue Service, Annual Report of the Commissioner and Chief Counsel of the Internal Revenue Service, 1980, p. 27; 1983, p. 11; 1984.

[71] Ibid., 1984, Table 7.

[72] Ibid., 1984, Tables 6 and 22.

[73] Archeson, Our Federal Government How It Works, An Introduction to the United States Government, p. 35.

[74] Ibid., p. 122.

[75] Bradley, The Fair Tax, p. 102.

[76] Pechman, Options for Tax Reform, p. 30.

[77] Hall and Rabushka, Low Tax, Simple Tax, Flat Tax, p. 19.

[78] Robert Buechner, Prosper Through Tax Planning (New York: Coward-McCann, 1983), p. 1.

[79] Brawly, The Subterranean Economy, p. 27.

[80] Kemp, An American Renaissance: A Strategy for the 1980's, p. 194.

BIBLIOGRAPHY

Aaron, Henry J. and Galper, Harvey. Assessing Tax Reform. Washington, D.C.: The Brookings Institution, 1985.

Archeson, Patricia C. Our Federal Government: How It Works, An Introduction the United States Government, 4th ed. New York: Dodd, Mead, 1984.

Bowskey, Charles A., Comptroller General. An Analysis of Fiscal and Monetary Policies. Washington, D.C.: U.S. Government Accounting Office, August 31, 1982.

Boskin, Michael J., ed. Federal Tax Reform: Myths and Realities. San Francisco, Calif.: Institute for Contemporary Studies, 1978.

Bradley, Senator Bill. The Fair Tax. New York: Pocket Books, 1984.

Brawly, Dan. The Subterranean Economy. New York: McGraw-Hill, 1982.

Break, George F. Financing Government in a Federal System: Studies of Government Finance. Washington, D.C.: The Brookings Institution, 1980.

Buechner, Robert. Prosper Through Tax Planning. New York: Coward-McCann, 1983.

Cullinan, Paul. The Combined Effects of Major Changes in Federal Taxes and Spending Programs Since 1981. Staff Memorandum, April 1984.

Conner, Caryl. "Offering Incentives to Tax Evaders." Wall Street Journal, 13 May 1983.

Conte, Christopher. Wall Street Journal, 8 July 1982.

Dworak, Robert J. Taxpayers, Taxes, and Government Spending: Perspectives on the TP Revolt. Praeger Publishers, 1980.

Ellwood, John W. Balancing the Federal Budget and Limiting Federal Spending: Constitutional and Statutory Approaches. Washington, D.C.: Congress of the United States, Congressional Budget Office, September 1982.

Fairness and the Reagan Tax Cuts. Hearing before the Joint Economic Committee, Congress of the United States 98th Congress Second Session. Washington, D.C.: Government Printing Office, 1984.

Friedman, Milton. Tax Limitation. Inflation and the Role of Government. Dallas, Texas: The Fisher Institute, 1978.

Greensboro News and Record. Washington AP. Greensboro, N.C., June 7 and June 14, 1986.

Hall, Robert E., and Rabushka, Alvin. Low Tax, Simple Tax, Flat Tax. New York: McGraw-Hill, 1983.

Hall, Robert E., and Rabushka, Alvin. The Flat Tax. Stanford. Calif.: Hoover Institution Press, Stanford University, 1985.

Internal Revenue Service. Annual Report of the Commissioner and Chief Counsel of the Internal Revenue Service, 1980, 1983, 1984.

Kemp, Jack. An American Renaissance: A Strategy for the 1980's. New York: Harper & Row, 1979.

Lambro, Donald. Fat City: How Washington Wastes Your Taxes. South Bend, Ind.: Regnery/Gateway, Inc., 1980.

Landau, Sidney I., ed. in chief. Doubleday Dictionary. Garden City, N.Y.: Doubleday, 1975

Levitan, Sar A., and Werneke, Diane. Productivity: Problems, Prospects, and Policies. Baltimore and London: Johns Hopkins University Press, 1984.

McClure, Charles E., Jr. Must Corporate Income Be Taxed Twice? Washington, D.C.: The Brookings Institution, 1979.

National House Democratic Caucus. "Renewing America's Promise: A Democratic Blueprint for Our Nation's Future." January 1984.

Pechman, Joseph A., ed. What Should Be Taxed: Income or Expenditure? Washington, D.C.: The Brookings Institution, 1980.

Pechman, Joseph A., ed. Options for Tax Reform. Washington, D.C.: The Brookings Institution, 1984.

Publication 79, 1982 Statistics of Income: Individual Income tax Returns. Washington, D.C.: U.S. Government Printing Office, 1982.

Savage, Michael. Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask. New York: Dial Press, 1982.

Statistical Abstract of the United States. 105th ed. Washington, D.C.: U.S. Department of Commerce, Bureau of Census, 1985.

Strenghtening the Federal Revenue System: Implications for State and Local Taxing and Borrowing. Washington, D.C.: Advisory Commission on Intergovernmental Relations, 1984.

"Tax Foundation's Tax." Features 30 (March 1986):2.

Tuccille, Jerome. inside the Underground Economy. New York: Signet, 1982.

Mr. HELMS. So, I send a bill to the desk and ask for its first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The bill (S. 188) was read for the first time.

Mr. HELMS. Mr. President, I ask for the second reading.

Mr. FORD. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard. The bill will go over to the next legislative day for its second reading.

SLAVE LABOR IN CHINA

Mr. HELMS. Mr. President, today I am offering legislation to stop the Chinese from exporting to the United States items that are produced with slave labor. The bill requires importers of Chinese products to certify that none of the products were produced with slave labor.

Several years ago, the free world's attention was focused on the fate of brave young men and women who survived the massacre at Tiananmen Square. Many of us began to ask questions. Our inquiries inevitably led to the prison and labor camps maintained by the Communist Chinese, where forced labor has been documented time and time again.

This is not a new problem. For years, I have been outraged by reports of the Chinese use of slave labor to manufacture many things, including textiles. Not only is this practice inhumane; it is also impossible for U.S. businesses to compete with imports of slave labor-produced products.

After several years of research, we have discovered three things: First, the Communist Chinese manage and control a vast gulag of prisons and forced labor camps. The General Accounting Office [GAO] estimates that there are as many as 3,000 prison camps. And a study by the American-Asian Free Labor Institute estimates that there are as many as 20 million people imprisoned in those camps.

The GAO report also states that "Forced labor is an integral part of the political, judicial, penal, and economic systems in the PRC and is practiced throughout the country."

Second, Asia Watch, among others, has concluded that: "The government of China is systematically exploiting the labor of prisoners to make cheap products for export—and specifically targeting the United States, Germany and Japan."

We all remember the moving story of Harry Wu, who was a prisoner in China before he made his way to this country. The television program "Sixty Minutes" documented Harry Wu's return, undercover, to the prisons in China where the Chinese use slave labor to produce products for export to the United States. The program featured so-called Chinese businessmen who boasted about the quality of the items made by slave labor. The Chinese stated that if there was any problem with quality, the prisoners would be beaten—they believe that torture is a form of quality control.

Third, we found that U.S. laws against the importation of slave labor produced goods are not being enforced. In effect, American consumers are subsidizing the imprisonment of liberty-loving people in China.

Mr. President, a little history may be relevant. I am old enough to remember a trip to Munich taken by a man named Neville Chamberlain. He came back from that meeting with Adolf Hitler, and he said: "This is a guy we can work with; we can have peace in our time." Neville Chamberlin lived to see this same man turn on the British Empire and the rest of the world. Adolf Hitler was not to be trusted.

The same can be said about the leaders of Communist China—they cannot be trusted. In 1949, the leaders of the Chinese Communist Party came to power through force and violence. For more than 40 years, these leaders have maintained themselves in power through the same means. They massacred Chinese workers and young people in Tiananmen Square who were peacefully assembled to advocate democracy. I will never forget the sight of that young student standing up before that advancing tank.

The Chinese Communists have secretly imprisoned, without charge or trial, thousands of their own people whose only wish is for the democratic freedom desired by all mankind.

Mr. President, the Chinese Communists have flooded international markets with a variety of products made by slave labor. The prisoners are producing a multitude of products: T-shirts, underwear, ladies sweaters, blue jeans, wool cloth, cotton cloth, socks, work gloves, sneakers, slippers, leather shoes, flashlights, hand tools, electric drills, auto parts, iron and steel, galvanized wire, electric generators, diesel engines, power transformers, lead, coal, consumer electronics, arts and crafts, wine, and even the cardboard containers to pack it in and ship it to the United States.

These labor camps can fairly be called death camps. For most Chinese caught in the system, an assignment to the camps is a one-way ticket.

Mr. President, outside of Beijing is an enormous camp of about 100 square miles in size. Visualize that, if you will. According to testimony of Mr. Moser, of the Cleremont Institute, and Mr. Wu, a million people have passed through this camp. But as Mr. Wu and Mr. Moser said: "Many of them are still there. They are buried there." Henry Wu should know, he was there. He was a prisoner.

Very, very few prisoners ever completely break free of the labor camp system. As the Library of Congress Far Eastern Law Library experts told us, most of those in the camps have not been sentenced by any court and there-

fore they can be held indefinitely. Even those who have a defined sentence cannot return home in the vast majority of cases.

According to Asia Watch, they are "forcibly and indefinitely retained as workers after they have completed their sentences so that export-oriented productivity will not be diminished by their departure from the system."

How do you like that for justice?

Communist China has violated every internationally accepted standard of human rights and democracy.

Mr. President, it is imperative that such dangerous and inhumane behavior cease.

The legislation I am introducing today will stem the flow of slave-labor produced imports into this country. The bill contains two provisions: First, it requires importers to certify that imports from Mainland China are free of forced labor inputs; and second, it encourages the Communists to open their prisons and slave labor camps to inspection by international human rights groups such as the International Red Cross.

Mr. President, this bill is a first step in the effort to stop the slave labor industry in Communist China.

Mr. President, I ask unanimous consent that the entire text of this legislation be printed in the RECORD.

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

S. 189

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

SECTION 1. PROHIBITION OF ARTICLES USING FORCED LABOR.

(a) IN GENERAL.—Notwithstanding any other provision of law, no product, growth, or manufactured article of the People's Republic of China shall enter or be imported into the United States unless—

(1) the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") determines that such product, growth, or manufactured article is not the product, growth, or manufacture of forced labor,

(2) the determination described in paragraph (1) is based on consultations described in subsection (b), and

(3) the importer of any product, growth, or manufactured article of the People's Republic of China submits a certification to the Secretary in accordance with subsection (c).

(b) RIGHT OF INSPECTION AND CONSULTATION.—The United States shall use all diplomatic efforts to persuade the People's Republic of China to permit representatives of international humanitarian and intergovernmental organizations, such as the International Labor Organization and the International Committee of the Red Cross, to periodically inspect all camps, prisons, and other facilities holding detainees and the Secretary shall consult with representatives of such organizations in order to determine that products of the People's Republic of China which are for export are not being produced with the use of forced labor.

(c) CERTIFICATION.—The Secretary shall prescribe the form, content, and manner of submission of the certification (including documentation) required in connection with the entry or importation into the United States of any product, growth, or manufactured article of the People's Republic of China. Such certification shall satisfy the Secretary that the importer has taken steps to ensure that such product was not produced, grown, or manufactured with the use of forced labor.

(d) PENALTIES.—

(1) UNLAWFUL ACTS.—It is unlawful to—

(A) enter or import into the United States any product or article if such importation is prohibited under subsection (a), or

(B) make a false certification under subsection (c).

(2) CIVIL PENALTIES.—Any person or entity who violates paragraph (1) shall be subject to a civil penalty of—

(A) not more than $10,000 for the first violation,

(B) not more than $100,000 for the second violation, and

(C) not more than $1,000,000 for more than two violations.

(3) CONSTRUCTION.—Except as provided in paragraph (2), the unlawful acts described in paragraph (1) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1581 through 1641).

(e) DEFINITIONS.—For purposes of this section:

(1) FORCED LABOR.—The term "forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

(2) PRODUCT, GROWTH, OR MANUFACTURED ARTICLE.—A product, growth, or manufactured article shall be treated as being a product, growth, or manufacture of forced labor if—

(A) the article was fabricated, assembled, or processed, in whole or in part;

(B) contains any part that was fabricated, assembled, or processed in whole or in part; or

(C) was grown, harvested, mined, quarried, pumped, or extracted,

with the use of forced labor.

(3) ENTER, IMPORT, ETC.—The term "entry", "enter or be imported", "import", or "importation" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

REPEAL THE MANDATORY 20 PERCENT WITHHOLDING ON IRA'S

Mr. HELMS. Mr. President, I send to the desk a bill and ask it be given first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The bill (S. 189) was read for the first time.

Mr. HELMS. I ask for second reading, Mr. President.

The PRESIDENT pro tempore. Is there objection?

Mr. FORD. Mr. President, I object.

The PRESIDENT pro tempore. Objection having been heard, the bill will go over to the next legislative day for a second reading.

Mr. HELMS. Mr. President, last summer, Congress enacted legislation which requires pension managers to withhold and forward to the Internal Revenue Service, 20 percent of all withdrawals made after January 1, 1993, from individual retirement accounts and pensions.

Since enactment of this provision, I have received a steady stream of correspondence from North Carolinians who realize how grossly unfair this legislation is. After looking into the matter closely, I found that they have every right to be upset with this folly. So today, I am introducing legislation to: First, repeal the mandatory withholding provision; and second, offset any loss to the U.S. Treasury created by the repeal with corresponding reductions in Foreign Aid.

Mr. President, the ill-conceived withholding provision was enacted as a means of financing the extension of unemployment insurance benefits provided for in Public Law 102-318. The bottom line though, is that these Tax Code changes will adversely impact retirees and other hardworking Americans while failing to raise the $2.1 billion for the U.S. Treasury originally predicted by its Joint Tax Committee.

Senators who have not yet heard from their constituents about the horrendous effects of this new law—and I would be surprised if any Senator has not—may be interested in hearing how this new law works. Admittedly, it is a little technical, but its economic effect on retirees is anything but technical. Indeed, it's devastating.

First, if you leave your job and go to work for another employer, or find another qualified IRA into which you can transfer your pension, you can avoid Government withholding if you ask your employer to transfer your IRA before you leave the job.

Second, if you leave your job and before you leave, fail to instruct your employer to transfer your IRA, you receive upon termination a lump sum check minus the 20 percent withholding. Therefore, any employee who leaves his or her job on short notice is going to have withheld for the IRS, 20 percent of his or her pension regardless of that person's tax bracket.

Third, let's assume you leave your job, do not tell your employer before you leave to transfer your IRA, and receive your lump sum check for 80 percent of your pension—remember, 20 percent has been taken off the top for withholding.

To avoid the usual tax penalty for an early withdrawal from your old IRA, you must put 100 percent of your lump sum into another IRA within 60 days of leaving your job. But remember, you do not have in hand 100 percent. You have only 80 percent since 20 percent has been withheld for the IRS.

So, in order to avoid the usual tax penalty for an early withdrawal, you must put the 80 percent into the IRA and add 20 percent—if you have—to

that. Otherwise, the IRS will tax you as if you made an early IRA withdrawal.

Mr. President, Mrs. Louise S. Stephenson, who is with Capitol Broadcasting in Raleigh, NC—the company for which I worked prior to coming to the Senate—was the first person to bring this law's absurdity to my attention. Mrs. Stephenson, or "Scottie" as she is known to her friends, is one of the smartest people I know. So, when Scottie believes the Government is doing something wrong, I take it very seriously.

Indeed, last summer, Scottie provided me in a letter with the clearest explanation I have yet seen on this problem. Mr. President, I ask unanimous consent that her letter be printed in the RECORD at this point.

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

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

CAPITOL BROADCASTING CO., INC.,
Raleigh, NC, August 26, 1992.

Senator JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR. Thank you so much for putting me in touch with the folks who are trying to deal with the legislation we discussed yesterday. It was very helpful to me to talk with your staff and the staff of the Finance Committee.

As I understood the Finance Committee staffperson, the 20% withholding tax to be imposed on all of our Profit Sharing transactions is "merely a payroll deduction thing—pay as you go." There seems to have been some problems with retirees taking all of their proceeds and not paying income tax—"forgetting" or some such. (God knows there are enough safeguards already in place to deal with this. Every cent is reported to the IRS through estimated tax reports. W-2Ps, etc., to alert them to the existence of a tax liability.) and 20% was selected "because it is somewhere between 15% and 31%, the minimum and maximum tax rates."

These funds are not a new source of tax revenue. The government always gets its share whether it is from the distribution itself, income tax paid the next year. IRA wind-down, or through minimum distributions. The new tax grab puts it up front, it is arbitrary in its amount and, in my opinion, will generate a large increase in IRS refunds the following year. I wonder if this expense was taken into account when the revenue potential was projected? Was the cost of setting up the Washington machinery to administer it deducted from expected returns? Based on my discussion with Finance Committee staff, just about everything in the bill as presently written has to be "fixed" before any of it will work.

In addition to the considerable inconvenience caused to retirees, we have major concerns about distributions to terminating younger employees. John Doe is leaving. He has $15,000 in his retirement account. The law would force us to withhold $3,000 federal income tax regardless of what his actual liability might be—let's say 5% to 10%. He will have to wait until the following year to file for a refund. He will owe 10% penalty, too, for early withdrawal (unless he elects to rollover into an IRA all of his funds prior to termination—something the younger participants rarely do). If he happens to reside in Virginia, there's a law which says we take out Virginia's income tax, too, if the Feds get theirs. He'll be lucky to have $10,000 when the tax dust settles.

Another concern is the employee who wants to buy his own home and he's not terminating. Now he can access all of his 401k money except its earnings if he documents the amount requested as the actual need. Under present law he wouldn't request federal tax withholding because he will have offsetting interest deductions at income tax filing time. He will only have the 10% penalty now imposed for early withdrawal.

Under the new law this fellow is going to pay 20% up front and wait maybe as long as 16 months to get it back when he needs it now.

Again, thank you for your good help. I hope we can prevail—just once. Congress needs to encourage retirement plans and stop targeting them as a convenient revenue source. It's a sad state of affairs when unemployment checks become the responsibility of folks retiring from the workforce. The unemployment funding extension is the sixth assault in as many years on our relatively straight-forward Profit Sharing Plan. Enough is enough!

Cordially,

LOUISE S. STEPHENSON,
Member, Administrative Committee,
CBC Cash or Deferred Profit Sharing Plan.

Mr. HELMS. Mr. President, as Mrs. Stephenson points out, this is a disaster waiting to happen. But there is more:

When Congress initially considered this new withholding provision, the Joint Tax Committee estimated it would raise $2.1 billion in fiscal year 1993. However, a closer look at this figure discloses that it is wildly optimistic, and that, in reality, the revenue increase will amount to only a fraction of the $2.1 billion estimate.

In fact, David Langer, a consulting actuary in New York, calculated that $2.143 billion in additional tax revenues would require $10.7 billion in IRA distributions subject to the 20-percent withholding. As Mr. Langer points out, this is on the high side. Some people will no doubt figure out the 20-percent withholding may be avoided by either making a direct transfer, leaving money in the plan, or making periodic withdrawals.

In addition, many individuals who are subjected to the 20-percent withholding will likely be in a lower tax bracket. Indeed, as Mrs. Stephenson pointed out to me shortly after bringing the consequences of this legislation to my attention, the usual withholding called for by the IRS is only 5 percent.

Those falling below the 20 percent will have their withheld funds refunded when they file taxes for the year. So, much of the supposed increase in revenue will in fact be about a loan as opposed to a permanent infusion.

Because of the aforementioned factors, Mr. Langer estimates that instead of raising the estimated $2.143 billion, the provision will actually raise only $86 million.

The irony, Mr. President, is that in raising so little money, these new withholding provisions greatly inconvenience employees as well as businesses on which the burden of implementing these provisions will fall. In fact, David Langer estimates that the cost to businesses of implementing these changes will amount to more than $4 billion over 5 years.

Mr. President, to set the record straight as to the real costs and benefits of the new withholding provisions, I ask unanimous consent that a reprint of an interview with David Langer and a report on Mr. Langer's study be printed at this point in the RECORD.

The SPEAKER pro tempore. Without objection, it is so ordered.

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

[From Daily Tax Report, Aug. 4, 1992]

WITHHOLDING, DIRECT TRANSFER AMENDMENTS SEEN COSTING EMPLOYERS OVER 34 BILLION

The total cost to employers of the employee benefit provisions included in the Unemployment Compensation Amendments Act of 1992 (PL 102-318) may amount to more than $4 billion over the five-year budget period, more than double the amount estimated to be gained in revenue from the provisions, a pension actuary estimated.

The Senate and House passed the bill July 2 and it was signed into law by the president July 3 (130 DTR G-5, 7/192). The benefit changes in the law liberalized rollover rules, required qualified plans to permit participants to elect to have any distribution eligible for rollover treatment transferred directly tax-free into an individual retirement account or another qualified plan, and imposed a 20 percent mandatory withholding charge on any distributions not rolled over.

According to David Langer, a consulting actuary with David Langer Co. Inc., New York, the law's approximate start-up costs amount to $1,500 per plan for making plan amendments to allow trustee-to-trustee transfers and for reviewing the plan to ensure compliance with the law, Langer told ENA July 29. The amendments are required as a qualification issue, Langer explained.

Once amendments are made, annual administration of the new requirements may amount to approximately $1,000 a year per plan for additional staff time to carry out the direct transfers and filing out the additional paperwork associated with the direct transfers and the withholding requirements of the law, Langer estimated.

Estimating that there may be roughly 600,000 defined contribution plans and 100,000 defined benefit plans that currently allow lump sum distributions and would therefore have to comply with the law, the total start-up cost would be $1.05 billion and the annual cost of administration would be $0.7 billion, Langer said.

That brings the total cost of compliance with the law to $4.55 billion over the five-year period used by the Joint Committee on Taxation staff to estimate revenue gains and losses from tax laws, Langer said.

The JCT staff estimated that the withholding provisions of the law would result in an increase in revenue to the federal government of $2.17 billion over the same five years. According to Langer, it would have been more efficient and a lot cheaper for

plan sponsors had the $2.147 billion in desired additional revenue been released by a charge of about $15 per year per participant, he said.

RESPONSE

"There's a lot more going on here that is beneficial to the participant"—including an extensive expansion of the ability to roll over funds from one qualified plan to another, a Senate aide told BNA July 31.

"It is a pro-participant proposal," the aide added. "We are forcing the employer to do the work in order to preserve participant retirement savings," the aide said.

Langer also suggests that the $2.147 billion JCT staff revenue estimate might be optimistic. To have $2.143 billion in additional collections in 1993, as estimated by the committee, would require $10.7 billion in distributions that are subject to the 20 percent withholding, Langer asserted.

Langer questioned whether $10.7 billion is a reasonable expectation given that there will be a number of ways to avoid paying the 20 percent withholding, including making a direct transfer (as is intended by the law), leaving money in the plan, or making periodic withdrawals, he explained.

Even if the expectation of having $10.7 billion in distributions subject to withholding is reasonable. Langer questioned whether that money should be counted as revenue. According to Langer, the amount should not be counted as additional federal revenue because it is, in effect, a forced interest-free loan to the Treasury of about one year's duration, he said.

The Treasury may collect $2.143 billion in 1993, but much of what is collected would have to be refunded at the beginning of the 1994 when taxpayers file their tax returns, Langer said. The only benefit to the Treasury is the savings from reducing its 1993 sale of Treasury bills, he said. At an approximate 4 percent interest rate, the government would realize a one-time savings of approximately $86 million in 1993, he said.

[From David Langer Co., Inc., Consulting Actuaries, Aug. 10, 1992]

NEW LAW ASKS EMPLOYERS TO SPEND $4.55 BILLION, BUT IT WILL RAISE ONLY $86 MILLION; DETAILED ANALYSIS OF THE NEW 20 PERCENT TAX WITHHOLDING AND ROLLOVER RULES

The new 20% tax withholding and rollover rates are effective starting in 1993. They will require changes in plans and in the materials and explanations given participants under practically all defined contribution plans and many defined benefit plans. The Bureau of National Affairs interviewed David Langer on the cost and revenue aspects of the new law, and a copy of the report that appeared on August 4 in the BNA Daily Tax Report is enclosed. In brief, the Joint Committee on Taxation staff estimated that the law would raise $2.1 billion, but Langer sees only $86 million arising in additional revenue. Further, he predicted that the five year outlay by employers to set up and administer the law would come to $4.55 billion.

We discuss below how distributions are to be treated under the rules, the action to be taken, and problems that, hopefully, will be clarified by technical corrections or regulations.

DETERMINATION OF TYPE OF DISTRIBUTION

Distributions are basically divided into three types. In order to apply the new rollover and tax rules, a plan administrator must first determine the type of the distribution (note that a participant's benefit may consist of more than one type).

Non-taxable distributions: Any payment that is not otherwise includible in gross income, e.g., a return of after-tax employee contributions.

Taxable rolloverable distribution: Any taxable payment that is not part of an annuity of approximately equal amounts payable for life or a period of 10 years or more and that is not a minimum required distribution. These are "eligible rollover distributions."

Taxable non-rolloverable distribution: Either a payment which is part of an annuity for life or for 10 years or more, or any payment that is a minimum required distribution.

TAXES

Under the old law, all taxable distributions were subject to withholding, but a participant could elect to waive withholding. Under the new law, the amount to be withheld depends on the type of taxable distribution. (Non-taxable distributions are, of course, not subject to withholding.)

Rolloverable 20% withholding is required, unless the participant directs the plan's trustee to transfer the distribution directly to the trustee of an IRA or to a defined contribution plan that allows such transfers.

Non-rolloverable: Old-law withholding still applies. Taxes on periodic payments are therefore withheld as if the participant is married with 3 dependents and on non-periodic payments at the rate of 10%. Withholding may be waived or the rate of withholding changed. The old law rules apply to all types of distributions from IRAs.

NOTICES

Plans that provide for benefit payment methods that qualify as eligible rollover distributions must allow a participant to request that the benefit be directly transferred and therefore avoid tax withholding. The Trustees, prior to the date benefits are paid, are to provide participants with a notice stating that unless the participant requests a direct transfer, taxes will be withheld at the 20% rate. The IRS is expected to prescribe model notice language. Forms currently given participants must therefore be revised to include this and eliminate the current waiver of taxes for all but non-rolloverable distributions. The notice should be given to the participant with the benefit election form, so that time is available to make a decision before payment is made.

The notice must also describe the information the participant has to give the plan trustee in order to effect a transfer. The participant must choose an IRA or eligible plan and give the plan trustee payment instructions. According to the Committee report, the trustee is not required to confirm the information. Notices must continue to inform the participant of the right to roll over the distribution within 60 days of payment. If not directly transferred, and when a distribution may be eligible for favorable tax treatment. Participants receiving a non-rolloverable distribution will still have to receive a notice of right to waive or change withholding.

ROLLOVERS

Under the old law, in order to be eligible for a rollover, a distribution had to be in one of the following forms: (a) the entire balance of the participant's account, paid in one tax year due to termination, death, disability, or after attainment of age 59½, or (b) received due to plan termination, or (c) at least 50 percent of the participant's total account payable due to termination, death, or disability.

The new law will simplify rollovers in the following ways:

Any taxable rolloverable distribution can be rolled over (within 60 days of receipt if not directly transferred).

The distribution does not need to be entire balance to the participant's account or paid completely in one tax year.

Complex rules that limited the ability to roll over a lump sum payment were eliminated. It is no longer necessary to combine like plans of an employer in order to determine whether a distribution is the entire balance and therefore eligible for rollover. A distribution can now be rolled over whether or not any benefits were paid prior to, or will be paid after, the distribution, as long as the distribution is not part of an annuity. Many subtle restrictions were eliminated.

ACTION TO BE TAKEN

Employers must do the following:

Revise notices to be given to participants upon termination of employment. Plans must be operated in compliance with the law beginning on January 1, 1993.

Review benefits already in pay status to see if any retiree must be given notices and the withholding levels changed. For example, if benefits are already being paid out over 5 years, the withholding and right to rollover has changed for post-12/31/92 payments.

Amend the plan within the 1994 Plan Year.

Consider announcing the change to participate even though a Summary of Material Modification is not required until the plan is amended.

QUESTIONS AND PROBLEMS

There are many questions and problems that IRS or Congress will have to address before the end of the year.

If part of a benefit payment is a rolloverable distribution and part is nonrolloverable, then each part is subject to different withholding rates, different explanations of rights, and possibly different payees. This can occur, for example if part of a lump sum payout is a minimum required distribution which cannot be rolled over, or if a participant elects an annuity from an employer-provided account and a lump sum from an elective account.

There doesn't seem to be any limit on the number of IRAs a participant can request transfer to, so that the plan trustee may have to make multiple transfers.

If a participant is receiving a monthly or annual benefit over a period under 10 years, does the participant have to be given the required notice and provide new transfer instructions prior to each benefit payment?

If a benefit's value is under $3,500 and the plan provides for automatic pay out, how much time has to be given to the participant to provide transfer directions before the distribution is made with 20 percent withholding?

If a participant does not decide to roll over an eligible distribution until after payment is received, less 20 percent withholding, the participant will lose part of the retirement income that can be rolled over, unless he or she has other funds or can borrow money within the 60 day rollover period to augment the payment up to the amount of the total distribution. In addition, if the 10 percent early withdrawal penalty is applicable, the 20 percent that was withheld may be subject to such penalty.

Example, Mary and Jim each received a distribution of $50,000 which, after the 20 percent withholding consists of a check for $40,000 and $10,000 forwarded to IRS. Mary has sufficient assets to open an IRA with the $40,000 check and her own check for $10,000.

On her tax return, she will report a rollover of $50,000 and will either reduce the taxes she owes by the $10,000 that was withheld or get it back as a refund. Jim cannot come up with $10,000, so he only rolls over the $40,000 check to an IRA, and on his tax return has a net taxable distribution of $10,000. Assuming a 35 percent tax rate (federal and state) and a 10 percent early withdrawal penalty since he is not age 55, Jim only gets a reduction in taxes due (or a refund) of $5,000. This cannot be rolled over since the 60 days have passed. so Jim has lost at least $4,500 in tax deferred IRA retirement funds.

The 20 percent withholding is applicable to hardship distributions, although this may have been a drafting mistake. Unless it is changed, plans will have to decide whether to allow for hardship distributions to be "topped-up", since withholding can no longer be waived. Of course, a participant can elect a trustee to trustee transfer to an IRA and then close the IRA while waiving tax withholding. This means, of course, lots more paperwork.

Are Social Security supplements that are payable for less than 10 years eligible rollover distributions or are they part of the pension annuity?

If an outstanding loan becomes a taxable distribution, as can happen upon termination of employment, and the participant cannot repay the outstanding balance, then the balance is subject to 20 percent withholding. If the participant directs the transfer of the rest of the account, how will the withholding be accomplished? The same problem may arise when a distribution includes noncash assets (stock, real estate, etc.)

Mr. HELMS. Mr. President, Senators may recall that during consideration of the tax bill last fall, I brought the problems inherent in the new withholding provisions to the attention of the managers of that bill, Mr. Bentsen and Mr. PACKWOOD. The Senators graciously agreed to have the Finance Committee examine—early this year—the implications of the new withholding provisions. Even though we now have a new chairman of the Finance Committee, I hope the committee will—at the earliest possible time—review the new withholding provisions.

However, to get the ball rolling, I am today introducing this bill to, as I said earlier, repeal the mandatory withholding provision, and recoup any loss to the U.S. Treasury with corresponding reductions in foreign aid. I hope the Finance Committee and the Senate take quick action on this legislation in order to relieve the unnecessary burden imposed on working Americans by the ill-advised withholding provision.

Mr. President, I ask unanimous consent that an editorial from the December 1992 issue of Money magazine titled "Let's Repeal This Lousy Tax Law" be printed in the RECORD at the conclusion of my remarks followed immediately by the text of the bill I am introducing today.

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

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

[From Money magazine, December 1992]

LET'S REPEAL THIS LOUSY TAX LAW

Ever wonder how a dreadful idea becomes law? The story behind the government's new 20% withholding tax on early pension payouts is a classic. You can call it gridlock in action.

Make no mistake, the 20% law is a rotten piece of legislation:

It penalizes workers, especially the unfortunate. Until now, workers who took lump-sum pension disbursements before retirement—often when they were laid off or fell ill—got 100% of their money. They then had 60 days to roll it over into another pension plan or an Individual Retirement Account. If they spent it instead, they had to pay income tax on the money. In addition, they paid a stiff 10% penalty, unless the cash went toward major medical bills. But beginning Jan. 1, individuals who take such a check directly for any reason—even in a medical emergency—will get only 80%; the other 20% will be withheld automatically for taxes. They will still have 60 days to deposit the money in an IRA, and thereby qualify to recoup the 20% when they file their income taxes and duck the 10% penalty. But get this: If you ask for $10,000, you receive 80% ($8,000)—but you still have to deposit the full $10,000.

You not only get shortchanged $2,000, you have to come up with $2,000 on your own to avoid getting whacked. "That last part is outrageous," says Brian Gaston, press secretary for Rep. Jan Meyers (R-Kans.), the lawmaker who is lending an effort to get the law repealed.

You can sidestep the complications by telling your employer to transfer the money straight into an IRA. By law, employers must follow your instructions. But there is a real question, as you will see, about whether companies have the resources to comply without making serious errors that hurt taxpayers.

It will raise a relative pittance. The official government estimate: $2 billion in fiscal year 1993, followed by a mere $1 million in '94. In effect, the government is collecting two years of taxes in one, through withholding. "It is a fraud on the American public," says Ernst & Young's director of tax practices, David Berenson. "All they're doing is taking taxes from the next year, which will increase the deficit at that time."

And it may backfire in unsuspected ways. Sheila Jamison of Dean Witter's Retirement Plan Service Department reports that several small and mid-size firms are considering abolishing their pension plans rather than take on the fiduciary liability and administrative costs involved.

So how did this gem become law? Blame gridlock. After twice vetoing billion-dollar unemployment insurance extensions, President Bush signaled in July that he would go along if Congress could raise the money somehow. "The search was on to find revenue proposals," says a Senate Finance Committee staffer. "This is the one everyone agreed to."

This bill swept to passage. "There's no record of any debate," says the staffer. "No one had to give position papers on it, since the entire process had to be hurriedly finished by the July 4th break." Or to put it another way: Gridlock+Haste=a Lousy Law.

Proponents of the law note that regrettably around 80% of those who take early pension payouts spend the money. But now faced with the withholding provisions and penalties, more people will choose to roll the money directly into IRAs and keep it there.

Maybe so. Yet if the lawmakers' true intent was to preserve pension savings, why didn't they simply require pension plans to roll all early distributions into IRAs? Fact is, that clearheaded solution was proposed—and rejected. Why? Because it wouldn't raise any tax revenue. This withholding nightmare materialized in its place.

All is not lost, however, Rep. Meyers' repeal effort has already attracted 55 congressional co-sponsors. "This law is blatantly unfair," says Meyers. "It must be repealed."

S. 190

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

SECTION 1. REPEAL OF MANDATORY 20 PERCENT INCOME TAX WITHHOLDING ON ELIGIBLE IRA ROLLOVER DISTRIBUTIONS WHICH ARE NOT ROLLED OVER.

(a) REPEAL OF WITHHOLDING REQUIREMENT.—Subsection (b) of section 522 of the Unemployment Compensation Amendments of 1992 (relating to withholding on eligible rollover distributions which are not rolled over), and the amendments made by such subsection, are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsection, and amendments, had never been enacted.

(b) OFFSET.—The President is authorized to reduce obligations and expenditures for programs, projects, and activities authorized under the Foreign Assistance Act of 1961, except for allocation of funds for countries specified in law, by such sums as are necessary to offset the loss of revenues under subsection (a).

The PRESIDENT pro tempore. The time of the Senator from North Carolina has again expired.

Mr. HELMS. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 more minutes. I think I can offer the rest of it in that time.

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

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

THE SWAIN COUNTY SETTLEMENT ACT OF 1993

Mr. HELMS. Mr. President, I send to the desk a bill and ask for its first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The bill (S. 191) was read for the first time.

Mr. HELMS. Mr. President, I ask for a second reading.

The PRESIDENT pro tempore. Is there objection to the second reading of the bill?

Mr. FORD. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard. The second reading of the bill will go over to the next legislative day.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, today I introduce the Swain County Settle-

ment Act of 1993, meeting a promise I made to the people of tiny Swain County, NC, many years ago. I told them that I would do everything in my power to force the Federal Government to keep a commitment it made to them back in 1943, almost a half century ago.

On October 22, 1991, I introduced, the Swain County Settlement Act of 1991. During the last days of the 102d Congress, the former Senator from North Carolina, Senator Sanford, asked to cosponsor that legislation thereby signaling a change in the position of the North Carolina Democratic Party toward this issue. Unfortunately, some objected to its passage at the last minute. The legislation introduced today contains the provisions of that bill which came so close to passage last year. It directs the Secretary of the Interior and the Secretary of the Treasury to fully honor the 1943 contract between the people of western North Carolina and the Federal Government.

Mr. President, at the outset I make this point: At issue here is whether the U.S. Government will keep its word, and live up to a very clear commitment made 49 years ago in exchange for the Federal Government being given the right to flood thousands of acres of Swain County land to create the Fontana Lake. The integrity of the Federal Government, and those of us who serve in Congress today, will be decided by what we do, or fail to do so, in the minds of people who have been waiting for 48 years.

The Helms legislation proposes three things: First, it orders the Secretary of the Interior to begin construction of the road promised by the Federal Government in 1943; second, it directs the Secretary of the Treasury to pay Swain County, NC, the sum of $16 million to compensate the county for the destruction of North Carolina Highway 288; third, it orders the Park Service to erect an historical marker at Soco Gap to honor the contributions of the Cherokee Nation to the people of North Carolina and to the United States.

Senators should be aware of what happened 48 years ago to understand why I so vigorously support full settlement of this matter. In 1943, the Federal Government and the Tennessee Valley Authority decided they needed to flood land from the farmers in Swain County, in order to generate hydroelectric power. Literally thousands of Swain County residents packed up and left their homes because the Federal Government needed their land. The Government did not relocate them, nor did Government give North Carolina families additional land. The Government merely offered a few dollars for the land, but Swain County citizens have told me that they never received even a dime for their land.

I don't have to remind Senators, Mr. President, that in 1943, World War II was raging in Europe and the Pacific. Many of the men from the Swain County area were overseas fighting for their country's freedom—at the very time their land back home was being taken by the Federal Government.

When the Government took the 44,400 acres of land north of Fontana Lake, it agreed: First, to reimburse Swain County for an existing highway that would be flooded in order to create Fontana Lake; second, to build an around-the-park road to, among other things, provide access to gravesites left behind when the people were forced off the land. In case anyone cares to see it, I have a copy of the North Shore Road contract signed by FDR's Interior Secretary Harold Ickes and North Carolina's Governor J. Melville Broughton.

In July 1943, shortly after the agreement was signed, a Tennessee Valley Authority supervisor wrote the families about gravesite removal. The letter stated:

> The construction of Fontana Dam necessitates the flooding of the road leading to the Proctor Cemetery located in Swain County, North Carolina, and to reach this cemetery in the future will be necessary to walk a considerable distance until a road is constructed in the vicinity of the cemetery, which is proposed to be completed after the war has ended. We are informed that you are the nearest surviving relative of a deceased who is buried in this cemetery.

Because of the understanding mentioned in this letter—that the road would be completed shortly after the war—families agreed to leave their deceased relatives on the land taken by the Federal Government.

Mr. President, documents dating back to 1943 show that the Government did fulfill its promise to pay for Highway 288. In 1943 the Government paid to the State of North Carolina approximately $400,000, an amount which represents the principal which Swain County owed on outstanding bonds.

According to my information, the Federal Government paid that amount to the State of North Carolina as trustee. A letter dated November 22, 1943 from the treasurer of the Tennessee Valley Authority to the treasurer of the State of North Carolina confirms that payment was made.

The full payment never reached Swain County and the Federal Government never fulfilled its obligation to build the road. There were a few false starts, though. In 1963, the Federal Government built 2.5 miles of road; in 1965 it built 2.1 miles; and in 1969 it built 1 additional mile and a 1,200-foot long tunnel. Then the environmentalists got into the act and the project was shut down. Now you can visit one of western North Carolina's best known sites, the Road to Nowhere. It is a travesty—a monument to a broken promise by the U.S. Government.

Former Senator Sanford suggested last year that Swain County has not been able to grow because it has not received the payment of $16 million—which the Federal Government owes the county for destroying North Carolina Highway 288 in 1943. I disagree. Swain County and most of western North Carolina have suffered economic distress because—I repeat, because—as each year goes by more and more land in North Carolina is taken off the tax rolls and placed off limits. Over the years, people in western North Carolina have watched the Federal Government seize their land for one purpose or another. They have very little industry. They have no tax base. The unemployment rate is high.

No one can fully appreciate how the Government has crippled the economy in western North Carolina until he looks at how much land the Federal Government has already seized. In Swain County alone, out of 345,715 acres, the Federal Government has taken 276,577 acres. Nearby Graham County has the same problem. Of the 193,216 acres in that county, the Federal Government has taken 138,813 acres. Of the 353,452 acres in Haywood County, the Federal Government has taken 131,111 acres.

I mention all this to emphasize the frustration in western North Carolina. Meanwhile, in the four Tennessee counties bordering the Great Smoky Mountains National Park, for instance, the Federal Government owns less than two-fifths of the land. I have no quarrel with our friends in Tennessee but facts are facts.

Although the Great Smoky Mountains National Park is the most visited national park in the country, few tourists who travel through the Smokies have a place to pause on the North Carolina side of the park. The road in Swain County, promised over 49 years ago, would change that. It would attract industry and tourists, not to the detriment of the scenic beauty of the Smokies but for the betterment of the citizens of western North Carolina. Senator Sanford himself stated that he would like the road to become a part of the Blue Ridge Parkway system. I agree.

Our former colleague, Senator Sanford, stated prior to his December 1991 meeting in Swain County, that Department of the Interior regulations and so-called environmental guidelines prevent the construction of the road and, for that reason he would not support full compliance with the 1943 agreement. The Helms legislation takes care of that because it orders, notwithstanding any other provision of law, the Secretary of the Interior to build the road.

As Paul Harvey would say, "now you know the rest of the story."

Make no mistake about it, the radical environmentalists will not be satisfied until all of western North Carolina is locked up and the key is thrown away. They have opposed my efforts to achieve fairness for western North Carolina.

I tried to compromise with the environmentalists. I introduced legislation in the 98th, the 99th, and the 100th Congresses. I agreed to place approximately 200,000 acres of North Carolina land into wilderness in exchange for three things: First, reimbursement for Highway 288 and a farmers home loan; second, exclusion of 44,000 acres of North Carolina land from wilderness; and third, the authorization of money for a primitive road to be built to the cemeteries north of Fontana Lake.

Mr. President, nothing happened. This legislation will right a wrong committed 50 long years ago.

I made a commitment to the people of western North Carolina years ago. I promised to fight for their interest. If I lose, the Government will lose the respect and confidence of thousands of North Carolinians.

Mr. President, I ask unanimous consent that the text of this legislation be placed in the RECORD.

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

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

S. 191

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 "Swain County Settlement Act of 1993".

SEC. 2. SETTLEMENT OF CLAIMS.

(a) FINDINGS.—Congress finds that—

(1) Swain County, North Carolina, claims certain rights acquired pursuant to an agreement dated July 30, 1943, between the Secretary of the Interior, the State of North Carolina, the Tennessee Valley Authority, and Swain County, North Carolina (referred to in this Act as the "1943 Agreement");

(2) the 1943 Agreement provided that the Department of the Interior would construct a road along the north shore of the Fontana Reservoir to replace a road flooded by the construction of Fontana Dam and the filling of the reservoir; and

(3) the road has not been completed.

(b) PURPOSE.—The purpose of this section is to settle and quiet all claims arising out of the 1943 Agreement.

(c) SETTLEMENT.—

(1) COMPLETION OF ROAD.—Notwithstanding any other provision of law, the Secretary of the Interior shall complete the road along the north shore of the Fontana Reservoir according to the terms of the 1943 Agreement.

(2) PAYMENT TO SWAIN COUNTY.—

(A) IN GENERAL.—The Secretary of the Treasury shall pay Swain County, North Carolina, the sum of $16,000,000, which shall be deposited in an account in accordance with the rules and regulations established by the North Carolina Local Government Commission.

(B) EXPENDITURE.—

(i) PRINCIPAL.—The principal of the sum may be expended by Swain County only under a resolution approved by an affirmative vote of two-thirds of the registered voters of the county.

(ii) INTEREST.—Interest earned on the unexpended principal of the sum may be expended only by a majority vote of the duly elected governing commission of Swain County.

(d) RESTRICTION ON USE OF FUNDS.—Money made available pursuant to this section may not be paid to or received by an agent or attorney on account of services rendered in connection with the claims settled by this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 3. CHEROKEE HISTORICAL MARKER.

The Secretary of the Interior shall allocate the funds and personnel necessary to place a suitable historical marker at or near the approach to the Cherokee Qualls Reservation at Soco Gap, North Carolina, in recognition of the historical importance of Soco Gap and the contribution of the Cherokee Nation to the State of North Carolina and the United States.

Mr. HELMS. Mr. President, I send to the desk a bill and ask for its first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The bill (S. 192) was read for the first time.

Mr. HELMS. Mr. President, I ask for a second reading.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. FORD. Mr. President, I object.

The PRESIDENT pro tempore. Objection having been heard, the second reading of the bill, under rule 14, will go over to the next legislative day.

THE OREGON INLET PROTECTION ACT OF 1993

Mr. HELMS. Mr. President, today I introduce legislation—The Oregon Inlet Protection Act of 1993—of vital importance to the citizens of the Outer Banks of North Carolina, particularly the commercial and recreational fishermen who risk their lives each day attempting to navigate the hazardous waters of Oregon Inlet.

On December 30, 1992, a 31-foot commercial fishing vessel sank in Oregon Inlet becoming the 20th ship to go down in those waters since 1961. Although the Coast Guard has not been able to locate the wreckage, both crewmen were rescued. These men were more fortunate than the 20 fishermen who have lost their lives at the inlet in the last 30 years. The time has come to stop the senseless destruction of life and property.

This legislation—which spends no money, authorizes no new expenditures and authorizes no new projects—simply allows the Corps of Engineers to enter a small parcel of Interior Department land in order to begin work on a project begun by the Congress in 1970. In legal terms this amendment grants an easement to the Department of the Army to enter no more than 100 acres of Interior Department land adjacent to Oregon Inlet in Dare County, NC. Although Interior Secretary Lujan issued conditional permits in October 1992, for the Corps of Engineers to begin the construction process, these permits can be revoked at any time. The Helms legislation serves notices that I will be monitoring this situation in the coming months.

Let me briefly review the history of this problem.

In 1970, Congress authorized the stabilization of a 400-foot wide, 20-foot deep channel through Oregon Inlet, and the installation of a system of jetties with a sand-by-pass system. The U.S. Army Corps of Engineers was authorized to design and build the jetties.

Ever since 1970, however, the project has been repeatedly and deliberately delayed by bureaucratic roadblocks contrived by the fringe element of the so-called environmental movement. In the meantime, lives and livelihoods have been lost, North Carolina's once thriving fishing industry has deteriorated, and access to the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore has been threatened.

Critics of this project claim we need more studies and more time to determine the impact the jetties will have on the Outer Banks. I say 22 years of studies is enough.

This is the most scrutinized project in the history of the Corps of Engineers and the Department of the Interior. Since 1969, there have been 97 major studies by the Federal Government. There have been three full blown environmental impact statements, but the environmentalists want more. As for the cost/benefit factor, the Office of Management and Budget found—as recently as March 14, 1991—the project to be economically justified. In December 1991, a joint committee of the Corps of Engineers and the Department of the Interior recommended to Interior Secretary Lujan and Army Secretary Page that the jetties be built.

The time has come to get off the dime. Too many lives have been lost, and now the very existence of the Outer Banks is in question because we have done nothing to manage the flow of sand from one end of the coastal islands to the other. If we wait any longer, the environmentalists won't have to worry about turtles or birds on Cape Hatteras, because in a few short years this vital resource will have disappeared completely.

To see how out of touch these environmental extremists are one need only look at last October's "Smithsonian" magazine.

In an article entitled, "This Beach Boy Sings a Song Developers Don't Want to Hear," "Smithsonian" chronicles the adventures of a professor, at a major North Carolina university, who has made his living organizing opposition to all coastal engineering projects on the Outer Banks—Oregon Inlet in particular. According to this story, when confronted by an angry Oregon Inlet fisherman, a man who actually

has to work for a living—a living made more dangerous by the failure of the Government to keep a safe channel at Oregon Inlet open—this professor said that he and his radical friends will not be satisfied until "all the houses are taken off the shore to leave it the way it was before."

Mr. President, this is coming from a man who lives on a large plot of land in the middle of North Carolina. Yet, he is all too ready to deprive other North Carolinians of their right to live and prosper. That is not environmental activism; that is environmental hypocrisy. Let there be no mistake, this man is not alone, he speaks for those who will not be mollified until all of the North Carolina coast is locked up and the citizens and fishermen are thrown out of their homes and off their land.

My own hometown newspaper, the Raleigh "News and Observer," editorialized recently, that North Carolina Highway 12—which spans Oregon Inlet and is threatened by the failure to build the jetties—should be allowed to plummet into the sea. The "News and Observer" proudly proclaimed, "Let Neptune Route Highway 12." How is that for responsible environmentalism. For the sake of the environmentalist cause, a major newspaper advocates letting a primary highway—the only land link for thousands of Outer Banks residents and visitors to our National Parks—fall right into the ocean. As the poet said, "that does not even make good nonsense."

Mr. President, I think the issue is clear. The time for delay is over. It is time to put the people of North Carolina first. Although this legislation will not finish the Oregon Inlet project it does mark the beginning of the end of the jetty debate on the Outer Banks.

I ask unanimous consent that the text of the legislation be placed in the RECORD.

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

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

S. 192

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 "Oregon Inlet Protection Act of 1993".

SEC. 2. FLOOD CONTROL IMPROVEMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, shall construct, operate, and maintain the jetty and sand transfer system for the Oregon Inlet on the Coast of North Carolina, about 85 miles south of Cape Henry and 45 miles north of Cape Hatteras (as described on page 12 of H.R. Rep. No. 91-1665) authorized under the River and Harbor Act of 1970 and the Flood Control Act of 1970 (Public Law 91-611), except that the land area of the system shall be subject to the requirements of subsection (b)).

(b) DESIGNATION OF LAND.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Secretary of the Army, acting through the Chief of Engineers, and the Secretary of the Interior shall jointly designate the tracts of land for the jetty and sand transfer system described in subsection (a). If the Secretary of the Army and the Secretary of the Interior fail to jointly designate tracts of land by the date that is 60 days after the date of enactment of this section, the Secretary of the Army shall designate the tracts of land pursuant to a description prepared by the Secretary of the Army, in consultation with the Chief of Engineers, and shall notify the Secretary of the Interior of the designation.

(2) SIZE.—

(A) LIMITS.—Except as provided in subparagraph (B), the amount of acreage in the tracts shall not exceed—

(i) with respect to the tract in the Cape Hatteras National Seashore, 65 acres; and

(ii) with respect to the tract in the Pea Island National Wildlife Refuge, 35 acres.

(B) EXCEPTION.—If the Secretary of the Army and the Secretary of the Interior jointly designate the tracts of land pursuant to paragraph (1), the area of each tract may exceed the acreage specified in this subparagraph.

(c) MODIFICATION.—If, after designating the tracts of land pursuant to subsection (b) without the mutual agreement of the Secretary of the Interior, and providing notice to the Secretary of the Interior under subsection (b) of such designation, the Secretary of the Army determines that any tract is inadequate for the construction, operation, and maintenance for the jetty and sand transfer system described in subsection (a), the Secretary of the Army is authorized to designate, not earlier than 60 days after providing notice of a designation to the Secretary of the Interior under subsection (b)(1), an additional tract of land adjacent to the tract that is inadequate.

(d) EXEMPTION.—Notwithstanding any other provision of law, the construction, operation, and maintenance of the jetty and sand transfer system described in subsection (a), shall be exempt from any permit requirement (including any requirement for a special use permit or similar authorization) prior to the use of the system.

Mr. HELMS. Mr. President, I now ask unanimous consent that I be permitted to offer en bloc the six bills that I have just introduced and that these six bills be referred to the appropriate committees in this instance.

The PRESIDENT pro tempore. The Senator has the right to offer bills. They will be received and appropriately referred.

Mr. HELMS. I wish to offer them en bloc.

Mr. FORD. Point of information, Mr. President.

The PRESIDENT pro tempore. The Senator from Kentucky will state his parliamentary inquiry.

Mr. FORD. My parliamentary inquiry is, are these bills already introduced?

Mr. HELMS. Yes, but this time, they will be referred to committee.

Mr. FORD. So we will have a dual.

Mr. HELMS. Exactly.

Mr. FORD. I thank the Chair.

Mr. HELMS. Mr. President, I now ask unanimous consent that it be in order for me to offer en bloc four additional bills and that the statement for each bill be followed by the text of each bill, and that be printed in the RECORD, and that the bills be referred to appropriate committees.

The PRESIDENT pro tempore. is there objection? There is no objection. The several requests will be granted.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

JUSTICE THURGOOD MARSHALL

Mr. KENNEDY. Mr. President, with the death of Justice Thurgood Marshall last Sunday, the Nation lost one of its greatest heroes.

Justice Marshall's life reflected and shaped America's progress in ending the tragic legacy of racism that has haunted our Nation since its founding. When Thurgood Marshall was born in Baltimore 84 years ago, the son of a Pullman car waiter and a schoolteacher, the Constitution's guarantee of equal justice under law was an empty promise. Jim Crow laws relegated African-Americans to second-class status in many parts of the country; lynchings were common; blacks were unable to vote; segregation permeated every aspect of society, from education, to employment, to public accommodations.

Thurgood Marshall knew the stigma of racism firsthand.

As a young man, he was denied admission to the University of Maryland Law School because of his race; years later, he succeeded in having its exclusionary policy declared unconstitutional.

As the founding director of the NAACP Legal Defense and Education Fund, Thurgood Marshall led the legal battle to wipe out bigotry in all its ugly forms. With boundless courage, he journeyed from town to town, defending the basic human rights of African-Americans.

As one recent article noted, "Often the only hope among blacks in these small communities was expressed in the quiet phrase, Thurgood is coming." For a generation, wherever justice was denied, wherever communities were plagued by the disease of racial hatred, wherever African-Americans were losing hope, the struggle for freedom and opportunity gained new heart and new hope from those three simple, eloquent words: "Thurgood is coming."

His campaign to end school segregation may well be the most brilliantly conceived and most perfectly executed legal strategy in the Nation's history. Each case he brought was carefully prepared. Each victory chipped another piece from the edifice of discrimination.

No American lawyer has had a better record in the Supreme Court against more difficult odds or more intransigent opposition.

He made Brown versus Board of Education not only possible but unanimous; he changed the course of history and made America a better and fairer land.

No one played a more central role in the historic struggle to end discrimination—and no one in our history more richly deserved the position and title of "Justice" than did Thurgood Marshall. Justice Oliver Wendell Holmes once said that "a page of history is worth a volume of logic." Justice Marshall brought volumes of history to the Supreme Court, and his experiences helped to shape American law for half a century.

Enriched by his unique perspectives, his opinions for the Court steadfastly protected the rights of all Americans. In recent years, when the Supreme Court sought to turn back the clock on civil rights, his was a firm voice of commitment to keep moving forward.

Thurgood Marshall personified the Nation's highest ideals. More than any lawyer in our history, he held America to the Constitution's great promise of equal justice for all. For as long as there is an America, he will forever be remembered as a giant of our history.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Jersey [Mr. LAUTENBERG], is recognized for not to exceed 5 minutes in morning business.

Mr. LAUTENBERG. I thank the Chair.

(The remarks of Mr. LAUTENBERG pertaining to the submission of Senate Resolution 35 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS,] is recognized for not to exceed 5 minutes.

GAYS IN THE MILITARY

Mr. COATS. Mr. President, on the issue of gays in the military, for many of us there is the concern that comes from conviction. But there is also the anger that comes from being set up.

When I sat in the Armed Services Committee during Secretary Aspin's confirmation hearing and questioned our new Secretary of Defense on this issue, he responded by saying it was a difficult matter, a matter that is "controversial" and "sensitive". When pressed how it would be decided, he responded, to general laughter, "very, very carefully."

Well, Mr. President, the actions of the administration have not been careful or, even in my opinion, responsible. They have been hasty and political and uninformed. These are all things we do not expect from our Commander in Chief when national security is at issue.

Even before President Clinton finally agreed to meet with his highest military commanders—men of distinguished service and broad experience—he announced that he had nothing to learn. Prior to the meeting, he said: "I intend to keep my commitment."

How does this appear to many Americans—and to many of our soldiers who serve?

It appears like the manipulation of the Joint Chiefs for political purposes—not for consultation, but for cover.

It appears like an administration making a snap decision to pay a political debt.

It appears like a President without military background or experience dismissing the advice and council of America's most distinguished military leaders.

You would think that someone who has not served a day in uniform would be particularly careful to consult his military experts. But that care was not taken.

President Clinton, through his words and actions is saying in essence, "I am satisfied with my views on military matters, why would I want them disturbed by the military?"

I believe this administration has the burden of proof to convince this Nation that the actions they propose would improve military effectiveness. That is our standard of judgment. To put young Americans at additional risk is not worth the price of a political deal. That added risk, according to our commanders, is real. It cannot be lightly dismissed.

These experts are saying something simple. If you were looking for a way to destroy the discipline and esprit de corps of a military unit, it is clear—just inject sexual tension into the barracks. The enforced intimacy of military life is unique—and especially unsuited to this social experiment.

Given the President's fixed position, it appears that any compromise or negotiation on the issue is doomed even before it begins. A 6-month period of study when the conclusion is foregone would simply be more political cover as the Aspin memo showed. Delay is intended to confuse, not to clarify. If change comes in 2 stages or 10 stages the question remains: Should the ban be lifted? All other discourse is merely political posturing.

People in the military take this matter seriously. As Colin Powell told midshipmen at the Naval Academy, "If [this issue] strikes at the heart of your moral beliefs, then you have to resign."

Many of us in Congress take this matter seriously as well. If the President insists, as he apparently has, in taking this action, the people will speak, and Congress will respond.

I am convinced that if President Clinton reverses current policy regarding gays in the military, he will find a temporary victory that is very much like a defeat. A military that is demoralized. A Congress that resents his high-handed tactics. And an American public disturbed that their Commander in Chief is governed by the political promises of the past, and not the military needs of the moment.

The PRESIDENT pro tempore. The junior Senator from Illinois [Ms. MOSELEY-BRAUN] is recognized for not to exceed 5 minutes.

Ms. MOSELEY-BRAUN. I ask unanimous consent to be recognized for the purpose of giving a statement for 10 minutes.

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

The Senator from Illinois will be recognized for 10 minutes.

Ms. MOSELEY-BRAUN. Thank you, sir.

THURGOOD MARSHALL CHALLENGED AMERICA TO LIVE UP TO ITS IDEALS

Ms. MOSELEY-BRAUN. Mr. President, Thurgood Marshall died last Sunday of heart failure. I still have great difficulty believing it. I know he was born over 84 years ago, and I know that he himself said he was "old and falling apart," but it is nonetheless hard to conceive that a heart as mighty and as courageous as his is no longer beating.

Thurgood Marshall epitomized the best in America; he was, in fact, what this country is all about. That may seem to be an odd thing to say about him. After all, he himself was very aware of the fact that the United States did not, and in too many instances still does not, live up entirely to its founding principles. He knew that the phrases of the Declaration of Independence, "that all men are created equal" and are endowed "with certain inalienable rights," including those to "life, liberty and the pursuit of happiness * * *," were not, all too much of the time, the principles that govern everyday life in America.

Thurgood Marshall was born in Baltimore in 1908. He lived and felt the humiliation of racism—of not being able even to use the bathroom in downtown Baltimore simply because of the color of his skin.

But Thurgood Marshall was not defeated by racism. He knew that racial inequality was incompatible with American ideals, and he made it his life's unending fight to see that this country's ideals became true for all of its citizens.

And what a fight it has been. It took Thurgood Marshall from Baltimore's segregated public schools to Lincoln University, where he graduated with honors, to Howard University Law School, to the NAACP, to the circuit

bench, to the U.S. Solicitor General's office, to become the first African-American member of the U.S. Supreme Court.

That quick biography does not begin to measure the battles Thurgood Marshall fought and won, and the strength, conviction and power he put into the fight.

Thomas Jefferson said that "A little rebellion, now and then, is a good thing, and as necessary in the political world as storms in the physical." Thurgood Marshall took Jefferson at his word, and played a key role in creating a rebellion in America—a rebellion not of violence, but of law. What Marshall did was to use the U.S. legal system to bludgeon and destroy State-supported segregation.

What Marshall did was to use the courts and the law to force the United States to apply the promises made every American in our Declaration of Independence and our Bill of Rights to African-Americans who had little or no protection under the law up until the Marshall legal rebellion. What Marshall did was to make the 13th, 14th, and 15th amendments to our Constitution the law of the land in reality, instead of just an empty promise.

The history of the civil rights movement in this country is, in no small part, the history of Marshall's battles before the Supreme Court. As lead counsel of the National Association for the Advancement of Colored People, Marshall appeared before the Supreme Court 32 times, and won 29 times. His legal skills, grounded in sound preparation and sensitivity to the evidence helped him win such landmark decisions as Smith versus Allwright, Shelley versus Kramer, Sweatt versus Painter, and the biggest case of them all, Brown versus Board of Education.

I am somewhat reluctant to dwell on Thurgood Marshall's many successes, because I know he would not like it. He would not like it because he knew only too well that there are many more battles that must be fought and won if America's founding principles and American reality are to become one and the same for every American of every color. In his dissent in the Bakke case, Marshall said:

> The position of the Negro today in America is the tragic but inevitable consequence of centuries of unequal treatment. Measured by any benchmark of comfort or achievement, meaningful equality remains a distant dream for the Negro.

However, the fact that the battle is not yet won does not lessen Marshall's many accomplishments. He was a man who worked and fought to make a difference; he was a man who did make a difference.

He certainly made a difference in my life—opening the doors of opportunity measured only by merit. He helped ensure that I was able to attend public schools and the University of Chicago Law School, and not schools for blacks only. His work helped make my election to the U.S. Senate possible. He opened closed doors and created new opportunities for me and for many, many others. His life was the most convincing evidence that change is possible.

I want to close, Mr. President, by quoting Thurgood Marshall one more time. In the Bakke case, he said:

> In light of the sorry history of discrimination and its devastating impact on the lives of Negroes, bringing the Negro into the mainstream of American life should be a state interest of the highest order.

I share his view. Elimination of racism is not just an interest of African-Americans, but of all Americans. Only then will we be able to tap the full potential of our people. Only then will we live the greatness of the American promise.

I hope we will all remember Thurgood Marshall by continuing his lifetime of struggle. I hope we will all remember Marshall by dedicating ourselves to the principles and goals he dedicated himself to—making American opportunity available to every American. And as we work toward those goals, I hope we can all live our lives as completely as he did, enjoy ourselves as much as he did, and poke as much fun at ourselves as Thurgood Marshall did all of his life.

I will miss Thurgood Marshall. America will miss Thurgood Marshall. I am proud to have the opportunity, in some small way, to continue his work, and to try to build on his legacy.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized for not to exceed 5 minutes.

BOEING AND THE U.S. ECONOMY

Mr. GORTON. Mr. President, early this morning the Boeing Co. announced a slash in production rates across the entire spectrum of its jet aircraft production. The Boeing Co. is, of course, the largest single exporter in the United States and a true bellwether with respect to the economy, not just of the Pacific Northwest but of our entire international trading position as well.

This announced reduction in production does not arise out of any inefficiencies or any ineffectiveness on the part of the Boeing Co. itself. It may very well be our single most efficient manufacturing organization. It results from the fact that the domestic airline industry has lost between $8 and $9 billion during the course of the last 3 years and much of the international airline business has suffered similar losses. Airlines which are losing money at that rate simply cannot afford to place or to take previously ordered aircraft from a manufacturer.

As a consequence, this is not going to be a reverse which is easily cured. These production rate declines are projected forward toward the end of this year and the beginning of next year. But I do believe at the same time it provides us with certain lessons with respect to the way in which we do business in the United States and the way in which we encourage or discourage our most fundamental manufacturing industries.

Clearly, there are some things that we can do here in the Congress to help. Clearly, there are some things that we can refrain from doing, which will help this situation. One of the reasons, at least, for great losses in the airline industry is the fact that three major airlines in the United States over the course of the last several years have been operating under chapter 11 bankruptcy protection. That is to say these airlines have been protected against any of the claims of their creditors, have not had to pay their past debts, have had, therefore, lower operating expenses and have been able to undercut the prices of the more successful airlines in a highly competitive situation and force those more successful airlines into the red themselves.

This Congress will be considering changes in the bankruptcy law this year, changes in chapter 11, in order to create a more even competitive playing field that seems, to this Senator, to be absolutely necessary.

More significant than that, of course, is the attitude of the current administration toward the overall fiscal situation of the United States. I hope that the new President will encourage the prompt conclusion of GATT negotiations because those GATT negotiations will have a very real impact on our ability to compete overseas and in the domestic economy for aircraft sales with the still-subsidized Airbus industries.

At the same time, I would caution both the Congress and the new administration—and, for that matter, our State administration—against a spate of new regulations of businesses, of new taxes on businesses at a time at which they need to be encouraged and placed in the position where they can create and offer more jobs. Additional regulations, additional taxes on their capital, will restrict their ability to compete, will restrict their ability to provide new jobs.

So this new administration is faced with very serious challenges in its first week in office. The President has shown a fine sensibility toward changing circumstances, but the changing circumstances of our industrial economy require his strict attention to ways in which the fundamental producers of jobs in the United States, those who provide the money through exports to attempt to balance our trade deficit—they need to be encouraged to be stronger, to provide more jobs, to use their own genius rather than that

69-059 O—97 Vol. 139 (Pt. 1) 39

supposedly held here in Washington, DC, to restore our competitive economy. This is a reverse for the Boeing Co. and for our export-oriented economy. It is not a reverse which cannot be countered. It can be countered by wise policies and by a recovering economy.

The PRESIDENT pro tempore. The senior Senator from Illinois [Mr. SIMON] is recognized for not to exceed 5 minutes.

SENATOR CAROL MOSELEY-BRAUN'S SPEECH

Mr. SIMON. Mr. President, I was not here, unfortunately, when my colleague, Senator CAROL MOSELEY-BRAUN, made her first comments on the floor of the Senate.

I do not know that anyone was aware those were her first comments on the floor of the Senate. I think it is appropriate that Senator CAROL MOSELEY-BRAUN, who is herself a pioneer, should in her first remarks pay tribute to someone who was a pioneer.

Justice Thurgood Marshall was a remarkable human being. I wish I had the opportunity to know him well. I had the chance to get to know him slightly. But he was a giant, even before he ascended to the Bench of the U.S. Supreme Court. He tried 32 cases before the U.S. Supreme Court and won 29 of those cases. The Presiding Officer is the historian in this area. He may know whether anyone has exceeded that record. I do not know. I doubt that anyone ever exceeded that record.

But it is not simply the number of times he appeared before the Court or the number of cases he won, but his consistent stand for the powerless of our country.

I am pleased to join in paying tribute to Thurgood Marshall. I am pleased that the first opportunity my colleague, Senator CAROL MOSELEY-BRAUN, had to address this body was in paying tribute to Thurgood Marshall. We will be hearing much more of my colleague on a great variety of issues where her abilities and her strength and her compassion will become very evident to those of us in the Senate as well as to the American people. But it is most appropriate that her initial remarks should be in tribute to Justice Thurgood Marshall.

Mr. PELL addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Rhode Island [Mr. PELL] is recognized for not to exceed 5 minutes.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. PELL. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations, reported today by the Committee on Foreign Relations, and that the Senate proceed to their immediate consideration. I will add, this request has been cleared by the Republican leader. The nominees are Madeleine K. Albright, to be Ambassador to the United Nations, and Clifton R. Wharton, Jr., to be Deputy Secretary of State.

The PRESIDENT pro tempore. The Senate proceeds to executive session.

Mr. PELL. I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDENT pro tempore. Is there objection to the several requests? The Chair hears no objection. The nominations are considered, en bloc; they are confirmed, en bloc; the motion to reconsider the nominations, en bloc, is laid on the table; the President is immediately notified of the confirmation of the nominees; statements will appear in the RECORD at the appropriate places; and the Senate returns to legislative session.

The nominations considered and confirmed, en bloc, are as follows:

UNITED NATIONS

Madeleine Korbel Albright, of the District of Columbia, to be the representative of the United States of America to the United Nations with rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

DEPARTMENT OF STATE

Clifton R. Wharton, Jr., of New York, to be Deputy Secretary of State.

STATEMENT ON THE NOMINATION OF DR. MADELEINE ALBRIGHT

Mr. PELL. Mr. President, in nominating Dr. Madeleine Albright as our Ambassador to the United Nations, President Clinton has made a superb choice. The daughter of a Czechoslovak diplomat at the United Nations who remained in the United States with his family after the 1948 Communist coup, Dr. Albright comes to her post extraordinarily well prepared. She has had a distinguished career both in government and as an academic, and has always been at the center of the policy debate.

As one who was present at the San Francisco conference that drafted the U.N. Charter, I remember well the high hopes we all had for the United Nations. For 44 years the cold war froze the United Nations in a state of paralysis, little more than a debating society in which the superpowers hurled insults at each other.

Now the United Nations like our planet is on the threshold of a new era. Cooperation among the major nations has produced 14 peacekeeping or peacemaking missions in the last 3 years, more than had been undertaken in the previous 44. From Iraq to Bosnia to Cambodia to Somalia, the United Nations is at the center of global decisionmaking.

Further, the new international climate provides extraordinary new opportunities for cooperative action on a range of global problems including the environment, arms control, poverty, and economic integration. In some of these areas, the problems are so urgent that U.N. action will come not a moment too soon.

I am particularly pleased with the statements made by Dr. Albright and Secretary Christopher that the United States will pay its bills to the United Nations. It is a matter of national embarrassment that the United States was the biggest deadbeat at the United Nations. It is particularly important that we, as the last remaining superpower, do our share at a time when the United Nations is being asked to do so much more.

Dr. Albright will take her position as U.S. Ambassador to the United Nations and member of the President's Cabinet at an extraordinary time in human history. It is a time of peril, as we see so clearly in Bosnia and Kurdistan. But it is also a time of hope. I am a bit envious of the opportunity Dr. Albright now has to be present at the creation of a new world. I know the United States could have no finer representative at the United Nations for this occasion.

STATEMENT ON THE NOMINATION OF MADELEINE ALBRIGHT

Mr. DODD. Mr. President, I rise in strong support of the nomination of Madeleine Albright.

Half a century ago, in the aftermath of World War II, the United Nations was formed to develop a multilateral approach to the challenges of peace and security in the postwar world. With the fall of the Soviet Union and the end of the cold war, that dream is now within sight.

This is at once a dramatic opportunity and a daunting challenge. Just as the world has changed in the past few years, so must the United Nations adapt to its new surroundings. This will require the firm leadership of the United States—and the consistent, personal attention of the U.S. Ambassador.

Mr. President, I am confident that Madeleine Albright is the right choice for this very important task.

Madeleine Albright's experience with international diplomacy began quite literally at home. The daughter of a Czechoslovakian diplomat, she came to the United States at age 11 after the Communist takeover in 1948.

An expert in Russian studies, Dr. Albright is no stranger to discipline

and hard work. After graduation from Wellesley College, she raised three children while commuting part time to graduate school. By 1976, she had earned a masters and Ph.D. at Columbia University.

Since that time, Dr. Albright has had broad experience in the foreign policy of the United States. She has worked for the office of Senator Muskie, the National Security Council staff, and a number of private organizations including the Woodrow Wilson International Center for Scholars, the Center for Strategic and International Studies, and the National Endowment for Democracy.

Since 1989, Dr. Albright has been president of the Center for National Policy and since 1982 she has been a research professor of international affairs at Georgetown University.

Mr. President, during the course of a hearing last week in the Foreign Relations Committee, I was impressed by Dr. Albright's understanding of the many issues that will come before her in her new role at the United Nations. I was especially pleased by her support for a particular proposal I intend to put before the Senate in a matter of days: A resolution calling for the establishment of an international criminal court.

Mr. President, I look forward to working with Dr. Albright on this and other issues. I urge that this nomination be confirmed.

STATEMENT ON THE NOMINATION OF DR. CLIFTON R. WHARTON, JR.

Mr. PELL. Mr. President, in selecting Dr. Clifton Wharton as Deputy Secretary of State, President Clinton has made an inspired choice. Dr. Wharton has had an extraordinary career in the field of development, as a scholar, as an academic administrator, and as the administrator of one of the Nation's largest pension funds. As he demonstrated during his hearings, he is a deeply engaging and decisive man who has a full command of his new brief.

Dr. Wharton will be Secretary Christopher's alter ego in administering a department long used to the structures and imperatives of the cold war. He must now reshape that Department to meet the challenges of a radically different era. For the past 4 years, the United States has been marking time. Now we must act to assist Russia in the transformation to democracy, to halt the spread of nuclear weapons, and to cope with a range of regional conflicts. Further, we must move aggressively on global problems such as a rapidly deteriorating environment, global poverty, and health threats such as the AIDS epidemic.

Dr. Wharton will have a full agenda before him at the State Department. Fortunately for us, the Department will be in excellent hands under the leadership of Secretary Christopher and Dr. Clifton Wharton.

STATEMENT ON THE NOMINATION OF CLIFTON WHARTON, JR.

Mr. DODD. Mr. President, I rise in support of the nomination of Clifton Wharton, Jr. to be Deputy Secretary of State.

Mr. President, if Dr. Wharton is confirmed by the Senate today, he will take over as Deputy Secretary of State during a dramatic period in world history. The cold war has ended, and in its place we are confronted with rising ethnic tensions and nationalist sentiments in many corners of the world.

The watchword of this era is uncertainty. We cannot predict with any confidence what we will face tomorrow or the next day. Accordingly, in this uncertain world, our State Department must be administered by professionals with a broad range of capabilities and proven leadership experience. In my view, Dr. Wharton meets that test.

Mr. President, Dr. Wharton is no stranger in breaking new ground. He was the first African-American to receive a Ph.D. in economics from the University of Chicago. As chairman of the Rockefeller Foundation, he was the first African-American to chair the board of a major U.S. foundation. In running TIAA–CREF, the largest private pension fund in the world, he became the first African-American to head a Fortune 100 company.

Mr. President, Dr. Wharton has held appointments under four Presidents, serving with the Board for International Food and Agricultural Development, AID, the State Department, and various U.N. agencies.

I am confident that Dr. Wharton has the experience and the capabilities to perform the job of Deputy Secretary of State and I urge his immediate confirmation.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered. The senior Senator from Arkansas [Mr. BUMPERS] is recognized for not to exceed 5 minutes.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 208 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TRANSFER OF THE CATAFALQUE

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 23, a concurrent resolution to authorize the Architect of the Capitol to transfer the catafalque to the Supreme Court for the funeral services to be conducted there for late Supreme Court Justice Thurgood Marshall, just received from the House, that the resolution be agreed to and the motion to reconsider laid upon the table.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The concurrent resolution (H. Con. Res. 23) was agreed to.

THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 202, introduced earlier today by Senators MOYNIHAN, BAUCUS, KENNEDY, MITCHELL, and others, a bill to designate the Federal Judiciary Building in Washington, DC, as the "Thurgood Marshall Federal Judiciary Building," that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; further that any statements relating to this bill appear in the RECORD at the appropriate place.

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

Mr. MOYNIHAN. Mr. President, this past Sunday's Washington Post book review section opened with a long assessment of three new and important biographies of Supreme Court Justice Thurgood Marshall, under the headline "A Pioneer in the Halls of Justice." Sadly, the evening's television news carried word that the great Justice had passed away.

It would be difficult to imagine a man who contributed more to the quality of American life and the integrity of American jurisprudence than did Thurgood Marshall. It is equally hard to imagine anyone, ever, amassing a record of judicial achievements to match his. It is not likely that we shall ever see a man like him again.

Excellence and accomplishment pervade his life's work. For more than a quarter of a century, his was the courtroom voice of the National Association for the Advancement of Colored People. Perhaps his greatest victory before the Supreme Court came in the landmark 1954 case, Brown versus Board of Education of Topeka, KS. As Federal appeals court judge, he wrote 112 opinions, of which none was overturned. He served as Solicitor General under

President Johnson. By the time Marshall ascended to the Supreme Court in 1967, he had argued 32 cases in public and private practice before the highest Court in the land. He won all but three. And then, for another quarter century, Thurgood Marshall gave hope and an eloquent, powerful voice to the disenfranchised, the discriminated, and the powerless from the highest Bench in the land. Harvard University's Laurence Tribe called him "the greatest lawyer in the 20th century."

Mr. President, nearly 4 months ago we dedicated the new Federal Judiciary Building next to Union Station. This grand building houses more than 2,000 judicial branch employees and also provides offices for retired Supreme Court Justices. The legislation I am introducing today will designate the Federal Judiciary Building as the Thurgood Marshall Federal Judiciary Building. Naming the building for the late Justice is but one modest way to pay tribute to the life of this great man. I invite all Senators to cosponsor the bill.

The bill (S. 202) was deemed read a third time and passed, as follows:

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

SECTION 1. DESIGNATION.

The Federal Judiciary Building in Washington, DC, shall be known and designated as the "Thurgood Marshall Federal Judiciary Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States to the Federal Judiciary Building referred to in section 1 shall be deemed to be a reference to the "Thurgood Marshall Federal Judiciary Building".

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CBO REPORT ON THE DEFICIT

Mr. BOND. Mr. President, I want to spend a few moments today talking about a report released today by the Congressional Budget Office.

I believe that their estimates that the budget deficit will be in the $300 billion range through the turn of the century ought to be the 2 by 4 that gets the attention of the Congress and the administration that we need to take action. With interest on the Federal debt, one of the fastest growing components of the budget, and with net interest the third largest expense behind only social security and defense, it is long past time to get serious.

If we do not do something about the deficit, we are in a position where we not only threaten to bankrupt this government, but we threaten to destroy our economy and mortgage our children's future with a burden they cannot pay.

We had the opportunity in the Budget Committee today to discuss this issue with Dr. Reischauer of the CBO. There was talk about the problems of the deficit and talk of possible solutions. There was also some talk that the problem of the deficit is one that has been caused by the Federal Reserve.

Mr. President, the simple fact of the matter is that it is not the Federal Reserve that caused the recession, that caused the downturn in economic activity. The Federal Reserve, over the last 3 years, has lowered the key discount rate 23 times. The problem that we face is that our huge Federal deficit keeps our long-term interest rates high.

When the President's nominee for the chair of the Council of Economic Advisers came to talk to me about her confirmation, she said that, in her view, essentially as I recall it, that the Federal Reserve had acted properly. They may have disagreed in a few instances, but basically they were doing what they could. She said that the high long-term interest rates now facing this country were as much a result of high German interest rates as anything else, and agreed that further short-term rate cuts could in fact raise long-term rates by rekindling inflationary fears.

In yesterday's newspapers, there were headlines that said "The Big Deficit Cut Could Sharply Reduce Rates."

A number of economists are quoted as saying that the most important thing we can do to get the interest rates down is to cut the deficit. Dr. Reischauer today said that he did not believe we needed any more stimulus to the economy; but that dealing with the deficit is something that is extremely important for us to do.

So let us all be clear. It was not the Federal Reserve that caused recession. It was not the Federal Reserve that prolonged the recession, and it will not be the Federal Reserve that kills off the recovery, if in fact it is killed off. What we do in fiscal policy will determine, to a large extent, what happens to the recovery and to the economic future of this country. That means its up to the new administration and Congress to do the right thing.

According to the CBO, unless corrective action is taken, the total Federal debt will increase by over $1.1 trillion during this current administration.

This is an additional $1,000 of debt per year for every man, woman, and child in the United States, and it is a debt our children and grandchildren will have to pay.

The CBO report, in my view, is a wake-up call I hope that all of us, administration and congressional leadership and Members, heed instead of pulling the covers back over their heads hoping it will go away.

The CBO update in August 1992 showed that the deficit had dropped to $314 billion for fiscal year 1993, had remained about $268 billion forecast for 1994, but it showed that it had risen in outyears primarily because of expected increases in the entitlements.

So what was the Clinton campaign promise to cut in half? Was it half of the January 1992 estimate of $368 billion? Or was it half of the August estimate of $314 billion? Since the election, there has been even more changing in the administration's position. The middle-class tax cut was thrown overboard. What about the $20 billion in additional infrastructure spending per year?

But whichever set of numbers you use, the projections show that we are running out of time to deal with the deficit.

Mr. President, I ask my colleagues to get serious about the deficit and to realize that we have to gain control particularly over entitlement spending if we are not to bankrupt this Government and drive our country to ruin.

I thank the Chair.

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

The PRESIDENT pro tempore. The point of no quorum having been made, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, I rise today in opposition to any change in defense policy which lifts the ban on homosexuals in the military. This is a complex and contentious issue which could have adverse and long-term impacts on the very fabric of our Armed Forces. I cannot stand by and permit the ban to be lifted without meaningful discussions with the Congress and the military leadership.

The Congress and the Department of Defense have been partners in supporting the development of our great armed services into them most effective combat ready force in the world. We cannot allow campaign promises to undermine the morale, cohesion, and readiness of that force.

Before making any precipitous change to the current policy banning homosexuals in the military, it would serve us well to understand the basis upon which the current policy exists. Why have our military leaders, both civilian and military, maintained this

policy for 50 years? They have maintained that homosexuality is prejudicial to good order and discipline in the military.

The military is a truly unique organization. It is not a 9-to-5 job where the employees go home in the evening and on weekends. We require our great service men and women to work, to relax, to sleep, and to live together in very close, cohesive groups. Our service men and women do not have the luxury of being able to leave the workplace and associate only with friends of their choosing at the end of a workday.

Have the people who advocate lifting the ban ever observed life on a submarine or a destroyer? Have they spent time observing the living conditions at Camp Smith in Korea? I do not believe they appreciate the environment in which we ask our professional soldiers, sailors, and airmen to live. In many of the ships and isolated sites, the facilities are very spartan and there is a total lack of privacy.

Under these unique conditions, I believe that changing the current policy concerning homosexuals in the military will adversely affect the morale, discipline, and effectiveness of the entire force. Additionally, I believe it will impact the ability of the military to recruit and retain skilled young Americans.

This is not an issue of being for or against homosexuals as a group or homosexuality as a lifestyle. This is a question of using the armed services as an instrument of social change. Virtually every military leader has expressed opposition to lifting the ban. Many of the military and veterans service organizations are opposed to changing current policy. I have written a letter to President Clinton urging him to permit careful study and consultation before he acts.

Since it appears President Clinton plans to proceed with lifting the ban, notwithstanding the objections that have been raised, legislation is being considered which will codify the current DOD policy. Rushing to force the military to accept homosexuals is not wise and does not represent the views and feelings of the American people.

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

Mr. THURMOND. I thank the Chair.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

The Senator from Montana.

Mr. BURNS. I ask unanimous consent I may proceed in the next 2 to 3 minutes as in morning business.

The PRESIDING OFFICER. The Senator has that right; he may proceed.

Mr. BURNS. I thank the Chair.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE END OF AN ERA—JUSTICE THURGOOD MARSHALL

Mr. MITCHELL. Madam President, and Members of the Senate, the passing of Justice Thurgood Marshall marks the end of an era. It is the era of the men and women who were in the front lines of the most important battle ever fought on American soil: The battle for equal rights for all Americans.

The ideal of equality is an American ideal, stated as the premise of our national fight for independence. The search for equality has been the central defining fact of American history from that time forward.

Few men or women have done as much, succeeded as greatly, cared as deeply, or felt as strongly about that ideal as Thurgood Marshall.

Few have accomplished as much.

From his earliest years in the law when he earned a degree at Howard to use it against the University of Maryland which would not admit him to study law, Thurgood Marshall turned to the instrument of law to win for all Americans that which all Americans have a natural claim upon: Equal opportunity, equal standing before the law, equal treatment in the eyes of the Government and of their fellow citizens.

His greatest legal victory, Brown versus Board of Education, marked the beginning of the end of de jure segregation in this Nation. It is the case that prevented America from becoming a Nation based on a caste system. It remains today the landmark case which turned the Supreme Court of the United States from the protector of the status quo to the defender of the rights of individual Americans. His work made the Court, already a central element in our system, a beacon of hope to a whole generation of Americans seeking justice.

It is not too much to say that with that victory, he redeemed the premise of American constitutional government for all Americans of every skin color. He made real for Americans the dream that the Declaration of Independence first set forth, that all mankind is "created equal."

Before Thurgood Marshall, those were words without meaning to many generations of Americans. After Thurgood Marshall, there is no mistaking that those words apply to each and every American.

He was a man of caustic wit and humor. When it was suggested that the Bicentennial of the Constitution be celebrated by a ceremonial return to Philadelphia to recapture the spirit of 1787, he said somebody had better get him short pants and a tray so he could serve the coffee because that is assuredly what he would have been doing in 1787.

When he retired and was asked what was wrong with him, he said, with all the authority of his 83 years, "I'm old."

He never allowed the passage of time or his triumphs to deter him from the path ahead. He never lost sight of the heights we have not yet scaled, the mountains we have not yet climbed, the promise we have not yet fulfilled. He was a thoroughgoing American in every respect.

It is nothing short of a miracle that the segregated time in which he was born and came of age, the time of Jim Crow and lynchings, racial hatred and division nonetheless produced a man of his stature, his mind and his heart. His colleague on the Supreme Court, Justice O'Connor, said when he retired that all the Court would miss his reminders that they think about the soul of the Nation as well as the letter of the law.

That is true for the Nation as well as for the Supreme Court. Thurgood Marshall was an American original, but he was just as much an American prototype. His is a life and career to which any American child can aspire and all Americans, adults as well as children, should hope to emulate in some small way.

Thurgood Marshall's family has our deep sympathy. They have lost a father, a husband, a grandfather. America deserves sympathy as well, for with his passing we have lost a powerful voice of conscience, a voice of remembrance for injustices past and injustices still present, and we have lost the voice of a truly authentic American.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

APPOINTMENTS TO THE SELECT COMMITTEE ON ETHICS

Mr. MITCHELL. Madam President, I send a resolution to the desk and ask for its immediate consideration. I am authorized to state that this has been cleared with the Republican leader.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 36) to make majority party appointments to a Senate committee under paragraph 3(6) of rule XXV.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

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

The resolution was considered and agreed to, as follows:

S. RES. 36

Resolved, That the following shall constitute the majority party's membership on the Ethics Committee for the One Hundred Third Congress, or until their successors are chosen:

Select Committee on Ethics:
Mr. Bryan, Chairman;
Ms. Mikulski; and
Mr. Daschle.

Mr. MITCHELL. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. COCHRAN. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Madam President, the resolution just adopted includes the appointments of members of the majority party to the Senate Ethics Committee. I anticipate shortly that Senator DOLE will come to the floor to offer a resolution which will identify the members of the minority party who will be appointed to the Ethics Committee.

For the majority, the Senator from Nevada, Mr. BRYAN, will continue service on the committee and serve as chairman. The Senator from Maryland [Ms. MIKULSKI], the now Presiding Officer, will serve on the committee, as will the Senator from South Dakota [Mr. DASCHLE]. Each of these Senators has my complete confidence. I believe they represent an excellent group of members who will serve diligently and well on that committee, and we, of course, look forward to notification of the minority members of the committee later today. I am grateful to each of the members so identified and look forward to their service to the Senate.

MEASURE PLACED ON THE CALENDAR

Mr. MITCHELL. Madam President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 37) to amend the Standing Rules of the Senate.

Mr. COCHRAN. Madam President, I object to the immediate consideration of the resolution.

The PRESIDING OFFICER. The objection is heard. The resolution will be placed on the calendar entitled "Resolutions and Motions Over, Under the Rule."

Mr. MITCHELL. Madam President, I thank my colleague. I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant legislative clerk proceed to call the roll.

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

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

APPOINTMENTS TO SELECT COMMITTEE ON ETHICS

Mr. COCHRAN. Madam President, in behalf of the Republican leader, Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 38) making minority party appointments to the Select Committee on Ethics.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. If there is no objection, the resolution is considered and agreed to.

The resolution (S. Res. 38) was agreed to as follows:

S. RES. 38

Resolved, That the following shall constitute minority membership of the Select Committee on Ethics for the 103d Congress or until their successors are named: Mitch McConnell (Vice Chairman), Ted Stevens (vice, Trent Lott), and Bob Smith (vice, Slade Gorton).

Mr. MITCHELL. Madam President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. COCHRAN. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

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

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

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

JUSTICE THURGOOD MARSHALL

Mr. SIMPSON. Madam President, if I might take a few moments to pay tribute to our departed friend, Justice Thurgood Marshall, I was privileged to come to know this man in my early months in the U.S. Senate.

We had the marvelous opportunity through a man, a fascinating man, named Milton Kronheim, who started a wholesale spirits business in the community many years ago; a marvelous gentleman, who lived into his nineties. He would have a gathering at the location of his business on New York Avenue on certain days for luncheon. That is where I met Thurgood Marshall and many other unique people, Judge Sirica, many other wonderful people, Bill Brennan, Justice Brennan.

So those were very special times for a freshman Member of the U.S. Senate. And it was there that I learned a great deal about Justice Marshall.

I have had the rich pleasure of knowing him personally. His life reflects the truth of the American dream: what anyone—regardless of background—can aspire to and achieve through hard work, a lot of courage, a lot of in-your-face advocacy for a cause in which he deeply believed, and pure diligence.

So I will not go on to add or embellish what has already been said or what the history books will say about him. While we disagreed on certain issues, with his approach, with his reasoning, his great sense of justice, and common sense, we will agree that he was consumed and driven by a single simple goal: that was ensuring that the Constitution of the United States was an instrument of justice and liberty and fairness for all people in America.

I can remember many wonderful occasions with that rich and magnificent laugh. Here was a man that loved an earthy story; who enjoyed his friends, even if they did not agree with him. He had this incredible sense of right and wrong and good humor, as I say, and a noble and fine sense of himself and his place in history which he would probably scoff at.

He is probably observing these proceedings in these last days wondering what the fuss is all about. And he would have a very remarkable commentary to make on that, I can assure you, in his way.

So I extend my sympathy to his wife, and to his sons. And I am privileged to know one of them who works with the Judiciary Committee. But it has been a great experience to know Thurgood Marshall and to share in the richness of his being, his humanity. And that was the essence of the man.

So he will be greatly missed, and not just by those of us who have crossed his

life for brief times, but he will be greatly missed by the oppressed, and the people who came to him for justice, and who he brought justice to, and stuck by his guns the whole way with his own rare and remarkable independence.

So God bless this man and his family.

I yield the floor.

THE DEMISE OF JUSTICE THURGOOD MARSHALL

Mr. HARKIN. Madam President, this week America mourns the passing of one of our Nation's greatest advocates for civil rights, Justice Thurgood Marshall.

Justice Marshall will be remembered for his brilliant work as an advocate when he served as director-counsel of the NAACP Legal Defense Fund, winning a series of victories before the U.S. Supreme Court including the seminal Brown versus Board of Education. He served as Solicitor General in the Johnson administration, representing the administration in critical cases before the Supreme Court. And in 1967, he was elevated to be the first African-American to serve on the Court which he had argued before so often.

On the Court, he was a consistent supporter of civil rights and individual freedoms. Justice Marshall ensured that he would be the only Supreme Court Justice ever to feel the sting and humiliation of the Jim Crow laws, or to be deprived of equal rights by a "whites only" sign. Cases he either argued or decided ensured that future generations would be free of the institutionalized racism of the America in which Thurgood Marshall grew up. It was this personal experience of the most vicious aspects of racism that gave his opinions extraordinary authority. In a very real sense, his life's work has profoundly changed America. Few people have ever changed the society they live in as profoundly as Justice Thurgood Marshall, or triumphed as powerfully over injustice. Although discrimination has not been vanquished, Thurgood Marshall's distinguished service has permanently enriched our country. He will be deeply missed.

TRIBUTE TO JUSTICE THURGOOD MARSHALL

Mr. SASSER. Madam President, I rise today with profound regret to note the passing of Supreme Court Justice Thurgood Marshall.

When asked to name the individuals who have had the most impact on our country in this century, most of us tend to name Presidents, or generals, or other political figures. Few Americans, however, have had more of an impact than Justice Marshall.

Justice Marshall spearheaded victories in a series of legal victories that changed this Nation forever. He then served on the Supreme Court during a significant time in its history. His was a wise voice as we have sought to extend the full range of constitutional rights to all our citizens.

Justice Marshall showed a special skill both as an attorney and as a tactician. Before the historic case of Brown versus Board of Education, Thurgood Marshall had brought and won a series of cases before the Supreme Court—each carefully chosen to establish a particular legal point. Each case was a building block on the way to the inescapable conclusion that separate but equal is inherently unequal.

During the 1940's, a whole series of cases undermined the basis of segregation. Among them, Smith versus Allwright outlawed the exclusion of African-Americans from political primaries, and Morgan versus Virginia prohibited segregation on interstate buses. In 1950, the Court ruled in Sweatt versus Painter that the State could not deny an African-American admission to the State law school. It held that because of the nature of law schools and associations possible in the white school, it necessarily meant that the separate school was unequal. Later that year, the Court decided in McLaurin versus Oklahoma State Regents that once admitted to a law school, African-Americans must be accorded equal treatment and equal access within the school. With these decisions, the stage was set for the Court to face the separate but equal issue squarely.

Marshall's key tactic was to choose cases which would advance the cause of civil rights without forcing the Supreme Court beyond the point it was prepared to go. By 1954, Justice Marshall had so solidly established the groundwork that Brown versus Board of Education—however controversial to the Nation at large—was clearly the next logical step in a succession of Supreme Court decisions.

Justice Marshall was born in Baltimore and attended the public schools there. He graduated from Lincoln University in 1930, and from Howard University Law School in 1933, where he was at the head of his class. Entering private law practice in Baltimore, he became counsel for the Baltimore NAACP. In 1936, he joined the legal staff of the national NAACP and 2 years later became chief legal officer of the NAACP, a post he held until 1961. During that time, Justice Marshall directed and argued many of our landmark civil rights cases.

In 1961, President Kennedy appointed Thurgood Marshall to the U.S. Court of Appeals for the Second Circuit. Then, in 1965, President Johnson appointed him Solicitor General of the United States. As Solicitor General, Marshall was able to successfully defend many of the civil rights laws he had done so much to bring about—including the historic 1965 Voting Rights Act.

In 1967, President Johnson appointed Thurgood Marshall to the U.S. Supreme Court—the first black justice to sit on the Court—where he became a champion for the poor, minorities, for those whose only hope of vindicating their rights was in the courts.

On his retirement, Justice Marshall was asked how he wanted to be remembered. He replied, "That he did what he could with what he had." He did all that and more. We are all the poorer for his death and we shall not soon see his like again.

TRIBUTE TO JUSTICE THURGOOD MARSHALL

Mr. LAUTENBERG. Madam President, I stand before you today to pay tribute to a man who changed the course of history in this country. An individual whose life's work was the defense and empowerment of the underprivileged in our society. A man who paved the road that led to the end of legalized school segregation, white-only primary elections, poll taxes, and legalized racial discrimination; and in so doing, renewed our belief in the principles upon which this country was founded. Thurgood Marshall.

The great-grandson of a first generation slave, Thurgood Marshall became one of the most important figures in civil rights history, risking his life to bring the theories of equality and justice so eloquently stated in our precious Constitution to fruition. One of his first civil rights cases was a successful effort to gain admission for a young African-American man to the University of Maryland law school, where ironically, he himself had been denied admission. Later, he went on to create the NAACP Legal Defense Fund and as its head, traveled around the country winning several civil rights victories. But it was his work arguing cases before the Supreme Court for which he is widely known. A constitutional law scholar, he won all but 3 of the 32 cases he argued before the Supreme Court. Most memorable among them, the 1954 landmark decision in Brown versus Board of Education, which brought to an end nearly a century of separate but equal school systems. He was also at the lead in the integration of Little Rock Central High School in 1957.

On August 30, 1967, Thurgood Marshall was confirmed by the Senate for a seat on the Supreme Court, making him the first African-American to serve on the Court in its 178-year history. His record on the Supreme Court was consistent: Always the defender of individual rights, he sided with minorities and the underprivileged; favoring affirmative action and abortion rights; and a staunch opponent of the death penalty. He continued to play David,

taking on Goliath where he found him to ensure freedom and opportunity to the underprivileged. He was a giant, an outspoken man who always said what was on his mind.

Thurgood Marshall never forgot where he came from or lost the anger for injustice and inequality that launched his great career. His beneficiaries include 8,000 black elected officials, who owe their positions to Marshall as well as women, the poor, and minorities. Thurgood helped to cash that blank check the Framers of our Constitution willed us, the promissory note that Martin Luther King, Jr., spoke so eloquently of. He made what had previously been just great works in our Constitution a reality, for millions of Americans. This country is richer for his service, and his example will continue to move us in the direction of equality for all our citizens. His passing leaves a terrific void. He will be sorely missed.

THE DEATH OF THURGOOD MARSHALL

Mr. DECONCINI. Madam President, I rise to pay tribute to former Supreme Court Justice Thurgood Marshall, who died Sunday, January 24, at the age of 84. It is with great sorrow that I note the passing of this relentless leader who has been an inspiration to so many Americans.

Marshall's six-decade career, in which he passionately crusaded as a voice for minorities, transformed the course of our country's civil rights. Born in Baltimore to an elementary school teacher and a steward at an all-white yacht club, Marshall went on to become one of the most prominent figures in American jurisprudence.

Marshall attended Douglas High School in Baltimore, where he later said he was often punished for being a cutup by being forced to memorize paragraphs from the U.S. Constitution. Marshall obviously put his punishment to good use by graduating first in his class from Howard University's Law School and, later, as a preeminent jurist.

Marshall began his legal career in his hometown of Baltimore where, in one of his first civil rights coups, he helped a young black man gain admission to the University of Maryland Law School. He went on to become chief counsel of the NAACP and created the NAACP Legal Defense and Educational Fund where he worked to improve minority rights within the legal system.

Marshall achieved national notoriety in his arguments before the Supreme Court where he won all but 3 of the 32 cases he argued, including the landmark cases of Brown versus Board of Education, which in 1954 ended racial segregation in public schools. Marshall fought hard and often to end discrimination, helping to achieve integration of the Little Rock, AR, Central High School in 1957, and successfully arguing against poll taxes, racial restrictions in housing, and white primary elections.

After serving as a Federal court of appeals judge and as the country's first black Solicitor General, Marshall was appointed by President Lyndon B. Johnson to the U.S. Supreme Court in 1967, becoming the first black Justice in the Court's 178-year history. During his distinguished tenure on the Court, Justice Marshall was a strong and bold voice for the rights of minorities and the underprivileged.

I greatly admired Thurgood Marshall's passion and eloquence. Although his lifelong service and devotion to this country will be grievously mourned and sorely missed, his instructive words and struggle to achieve human equality will endure forever.

I would like to extend my heartfelt condolences to Justice Marshall's family, particularly to his son, Goody, a former attorney for the Judiciary Committee.

THE PASSING OF SUPREME COURT JUSTICE THURGOOD MARSHALL

Mr. BRADLEY. Madam President, last Sunday America lost one of its greatest champions of civil and human rights. A man who grew up in the bowels of segregation, Thurgood Marshall went on to become our country's most prominent civil rights attorney and one of its most eloquent defenders of civil rights. It was his persuasive argument and brilliant litigation strategy as counsel for the NAACP Legal Defense and Education Fund that resulted in the destruction of the doctrine of "separate but equal" in the most important civil rights case of our time, Brown versus the Board of Education. Through his work, and the work of the many dedicated lawyers who fought for equal justice alongside him, America moved closer during his lifetime to the goals and ideals embedded in our Constitution. We have a long way to go in making his dream of full equality a reality, Mr. President. But, like Martin Luther King, Thurgood Marshall moved us much further along on that journey.

As a Supreme Court Justice, Marshall spoke up forcefully for the weak and disadvantaged. The intellectual legacy he has left us will no doubt serve us well as we move into the 21st century.

When once asked how he would like to be remembered, Marshall responded that he would want people to say that "he did what he could with what he had." Mr. President, the tremendous progress this country has made in breaking down the legal barriers to integration is a testament to the profound truth of that statement. We all owe Thurgood Marshall a great deal of gratitude for the way he influenced the direction of the most important body of law in this country. He will be sorely missed by us all.

(At the request of Mr. MITCHELL, the following statement of Ms. MIKULSKI was ordered to be printed at this point in the RECORD:)

TRIBUTE TO THURGOOD MARSHALL

Ms. MIKULSKI. Madam President, today I rise to pay tribute to Justice Thurgood Marshall, a fighter, a believer, an achiever, and a fellow Baltimorean.

Justice Marshall leaves us a legacy of accomplishment. Not only because of his work as a Supreme Court Justice, but also as a dynamic civil rights lawyer long before he took his seat on the Court.

Madam President, today we celebrate his work. And we celebrate the fact that Justice Marshall was the first African-American to be appointed to the Supreme Court of the United States.

His appointment marked an important and significant milestone in our Nation's history.

Justice Marshall was not a stranger to discrimination. He fought it. He fought it in his personal life. And in his professional life. He fought it with an overriding sense of justice.

He fought the inequities in our society that existed then and that still exist today.

What we must celebrate is his loyalty, his conviction, and his commitment to the fight for equal rights of African-Americans.

Without him, we may not have desegregation. Without him, we could still be living under the "separate but equal" rule.

But, in spite of the obstacles he faced—he never wavered.

Justice Marshall is truly responsible—more than anyone else—for using our legal system to reject racial segregation and attack bigotry.

He was the loudest and clearest voice in support of equal rights.

He was a champion of the oppressed and the persecuted. He was our national conscience for individual rights.

He saw his own hardships not as limitations but as obstacles to overcome in order to build a more just society for the generations to come. He truly had a vision. And he remained true to it.

Justice Marshall should serve as an example of what we can do when we set our mind to it.

He once said that his father taught him how to argue. He said his father challenged his logic on every point, even if they were discussing the weather.

Those skills served him well when he became a lawyer. And a Supreme Court Justice. The example he set with his life will serve as the standard down

through the ages. We owe him a debt that can never be paid—and we will miss him.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 23. A concurrent resolution authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service.

The message also announced that pursuant to the provisions of 22 U.S.C. 1928a, the Speaker appoints as a member of the United States group of the North Atlantic Assembly the following Member on the part of the House: Mr. ROSE, Chairman.

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–455. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the designation of wilderness study areas; to the Committee on Energy and Natural Resources.

EC–456. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals, dated December 1, 1992; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Finance, the Committee on Foreign Relations, the Committee on Environment and Public Works.

EC–457. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, dated January 1, 1993; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Finance, the Committee on Foreign Relations, the Committee on Environment and Public Works.

EC–458. A communication from the President of the United States, transmitting, pursuant to law, the Ten-Year Comprehensive Plan for the National Nutrition Monitoring and Related Research Program; to the Committee on Agriculture Nutrition and Forestry.

EC–459. A communication from the Acting Assistant Secretary (Legislative Affairs) of the Department of State, transmitting, pursuant to law, a determination to obligate funds; to the Committee on Appropriations.

EC–460. A communication from the Acting Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–461. A communication from the Secretary of Energy, transmitting, pursuant to law, a request for additional time for submission of the Implementation Plan in connection with the Defense Nuclear Facilities Safety Board Recommendation; to the Committee on Armed Services.

EC–462. A communication from the Assistant Secretary for Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, a report relating to the establishment of the Scholarship and Fellowship Program; to the Committee on Armed Services.

EC–463. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Allocating Homeless Assistance by Formula;" to the Committee on Banking, Housing and Urban Affairs.

EC–464. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Evaluation of Resident Management in Public Housing;" to the Committee on Banking, Housing and Urban Affairs.

EC–465. A communication from the Acting President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement with respect to U.S. exports to Thailand; to the Committee on Banking, Housing and Urban Affairs.

EC–466. A communication from the President of the United States, transmitting, pursuant to law, a report relating to an Executive Order signed January 15, 1993; to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Pursuant to the order of the Senate of January 5, 1993, the following report was submitted on January 13, 1993, during the recess of the Senate:

By Mr. KERRY, from the Select Committee on POW/MIA Affairs:

Special Report entitled "Final Report of the Select Committee on POW/MIA Affairs" (Rept. No. 103–1).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Clifton R. Wharton, Jr., of New York, to be Deputy Secretary of State.

Madeleine Korbel Albright, of the District of Columbia, to be the representative of the United States of America to the United Nations with rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Nominee: Madeleine K. Albright.

Post: United States Mission to the United Nations.

Nominated: December 22, 1992.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Madeleine Korbel Albright. List of contributions attached.

Alice Patterson Albright Bowes (Daughter).

$1,000.00, May 1992, Clinton for President.

$200.00, August 1992, Victory Fund.

Gregory Bowes (Alice's Spouse).

$500.00, July 1990, John Roweland for Governor.

$500.00, May 1992, Dodd for Senate.

$1,000.00, May 1992, Clinton for President.

$1,000.00, July 1992, Victory Fund.

Anne Korbel Albright Watson (none).

Katharine Medill Albright (none).

Parents: Josef Korbel (deceased), Anna Korbel (deceased).

Grandparents: Arnost and Olga Korbelova (deceased), Alfred Spiegl and Ruzena Spieglova (deceased).

Brothers and Spouses: J. John Korbel (none), Pamela Harmer Korbel (none).

Sisters and Spouses: A. Katherine Silva (none).

Date	Contributed to—	Amount
Jan. 9, 1988	Madeleine Kunin	$500
Jan. 18, 1988	Democratic Majority Fund	500
Apr. 25, 1988	Les Aspin	50
Jun. 18, 1988	Tony Earle	1,000
Jan. 2, 1989	Mike Barnes for Chairman	1,000
Feb. 6, 1989	Emily's List	250
Feb. 8, 1989	Kerry for Senate	1,000
Apr. 4, 1989	Levin for Senate	1,000
Oct. 17, 1989	Kennelly for Congress	300
Nov. 20, 1989	Ann Richards Committee	100
Nov. 20, 1989	Hoosiers for Long	100
Mar. 21, 1990	Les Aspin	250
Mar. 24, 1990	Heath for Senate	300
Apr. 7, 1990	Ann Richards	100
Apr. 4, 1990	Emily's List	500
Apr. 15, 1990	Heath for Senate	250
Apr. 28, 1990	John Rauh	100
May 13, 1990	Ted Mondale	100
May 24, 1990	Democratic Decade	300
June 29, 1990	Emily's List	2,500
July 18, 1990	Eleanor Holmes Norton	500
Aug. 23, 1990	David Price	100

Date	Contributed to—	Amount
Oct. 13, 1990	Chet Atkins	100
Oct. 13, 1990	Heath for Senate	100
Oct. 23, 1990	Ann Richards	100
Oct. 22, 1990	Sharon Pratt Dixon	500
Oct. 22, 1990	Kerry for Senate	500
Oct. 27, 1990	Hoosiers for Long	100
Mar. 15, 1991	Emily's List	1,650
Apr. 6, 1991	Kidspac	500
Apr. 6, 1991	Joe Nation for Congress	250
June 22, 1991	Wofford for Senate	500
July 4, 1991	Levine Campaign Committee	1,000
July 4, 1991	Leahy for Senate	250
Aug. 26, 1991	Friends of Jane Harman	1,000
Oct. 28, 1991	Nation for Congress	200
Oct. 29, 1991	Citizens for Norton	100
Nov. 2, 1991	Friends of Moody	500
Nov. 22, 1991	Mikulski for Senate	500
Jan. 9, 1992	Baxter for Congress	100
Feb. 13, 1992	Lynn Schenck for Congress	1,000
Feb. 21, 1992	Clinton for President	1,000
Mar. 3, 1992	Wirth for Senate	1,000
Mar. 6, 1992	Levin for Senate	250
Apr. 18, 1992	Phil Keisling	200
May 1, 1992	Kerrey for President	1,000
May 14, 1992	AuCoin for Senate	500
June 25, 1992	Ferraro for Senate	1,000
July 6, 1992	Victory Fund	1,000
July 6, 1992	Jane Harman for Congress	1,000
July 8, 1992	Feinstein for Senate	500
July 8, 1992	Boxer for Senate	500
Aug. 24, 1992	DeLauro for Congress	250
Dec. 10, 1992	Joe Nation	100

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. ROTH:

S. 180. A bill to establish a National Economic Council within the Executive Office of the President; to the Committee on Governmental Affairs.

By Mr. McCONNELL:

S. 181. A bill to prohibit the export of American black bear viscera, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 182. A bill to authorize Federal departments, agencies, and instrumentalities to retain revenues from the sale of materials collected for the purpose of recycling, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID:

S. 183. A bill to authorize the President to award a gold medal on behalf of the Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 184. A bill to provide for the exchange of certain lands within the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN (for himself, Mr. PRYOR, Mr. STEVENS, Mr. LIEBERMAN, Mr. LEVIN, Mr. AKAKA, Mr. SARBANES, Mr. CONRAD, Mr. SASSER, Mr. LEAHY, and Mr. DORGAN):

S. 185. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID:

S. 186. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with intructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BURNS (for himself, Mr. SHELBY, Mr. HOLLINGS, Mr. PRYOR, Mr. BOND, Mr. SASSER, Mr. KEMPTHORNE, Mr. REID, and Mr. PRESSLER):

S. 187. A bill to protect individuals engaged in lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 188. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, and for other purposes; which was read the first time.

S. 189. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; which was read the first time.

S. 190. A bill to repeal the mandatory 20 percent income tax withholding on eligible rollover distributions which are not rolled over; which was read the first time.

S. 191. A bill to provide for the full settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes; which was read the first time.

S. 192. A bill to require the Corps of Engineers to carry out the construction and operation of a jetty and sand transfer system, and for other purposes; which was read the first time.

S. 193. A bill to amend the Internal Revenue Code of 1986 to repeal the income tax of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, and for other purposes; to the Committee on Finance.

S. 194. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; to the Committee on Finance.

S. 195. A bill to repeal the mandatory 20 percent income tax withholding on eligible rollover distributions which are not rolled over; to the Committee on Finance.

S. 196. A bill to provide for the full settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes; to the Committee on Energy and Natural Resources.

S. 197. A bill to require the Corps of Engineers to carry out the construction and operation of a jetty and sand transfer system, and for other purposes; to the Committee on Environment and Public Works.

S. 198. A bill to amend the Internal Revenue Code of 1986 to provide that the one-time exclusion of gain from sale of a prinicipal residence shall not be precluded because the taxpayer's spouse, before becoming married to the taxpayer, elected the exclusion; to the Committee on Finance.

S. 199. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion or gain from sale of a prinicipal residence to be taken before age 55 if the taxpayer or family member suffers a catastrophic illness; to the Committee on Finance.

S. 200. A bill to amend title 18, United States Code, to establish fair competition between the private sector and the Federal Prison Industries; to the Committee on the Judiciary.

S. 201. A bill to amend Bankruptcy Rule 7004 to require that service of process on an insured depository institution be made by personal service on an officer of the institution; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. BAUCUS, Mr. KENNEDY, Mr. MITCHELL, Mr. SARBANES, and Mr. WELLSTONE):

S. 202. A bill to designate the Federal Judiciary Building in Washington, D.C., as the Thurgood Marshall Federal Judiciary Building; considered and passed.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. METZENBAUM, Mr. SIMON, Mr. WELLSTONE, Mr. WOFFORD, Mr. DURENBERGER, and Mr. BINGAMAN):

S. 203. A bill to amend the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself and Mr. ROBB):

S. 204. 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. ROTH:

S. 205. A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN (for himself and Mr. CAMPBELL):

S. 206. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LOTT:

S. 207. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

By Mr. BUMPERS:

S. 208. A bill to reform the concessions policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PELL (for himself and Ms. MIKULSKI):

S. 209. A bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WOFFORD:

S. 210. A bill to provide for cost-of-living adjustments for pay and retirement benefits for Members of Congress and certain senior Federal officials to be limited by the amount of social security cost-of-living adjustments, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCAIN (for himself, Mr. INOUYE, Mr. DOMENICI, Mr. SIMON, Mr. DASCHLE, Mr. GORTON, Mr. BOREN, Mr. MURKOWSKI, Mr. BAUCUS, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 211. A bill to amend the Internal Revenue Code of 1986 to provide tax credits for Indian investment and employment, and for other purposes; to the Committee on Finance.

By Mr. DORGAN:

S. 212. A bill to modernize the Federal Reserve System and to provide for prompt dis-

closure of certain decisions of the Federal Open Market Committee; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA:

S. 213. A bill for the relief of Ikechukwu J. Ogujiofor, Joy I. Ogujiofor, and Godfrey I Ogujiofor; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. GLENN, Mr. MACK, Mr. HEFLIN, Mr. MCCAIN, Mr. SIMPSON, Mr. SHELBY, Mr. COATS, Mr. D'AMATO, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. DOLE, Mr. DECONCINI, Mr. COHEN, and Mr. SARBANES):

S. 214. A bill to authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER:

S. 215. A bill to amend the Agricultural Act of 1949 to eliminate the loan origination fee for oilseeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 216. A bill to provide for the minting of coins to commemorate the World University Games; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 217. A bill to require the Secretary of Agriculture to make crop quality reduction disaster payments to producers of the 1992 crop of corn, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DECONCINI:

S. 218. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes; to the Committee on Energy and Natural Rescources.

By Mr. SARBANES (for himself, Mr. SASSER, Mr. RIEGLE, and Mr. DORGAN):

S. 219. A bill to provide for a Federal Open Market Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRYAN (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BOND, Mr. BRADLEY, Mr. D'AMATO, Mr. DANFORTH, Mr. DODD, Mr. DOLE, Mr. DURENBERGER, Mr. GLENN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LEVIN, Mr. MACK, Ms. MOSELEY-BRAUN, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 20. A joint resolution to designate February 7, 1993, through February 13, 1993, and February 6, 1994, through February 13, 1994, as "National Burn Awareness Week"; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 21. A joint resolution to designate the week beginning September 19, 1993, as "National Historically Black Colleges and Universities Week"; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. WOFFORD, Mr. LAUTENBERG, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 22. A joint resolution designating March 25, 1993 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

By Mr. BURNS:

S.J. Res. 23. A joint resolution to designate the week of February 1 through February 7, 1993, as "Travel Agent Appreciation Week"; to the Committee on the Judiciary.

S.J. Res. 24. A joint resolution to designate the week of February 7 through February 13, 1993, as "Travel Agent Appreciation Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 25. A resolution to amend the Standing Rules of the Senate to provide a non-debatable motion to proceed; to the Committee on Rules and Administration.

S. Res. 26. A resolution to amend the Standing Rules of the Senate to require a three-fifths vote to overturn the chair post-cloture; to the Committee on Rules and Administration.

S. Res. 27. A resolution to amend the Standing Rules of the Senate to provide for the germaneness of committee amendments post-cloture; to the Committee on Rules and Administration.

S. Res. 28. A resolution to amend the Standing Rules of the Senate to provide that quorum calls are charged against an individual's time under cloture; to the Committee on Rules and Administration.

S. Res. 29. A resolution to amend the Standing Rules of the Senate to provide one motion to go to conference with the House; to the Committee on Rules and Administration.

S. Res. 30. A resolution to amend the Standing Rules of the Senate to dispense with the reading of conference reports; to the Committee on Rules and Administration.

S. Res. 31. A resolution to amend the Standing Rules of the Senate; to the Committee on Rules and Administration.

S. Res. 32. A resolution to amend the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. HELMS:

S. Res. 33. A resolution to amend Senate Resolution 338 (which established the Select Committee on Ethics) to change the membership of the select committee from members of the Senate to private citizens.

S. Res. 34. A resolution to amend Senate Resolution 338 (which established the Select Committee on Ethics) to change the membership of the select committee from members of the Senate to private citizens; to the Committee on Rules and Administration.

By Mr. LAUTENBERG (for himself, Mr. DOLE, Ms. MURRAY, Mr. DURENBERGER, Mr. KENNEDY, Mr. LEAHY, Mr. D'AMATO, Mr. PRESSLER, Mr. REID, Mr. CAMPBELL, Mr. PELL, Ms. MIKULSKI, Mr. RIEGLE, Mr. AKAKA, Mr. BRADLEY, and Mr. SASSER):

S. Res. 35. A resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia; to the Committee on Foreign Relations.

By Mr. MITCHELL:

S. Res. 36. A resolution to make majority party appointments to a Senate Committee under Paragraph 3(c) of Rule XXV for the One Hundred and Third Congress; considered and agreed to.

S. Res. 37. A resolution to amend the Standing Rules of the Senate.

By Mr. COCHRAN (for Mr. DOLE):

S. Res. 38. A resolution making minority party appointments to the Select Committee on Ethics; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 180. A bill to establish a National Economic Council within the Executive Office of the President; to the Committee on Governmental Affairs.

NATIONAL ECONOMIC COUNCIL ACT

• Mr. ROTH. Mr. President, the No. 1 challenge facing our Nation is to create a strong and growing job base. There is a firm mandate for economic growth. Yet the role of our Government in providing for an economic environment that stimulates growth requires the consideration of many complex policy considerations. A National Economic Council, with the President at its helm, should be established to coordinate these policies.

I rise today to introduce legislation to establish a National Economic Council within the White House, comparable to the National Security Council. This legislation is similar to S. 2712, which I introduced in the 102d Congress. Given President Clinton's interest in establishing a National Economic Council, I look forward to working with the administration to see this legislation enacted.

During the campaign, President Clinton emphasized the need for such a council within the Office of the President to coordinate international competitiveness policies. I am pleased that President Clinton has decided to build upon the ideas contained in last year's bill. While the President is likely to establish the National Economic Council by Executive order, he should consider the strong policy reasons for placing the council in statute.

America's leadership in the world can be attributed in large measure to the success of our Nation's economic vitality. Yet, that success, and our Nation's security, is being challenged by international economic competition. To be successful, national policies to meet the challenge of competitiveness must be given the same coordinated, high level attention as our national security policy. That is what a National Economic Council would accomplish.

As we enter the post-cold-war period, our Nation's ability to compete internationally is in need of constant, high level attention by our Nation's policymakers. One of the fundamental lessons of the cold war is that a strong military nation cannot achieve national security without economic security. Our Nation's economy, built on free market principles, has demonstrated the long-lasting vitality of

our market-based system. Now is the time to expand our markets and reap the benefits of international commerce.

In his book, "Seize the Moment: The Renewal of America," former President Richard Nixon makes a compelling argument for the establishment of such a council:

America needs a National Economic Council with a status equal to the National Security Council. In our embassies abroad and our bureaucracies at home, economic issues must receive the same priority attention as political and military issues. Today they seldom get it. In Japan, government is an ally—and some say even an instrument—of business. Too often in America, government is an opponent of business. This does not mean that we should adopt a national industrial policy under which unqualified bureaucrats would dictate business decisions. Nor does it mean that we should subsidize American industry to even the score with Japan or other industrialized powers. But it does mean that we must take steps to ensure that we have a coherent strategy to prevail in the global economic competition and that U.S. multinational corporations are enabled to compete on a fair and equal basis with their foreign rivals.

Why put the council in statute? Just as the National Security Council was created by statute, so should the National Economic Council. Shortly after World War II, the Congress and the President recognized the need to establish the NSC as the President's coordinating body to confront the most pressing issue of the day—national security in the aftermath of the war. As we enter the post-cold-war period, congress and the President should once again join together to establish a coordinating body to confront the most pressing issue of today—America's competitiveness.

The National Economic Council would advise the President with respect to the integration of domestic and international policies relating to the economy and competitiveness. The council would formulate, and at the direction of the President, implement a coordinating strategy which will provide the economic environment necessary for our Nation to be more competitive.

The economic policies to be considered by the council are vitally important. This legislation details the responsibilities of the National Economic Council, much in the same way the law does for the NSC. Some Presidents have used executive orders to create policy councils within the White House. But these councils have lacked the legal authority, structure, and stature necessary to successfully coordinate the President's policies across executive agencies.

In addition to the NSC, other major entities within the Office of the President have been established through statute, including the Office of Management and Budget, and the U.S. Trade Representative. Without statutory backing, policy coordination by the National Economic Council will run into conflict with Cabinet officials who have statutory authority over the same subject matter.

During the last 4 years, President Bush created by Executive order both the Economic Policy Council and the Policy Coordinating Group. Both of these bodies failed to gain the stature of the NSC and the authority under the President's direction to coordinate policies from the White House. Interagency policy should be coordinated by the White House, not by individual departments which lack authority over other agencies. By placing the council in statute, this mistake need not be replicated.

The economic policies to be considered by the council are at least as important as foreign policy issues, and putting it in statute will give the council its appropriate stature among the President's team. This bill specifies the responsibilities of the national economic adviser, much in the same way the law does for the National Security Adviser. Without statutory backing, the economic adviser will lack direction and the authority to coordinate the President's economic policy.

In addition, the duties of the national economic adviser should be considered by the Congress, in the same way that Congress has participated in other reorganization efforts. By providing Congress with a role in creating the council, the legislative branch will have a lasting stake in the council's success.

This legislation will make permanent a framework for coordinating policy in the way that national security has been successfully coordinated. This is particularly vital as international trade and competitiveness emerge as essential elements of our economic and national security.

Some have suggested that we should simply elevate economic issues within the NSC. However, economic issues under such an approach will be overwhelmed by attention to foreign policies and security concerns. A separate council is necessary in order to highlight economic competitiveness. I agree with President Clinton's recent decision to include the Secretary of Treasury and the national economic adviser in meetings of the NSC. But I think we both agree with the need to establish a separate council to concentrate on economic competitiveness issues.

Some argue that the council will be too powerful, and that it will serve as the basis for an industrial policy. The National Economic Council is simply a new tool for the President. Its creation is not intended to advocate one policy over another.

Finally, some argue this is adding a new bureaucracy within the White House, which is inconsistent with the President's commitment to downsize the White House staff. The council's staff would serve the role currently served by some staff in Domestic Policy and Cabinet Affairs. This proposal envisions streamlining the President's economic policy staff, not increasing it.

During the past 4 months, several major commissions have come forward to endorse this approach. The Strengthening of America Commission, sponsored by the Center for Strategic and International Studies and chaired by Senators SAM NUNN and PETE DOMENICI supported this approach in its report last September:

One obvious lesson in the fall of the Soviet Union is that a nation cannot achieve national security without economic strength. To be successful in the future, our economic policy must be given the same coordinated attention as our defense policy. At present, however, economic policy-making and program implementation is dispersed across federal agencies with no one agency in the lead. . . . To bring focus and coordination to economic issues at the highest level of government, the Commission recommends creating a National Economic Council, headed by a national economic advisor, which would be the economic equivalent of the National Security Council and the national security advisor.

During the recent Presidential transition, the Commission on Government Renewal sponsored by the Carnegie Endowment for International Peace and the Institute for International Economics wrote in its "Memorandum to The President-Elect":

The Economic Council and its staff would be your instrument for assuring that economic policy gets attention equal to traditional national security, working extremely closely with the NSC and its staff when international economic issues are under consideration, and with the Domestic Council and its staff on domestic policy matters. The new position we have recommended be established—The Assistant to the President for Economic Affairs—would become an important member of your senior economic team.

The No. 1 challenge facing us is job creation and our ability to compete. This is more than a matter of breaking down trade barriers. It requires a comprehensive economic strategy and such a strategy demands the sustained attention at the highest levels of the Federal Government. The NSC has played a vital role in the successful development and coordination of America's national security policy. We should replicate that success with a new National Economic Council to coordinate and guide the President's policies.

I ask unanimous consent that the text of the legislation be printed at the conclusion of these remarks.

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

S. 180

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

SEC. 1. SHORT TITLE AND PURPOSE

(a) SHORT TITLE.—This Act may be cited as the "National Economic Council Act".

SEC. 2. FINDINGS

The Congress finds that—

(1) domestic and international economic policy are essential elements of our National security. America's leadership in the world can be attributed in large measure to the success of our Nation's economic vitality. That success, and our Nation's security, is being challenged by the growth in the international economic competition;

(2) one of the fundamental lessons of the Cold War period is that a strong military nation cannot achieve national security without economic vitality;

(3) the ability of the United States to compete internationally is central to the Nation's economic prosperity and security. Exports now account for more than 10 per centum of our country's gross domestic product and are a growing percentage of our Nation's output. Increased exports are fundamental to facilitating job creation and economic growth;

(4) as we enter the post-Cold War period with an increased focus on policies to compete in world markets, America's ability to produce exports and be competitive is in need of constant and high level attention by our Nation's policy makers;

(5) the President's National Security Council has played a vital and constant role in the successful development and coordination of America's national security policy since the creation of the Council in 1947;

(6) to be successful, policies to meet the challenges of international competitiveness must be given the same coordinated high level attention as our successful national security policy. In order to remain a strong economic force in the increasingly competitive global economy, America needs a coordinated economic strategy which will allow our country to be on a competitive basis with other nations, taking into account the free market system which has been the hallmark of our economic system;

(7) the President must have available a permanent council of experts and advisors which have direct access to the President and can coordinate the complex components of the President's economic policy to facilitate exports, job creation, and national prosperity; and

(8) an organization equivalent to the National Security Council should be established within the Executive Office of the President to develop and coordinate economic policy as trade and global competition emerge as essential elements of our national security. The National Economic Council should bring focus and coordination to domestic and international economic policies at the highest level of government and should be recognized as the President's organization for developing and coordinating these policies.

SEC. 3. ESTABLISHMENT OF THE NATIONAL ECONOMIC COUNCIL

(a) There is established a council to be known as the National Economic Council (hereinafter in this Act referred to as the "Council").

(b) The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside.

(c) The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the United States Trade Representative;

(4) the Secretary of Treasury;

(5) the Secretary of Commerce;

(6) the Secretary of Labor;

(7) the Secretary of Agriculture;

(8) the Administrator of the Environmental Protection Agency;

(9) the Director of the Office of Management and Budget;

(10) the Director of the Office of Science and Technology Policy;

(11) the Chairman of the Council of Economic Advisers; and

(12) any other individual as the President may direct.

(d) The Council shall have a staff to be headed by the National Economic Adviser who shall be appointed by the President. The National Economic Adviser is authorized, subject to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

SEC. 4. FUNCTIONS OF THE NATIONAL ECONOMIC COUNCIL.

(a) The function of the Council shall be to advise the President with respect to the integration of domestic and international policies relating to the economy and international competitiveness so as to enable the Federal Government to operate more effectively in matters involving our Nation's ability to compete in the global economy.

(b) In addition to performing such other functions as the President may direct, the Council shall—

(1) formulate and coordinate an economic strategy which will provide the economic environment necessary for our country to be on a competitive basis with other nations;

(2) consider matters of common interest of the departments and agencies of the Government concerned with the economy and international competitiveness, and to coordinate recommendations concerning these policies to the President in connection therewith;

(3) assess the ability of the United States to compete internationally, and the risk of a failure to meet this challenge, for the purpose of making recommendations to the President in connection therewith; and

(4) define a set of guidelines for government interaction with the market, taking into account the free market system which has been the hallmark of our national economy.

(c) The functions of the Council under this Act shall be performed—

(1) subject to the direction of the President; and

(2) for the purpose of effectively coordinating the policies and functions of the Federal departments and agencies relating to the economy and international competitiveness.

(d) The Council shall, from time to time, make such recommendations and such other reports to the President as it deems appropriate or as the President may require.●

By Mr. MCCONNELL:

S. 181. A bill to prohibit the export of American black bear viscera, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

BLACK BEAR PROTECTION ACT

● Mr. MCCONNELL. Mr. President, I rise today to introduce legislation that protects one of our continent's most awe-inspiring creatures.

In the rugged mountainous regions of Appalachia and the American West, the black bear has ruled supreme for centuries. However, an alarming trend of poaching poses a serious threat to the recovering bear populations of North America if action is not taken soon. Sadly, this creature's numbers do not afford it protection under the Endangered Species Act.

Four hundred thousand black bears are estimated to inhabit North America. While 40,000 are legally harvested each year, some experts estimate that just as many are poached. What's even more disturbing is that the level of poaching is expected to increase in coming years.

In my home State of Kentucky, hunting black bears is prohibited. Bear sightings in my State have increased over the past few years, indicating a stable if not growing population. Although there is no reliable estimate of the number of black bears inhabiting Kentucky, it is believed they are finally beginning to repopulate the mountainous habitats they were driven from in the past. This is good news since these animals have not inhabited my State since they were nearly eliminated a century ago.

Mr. President, while legal hunting of black bears is allowed in many States, evidence of the growth in bear poaching is cause for concern that recovering bear populations may be imperiled. According to the U.S. Fish and Wildlife Service, hundreds of bear carcasses are turning up in the United States and Canada, completely intact, except for missing gallbladders, paws, and claws. China, Korea, and other nations in the Far East attach medicinal qualities to the gallbladders of bears. They are believed to cure everything from hemorrhoids and jaundice to hepatitis and impotence. Some Asians take doses of powdered bear gallbladder much like Americans take daily vitamins.

Greed is driving the increased poaching of the American black bear. Bear gallbladders, paws, and claws are valuable commodities fetching hundreds if not thousands of dollars. While bear populations in Asia have been decimated as a result, the demand for bear parts has grown along with the affluence of the Pacific rim. Asian nations are increasingly turning to the United States and Canada to meet their enormous demand for bear parts, posing a direct and serious threat to the North American bear population.

State and Federal officials are unable to determine the extent of the problem and are unable to combat it given current laws and resources. It is estimated that only 5 percent of poaching offenses are reported or detected.

Twenty-two States have prosecuted cases of bear poaching, and poaching rings have been uncovered in the Smokey Mountains and in the Berkshires. Undercover operations have ensnared dozens of poachers and hundreds of poached bears. Even a recent gang-

land-style killing in New York linked to the lucrative bear parts trade when a Korean-American was found murdered in his apartment, after bear gallbladders were taken from his freezer. In the Yukon, officials have set up a poaching hotline to report illegal bear kills.

Restrictions on the illegal bear parts trade are essential in protecting the American black bear population. An important step was taken in March of last year when the American black bear was added to appendix II of the Convention on International Trade in Endangered Species [CITES], but more protection is needed. Two of the largest importers of bear parts are not signatories to CITES, leaving a gaping hole in international bear conservation efforts.

This situation is not fair to law-abiding hunters and wildlife enthusiasts throughout North America. That is why I am introducing the Black Bear Protection Act today. My legislation would take away the financial incentive that is driving the bear parts trade.

The Bear Protection Act of 1993 will assist Kentucky and other States in effectively managing legal hunting at sustainable harvest levels for black bears. It requires the Secretary of Commerce to adopt regulations to prohibit the export of black bears and bear parts from the United States. By giving the Secretary of Commerce direct authority to intercept bear parts at our national border, the Bear Protection Act will effectively and cheaply mitigate the formidable financial incentive to the potential poacher. My legislation would direct a study of the extent of bear poaching so that the most cost-effective enforcement mechanisms can be found. It would also authorize the U.S. Trade Representative to discuss bear conservation efforts when negotiating trade agreements with other countries.

My bill in no way affects legal hunting of black bears. In fact, if my own State wanted to change its current law to allow an open season for bears, my legislation would in no way preclude such a decision.

The Bear Protection Act is a preventive measure which seeks to close loopholes which arise from conflicting State laws. By prohibiting the trade in bear parts at our national border, State and Federal wildlife officials will have less difficulty maintaining a healthy and sustainable black bear population. They may instead focus their limited resources on other wildlife conservation efforts. With this simple legislation, wildlife enthusiasts and sportsmen can rest assured that their grandchildren will share our fascination with these mighty mountain dwellers.●

By Mr. MCCONNELL:

S. 182. A bill to authorize Federal departments, agencies, and instrumentalities to retain revenues from the sale of materials collected for the purpose of recycling, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL RECYCLING INCENTIVE ACT

● Mr. MCCONNELL. Mr. President, I rise today to introduce legislation that will increase the amount of waste the Federal Government recycles. Last year, this legislation passed the Senate as an amendment to the Federal Facilities Compliance Act. Unfortunately, my provisions were removed from the bill in conference. I hope that this noncontroversial legislation can finally be enacted this year.

Mr. President, my reason for introducing the Federal Recycling Incentive Act is the abysmal record of the Federal Government in the area of recycling. We push a lot of paper in this town. It's about time we started recycling some of it.

I firmly believe that before Congress places any additional burdens on American businesses and citizens, we should make certain that the Federal Government is doing its fair share to conserve our limited resources.

The Federal Government already has recycling guidelines, but less than 200 of the nearly 6,000 Federal facilities had documented recycling programs in 1990. The reason these facilities don't recycle is that they simply do not have an economic incentive to do so. They obtain no benefit from recycling, and no punishment for wasting.

Federal facilities must spend money separating garbage to be recycled, but when this separated waste material is sold, the revenues must be returned to the general fund of the Federal Government. Since managers of Federal facilities see no direct link between their efforts to recycle and the financial returns that recycling produces, the bureaucracy continues to squander our Nation's resources on a massive scale.

Simply put, my legislation provides the Federal bureaucracy with an economic incentive to recycle by allowing the managers of Federal facilities to retain the revenues derived from the sale of recyclable waste materials. My bill also requires the Environmental Protection Agency to compile a list each year of those Federal facilities that do not adhere to recycling guidelines currently on the books. This list will be printed in the Federal Register so that Federal bureaucrats can be held accountable by the public for their wasteful ways.

Mr. President, the impact of this simple legislation will be substantial since the Federal Government uses nearly 2 million tons of paper each year. This is 2.2 percent of all the paper consumed in the United States. Eighty-five percent of this paper is recyclable.

According to a 1989 General Accounting Office report, if the Federal Government would recycle all of the paper it uses, our Nation would save over 5 million cubic yards of landfill space, 3 million barrels of crude oil, and 26 million trees each year.

By allowing Federal facilities to retain the moneys from recycling activities, my legislation will lead to a net increase in revenues to the Federal Government. The Federal Government already receives hundreds of thousands of dollars from the sale of source-separated materials. The General Services Administration estimates that a comprehensive waste management recycling program would increase revenues to GSA-managed facilities by $1.8 million per year. My legislation provides the incentive for such comprehensive waste management, and will integrate with future efforts to stimulate recycling markets.

It's not often that legislation is introduced in Congress that will increase revenues, reduce the deficit, and, in the process, help conserve our Nation's natural resources. It is my hope that this simple but important legislation will be enacted this year.●

By Mr. REID:

S. 183. A bill to authorize the President to award a gold medal on behalf of the Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking, Housing, and Urban Affairs.

RICHARD "RED" SKELTON GOLD MEDAL ACT

● Mr. REID. Mr. President, I rise today to honor a man who set out at the age of 10 in pursuit of a penny and a dream. With only the clothes on his back and his natural talent he achieved both, becoming one of America's greatest entertainers. I am speaking, Mr. President, of Red Skelton.

Red Skelton began his journey to stardom at the age of 10 when he signed up as a sidekick in a traveling medicine show. Knowing that show business was in his blood, Red continued touring, working his way up, performing in tent shows, circuses, burlesque, and eventually motion pictures. In an interview in Collier's magazine in 1950, Red stated his motivation for pursuing a career in comedy: "All I want to do, * * * is make people laugh, to take the word 'heartache' out of their vocabulary." Mr. President, I don't know of a more admirable goal. I don't think there is anyone who can deny that wherever Red went, he did just that. He was in the business of lifting people's spirits, heightening their morale. And for Red it was not an occupation, but a way of life.

Red Skelton was also a true patriot. Who can forget the performance he gave during the Red Skelton Hour on January 14, 1969, of a grade school teacher trying to teach his students the true meaning of the Pledge of Allegiance.

I've been listening to you boys and girls recite the Pledge of Allegiance all semester

and it seems as though it is becoming monotonous to you. If I may, may I recite it to you and try to explain each word:

I—me, an individual, a committee of one.

Pledge—dedicate all of my worldly goods to give without self-pity.

Allegiance—my love and devotion.

To the Flag—our standard, old glory, a symbol of freedom. Wherever she waves, there is respect because your loyalty has given her a dignity that shouts freedom is everybody's job.

Of the United—that means we have all come together.

States—individual communities that have united into 48 great States. 48 individual communities with pride and dignity and purpose, all divided with imaginary boundaries, yet united to a common purpose, and that's love for country.

Of America.

And to the Republic—a State in which sovereign power is invested in representatives chosen by the people to govern. And a government is the people and it's from the people to the leaders, not from the leaders to the people.

For which it stands.

One Nation—meaning so blessed by God.

Indivisible—incapable of being divided.

With liberty—which is freedom and the right of power to live one's life without threats or fear or some sort of retaliation.

And justice—the principle of quality of dealing fairly with others.

For all—which means it's as much your country as it is mine.

Red demonstrated his patriotism in the theater of war as well as on the television screen. He supported the war effort during World War II by selling a record number of U.S. war bonds. Red also served as a private in the United States Army, entertaining his fellow soldiers on transport ships and the Italian front. His efforts there compelled the former Senator from Vermont, Senator Stafford, to comment on the Senate floor on June 23, 1986, about his memories of serving on the U.S.S. *West Point* with Red Skelton. "I can still remember Mr. Skelton going about the ship. There was always a constant group of men around him. They were always laughing."

Red Skelton has contributed much to our country—his talent, his time, and his charity. He has been honored by the American Veterans, the Freedom Foundation, the American Legion, and the Screen Actors Guild. He has been awarded the Cecil B. DeMille Award for outstanding contributions to the entertainment industry and has become an accomplished painter. It is now time for Congress to recognize his efforts, devotion, and contribution to the United States and its citizenry. I hope my colleagues will join me in authorizing the President to award a Congressional Gold Medal to Red Skelton in honor of a lifetime of achievement and goodwill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 183

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 that—

(1) Richard "Red" Skelton has provided generations with the gift of laughter, driven by his passion to instill happiness in the hearts of others;

(2) Red Skelton, a true patriot, supported the United States Armed Forces during World War II by selling a record number of United States war bonds, serving as a private in the United States Army, and working arduously to lift the morale of his fellow soldiers; and

(3) Red Skelton, who worked his way from poverty to success, has shared his talent and his wealth with numerous charities, in an effort to help those less fortunate than himself.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Red Skelton a gold medal of appropriate design in recognition of his exemplary performance as an entertainer and a humanitarian.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 2, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 2.

(b) PROCEEDS OF SALES.—Amounts received from sales of duplicate bronze medals under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).●

By Mr. HATCH (for himself and Mr. BENNETT):

S. 184. A bill to provide for the exchange of certain lands within the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

Mr. HATCH. Mr. President, today, at the beginning of the 103d Congress, I am pleased to introduce legislation to effectuate a long awaited and strongly desired land exchange between the State of Utah and the U.S. Government. I am joined in this effort by my colleague, Senator BENNETT, and our State's bipartisan congressional delegation. The bill is supported by the newly elected Governor of Utah, the State's Parent Teacher Association, the Utah State Lands Board, several environmental groups and many Utahns interested in education and in furthering Utah's economic vitality.

At the time of Utah's statehood in 1896, a contract was established between the Congress and the people of Utah to provide an educational system to meet the needs of Utah's children. This contract, established by Utah's Enabling Act, dedicated one-ninth of Utah's total acreage "for the support of the common schools." In other words, four sections of each 36 square mile township were given to the State from which revenue would be generated to fund this system. Similar to most Western States, the revenues generated from these lands would be deposited in a permanent school trust fund. Interest earnings from that account would then flow annually to the State's education budget. As happens frequently with Federal legislation, the best intentions are not always achieved, and these State lands, also called inholdings, are not currently producing sufficient revenue to adequately fund an effective education system in Utah.

The primary reason these State inholdings are not producing the revenue Congress originally envisioned is due to the lack of direct management the state has over its own lands. A review of a land status map of Utah shows a checkerboard system with many different owners. The vast majority of state inholdings, wherever they are located in the State, are completely surrounded by federally reserved land managed by the Bureau of Land Management, the U.S. Forest Service, the National Park Service, several recognized Indian tribes, or the Department of Defense. This arrangement forces the state to be subservient to these Federal managers who can, and do, block efforts by the State to develop inholdings even though the State—in essence, the children of Utah—owns the land. State lands generated less than 2 percent of Utah's school budget in 1991 and the State's permanent school trust fund contained only $44 million. The State with the next smallest trust fund is Colorado with $200 million and a close neighbor, New Mexico, has a fund totaling $2.5 billion. For a State that spends more on education as a percent of its total budget than any other State in the Nation, this situation is pathetic and irresponsible.

Now, no one directly blames the Federal managers who manage the federal lands which surround the State's inholdings. We understand they have certain mandates, whether we agree with them or not, which they must follow. But we do recognize that Congress created this situation nearly one hundred years ago and only Congress can resolve this unfortunate situation.

This bill addresses the major portion of the overall inholdings situation by

exchanging those state lands located within certain national forests, several units of the National Park System—Arches and Capitol Reef National Parks, Glen Canyon National Recreation Area, Dinosaur National Monument—the Navajo and Goshute Indian Reservations, and several acres of Bureau of Land Management land. In exchange for these lands, the Federal Government will relinquish certain Federal lands, or interest in certain Federal lands, which are currently producing a revenue stream or royalty or have been identified by the State as having such potential. For example, the list of Federal lands contained in the bill includes several tracts possessing unleashed coal.

In addition, as negotiated last year, we are including a provision which allows the Federal Government to offer the State a portion of the royalties now received by the United States from certain Federal geothermal, oil, gas or other mineral interests. Our legislation allows the State to receive $12.5 million per year until the value of the land it trades to the Federal Government is realized. The legislation specifies that no more than 50 percent of all revenues coming to the State can come from this provision.

We seek a value for value exchange from this legislation so that the Federal Government, and especially, the State of Utah and its school children, are treated fairly. In today's world, it can sometimes be difficult for interested parties to agree on the value of land to be exchanged. As an incentive to all parties to act on this legislation as soon as it becomes law, the bill requires the Secretary of the Interior, the Secretary of Agriculture, and the Utah Governor to pursue appraisals of the pertinent lands or interests within 90 days. If these parties cannot agree on the final terms and value of the involved lands within 2 years, then the courts will make a judgment on all questions of value related to the identified lands and interests.

All in all, this bill is identical to legislation passed by the Senate during the 102d Congress. Unfortunately, in the rush to adjourn last October, it failed to pass the House of Representatives, and thus we are reintroducing it early this year. I would be the first to state that this bill is not perfect in every way, and may require some fine tuning as it proceeds along the legislative process. Today begins that process from which I am hopeful a sensible approach to resolving our inholdings problem will be reached. I acknowledge the painstaking efforts of every member of last year's Utah congressional delegation, especially Congressman JIM HANSEN, the Utah educational community and the former Utah Governor and his staff who worked hard on this legislation to get it to this point. Also, of course, Congressman ORTON, as well as Congressman OWENS.

Mr. President, Utah and its school districts are struggling with the financial burden of educating the growing population of school-age children in the state. For example, the Utah State Legislature adopted legislation last year requiring the more affluent and frugal school districts to transfer funds to poorer districts simply to provide funding for the basic operation of its schools. This legislation, referred to as the Robin Hood bill, is symbolic of Utah's ongoing battle to provide a proper educational system. It is also representative of why our legislation should be adopted this year.

Mr. President, the citizens of Utah are not asking for a handout or for something to which they are not entitled. We are simply asking the Congress of the United States to remedy a situation which it created, unknowingly, that is devastating to education in our State. It is my hope that the 103d Congress will give hasty approval to this important legislative matter.

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

S. 184

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 "Utah Schools and Lands Improvement Act of 1993".

SEC. 2. DEFINITIONS.

As used in this Act (except as otherwise provided):

(1) GOVERNOR.—The term "Governor" means the Governor of the State.

(2) SCHOOL AND INSTITUTIONAL TRUST LANDS.—The term "school and institutional trust lands" means certain lands comprising approximately 200,000 acres, consisting of—

(A) those lands granted by the United States by the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States", approved July 16, 1894 (28 Stat. 107) (commonly known as the "Utah Enabling Act"), to the State in trust; and

(B) other lands that under State law are required to be managed for the benefit of the public school system or the institutions of the State that are designated by such Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Utah.

SEC. 3. STATE LANDS WITHIN THE NAVAJO INDIAN RESERVATION.

(a) ADDITIONS TO RESERVATION.—

(1) IN GENERAL.—For the purpose of securing in trust for the Navajo Nation certain lands belonging to the State, the lands described in paragraph (2) shall become part of the Navajo Indian Reservation in the State upon the completion of conveyance from the State and acceptance of title by the United States.

(2) LANDS.—The lands referred to in paragraph (1) comprise approximately 38,500 acres of surface and subsurface estate, and approximately an additional 9,500 acres of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992.

(b) AUTHORIZATION OF EXCHANGE.—

(1) IN GENERAL.—The Secretary may acquire through exchange the lands described in subsection (a)(2), subject to valid existing rights.

(2) COSTS.—The exchange authorized by paragraph (1) shall be conducted without cost to the Navajo Nation.

SEC. 4. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

(a) ADDITIONS TO RESERVATION OF UTAH LANDS.—

(1) IN GENERAL.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State, the lands described in paragraph (2) shall become part of the Goshute Indian Reservation in the State upon the completion of conveyance from the State and acceptance of title by the United States.

(2) LANDS.—The lands referred to in paragraph (1) comprise approximately 980 acres of surface and subsurface estate, and an additional 480 acres of subsurface estate, as generally depicted on the map entitled "Utah-Goshute Land Exchange", dated May 18, 1992.

(3) AUTHORIZATION OF EXCHANGE.—

(A) IN GENERAL.—The Secretary may acquire through exchange the lands described in paragraph (2), subject to valid existing rights.

(B) COSTS.—The exchange authorized by subparagraph (A) shall be conducted without cost to the Goshute Indian Tribe.

(b) ADDITIONS TO RESERVATION OF NEVADA LANDS.—

(1) IN GENERAL.—The Federal lands located in the State of Nevada and described in paragraph (2), together with all improvements on the lands, are declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe.

(2) LANDS.—The lands referred to in paragraph (1) comprise approximately 5 acres and have the following legal description: Township 30 North, range 69 East, Lots 5, 6, 7, 9, 11, and 14 of section 34.

(3) USE OF LANDS.—No part of the lands described in paragraph (2) shall be used for gaming or any related purpose.

SEC. 5. STATE LANDS WITHIN THE NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION OF ACQUISITION.—The Secretary of Agriculture may accept on behalf of the United States the school and institutional trust lands that—

(1) are owned by the State;

(2) are located within units of the National Forest System; and

(3) comprise approximately 76,000 acres, as generally depicted on the map entitled "Utah Forest Land Exchange", dated May 18, 1992.

(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become part of the national forest within which the lands are located and shall be subject to all laws applicable to the National Forest System.

SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

(a) AUTHORIZATION OF ACQUISITION.—The Secretary may accept on behalf of the United States all school and institutional trust lands that are—

(1) owned by the State; and

(2) located within the units of the National Park System located within the State on the date of enactment of this Act.

(b) STATUS.—

(1) IN GENERAL.—All lands of the State within units of the National Park System that are conveyed to the United States pursuant to this section shall become part of

the appropriate unit of the National Park System and shall be subject to all laws applicable to that unit of the National Park System.

(2) CAPITOL REEF NATIONAL PARK LANDS.—

(A) IN GENERAL.—The Secretary shall, as a part of the exchange process pursuant to this Act, compensate the State for the fair market value of 580.64 acres within Capitol Reef National Park that were conveyed by the State to the United States on July 2, 1971 (for which the State has never been compensated).

(B) FAIR MARKET VALUE.—The fair market value of these lands shall be determined pursuant to section 8.

SEC. 7. OFFER TO STATE.

(a) SPECIFIC OFFERS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall transmit to the Governor a list of lands and interests in lands within the State for transfer to the State in exchange for the State lands and interests described in sections 3, 4, 5, and 6.

(2) LIST.—The list described in paragraph (1) shall consist of the following Federal lands and interests in lands:

(A) Blue Mountain Telecommunications Site, fee estate, approximately 640 acres.

(B) Beaver Mountain Ski Resort Site, fee estate, approximately 3,000 acres, as generally depicted on the map entitled "Beaver Mountain Ski Resort", dated September 16, 1992.

(C) The unleased coal located in the Winter Quarters tract.

(D) The unleased coal located in the Crandall Canyon tract.

(E) All royalties receivable by the United States with respect to coal leases in the Quitchupah (Convulsion Canyon) tract.

(F) The unleased coal located in the Cottonwood Canyon tract.

(G) The unleased coal located in the Soldier Creek tract.

(b) ADDITIONAL OFFERS OF ROYALTIES.—

(1) IN GENERAL.—In addition to the lands and interests described in subsection (a)(2), and subject to paragraph (2), the Secretary shall offer to the State a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, and other mineral interests in the State that on December 31, 1992—

(A) were under lease;

(B) were covered by an approved permit to drill or a plan of development and plan of reclamation;

(C) were in production; and

(D) were not under administrative or judicial appeal.

(2) LIMITATIONS ON OFFERS.—

(A) PERCENTAGE OF VALUE OF STATE LANDS.—The Secretary may not make an offer pursuant to this subsection for royalties aggregating more than 50 percent of the total appraised value of the State lands described in sections 3, 4, 5, and 6.

(B) DOLLAR AMOUNT LIMITATION.—The Secretary may not make an offer pursuant to this subsection that would enable the State to receive royalties under this section in an amount that exceeds $12,500,000 annually.

(c) INSUFFICIENCY OF VALUE OF OFFER TO STATE.—If the total value of lands, interests in lands, and royalties offered to the State pursuant to subsections (a) and (b) is less than the total value of the State lands described in sections 3, 4, 5, and 6, the Secretary shall—

(1) provide the Governor a list of all public lands in the State that as of December 31, 1992, the Secretary had identified in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as suitable for disposal by exchange or otherwise; and

(2) offer to transfer to the State any or all of the lands, as selected by the State, in partial exchange for the State lands, to the extent consistent with other applicable law.

SEC. 8. APPRAISAL OF LANDS TO BE EXCHANGED.

(a) IN GENERAL.—

(1) EQUAL VALUE.—All exchanges made pursuant to this Act shall be for equal value.

(2) APPRAISALS.—Not later than 90 days after the date of enactment of this Act, the Secretary, the Secretary of Agriculture, and the Governor shall provide for an appraisal of the lands and interests in lands involved in the exchanges authorized by this Act.

(3) APPRAISAL REPORTS.—Each detailed appraisal report prepared pursuant to paragraph (2) shall utilize nationally recognized appraisal standards including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions.

(b) INTEREST ON ROYALTY OFFERS.—Any royalty offer by the Secretary pursuant to section 7(b) shall be adjusted to reflect the net present value as of the effective date of the exchange. The State shall be entitled to receive a reasonable rate of interest at a rate equal to the average yield on 5-year Treasury notes issued during the previous fiscal year on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States pursuant to section 9(a)(3)(A).

(c) ADJUSTMENT FOR REVENUE SHARING.—

(1) IN GENERAL.—If the State shares revenue from any lands, interest in lands, or royalty transferred to the State under this Act, the value of the lands, interest in lands, or royalty shall be the value otherwise established under this section, less the percentage that represents the Federal revenue sharing obligation.

(2) LIMITATION.—The adjustment described in paragraph (1) shall not be considered to reflect a property right of the State.

(d) DISPUTE RESOLUTION.—

(1) IN GENERAL.—If, after the date that is 2 years after the date of enactment of this Act, the parties described in subsection (a)(2) have not agreed on the final terms of some or all of the exchanges authorized by this Act (including the value of the lands involved in some or all of the exchanges), a party may bring an action in the United States District Court for the District of Utah, Central Division, concerning the value of any and all lands, or interests in lands, involved in the exchange.

(2) TIME FOR FILING.—Any action described in paragraph (1) may be filed with the court not earlier than the date that is 2 years after the date of enactment of this Act and not later than the date that is 5 years after the date of enactment of this Act.

(3) APPEALS.—Any decision of the court under this subsection may be appealed in accordance with applicable law.

SEC. 9. TRANSFER OF TITLE.

(a) TERMS.—

(1) EXCHANGE.—

(A) ENTITLEMENT.—The State shall be entitled to receive such lands, interests in lands, and royalties described in section 7 as—

(i) are offered by the Secretary and accepted by the State; and

(ii) are equal in value to the State lands and interests in lands described in sections 3, 4, 5, and 6.

(B) CONVEYANCE BY THE STATE.—

(i) IN GENERAL.—If the State accepts the offers described in subparagraph (A), the State shall convey to the United States, subject to valid existing rights, all right, title, and interest of the State to the school and institutional trust lands, as described in sections 3, 4, 5, and 6.

(ii) TIMING.—Except as provided in section 7(b), conveyance of all lands or interests in lands shall take place not later than 60 days after agreement by the Secretary and the Governor, or entry of an appropriate order of judgment by the district court.

(2) RIGHTS CONVEYED.—

(A) FEE SIMPLE TITLES.—Subject to subsection (b), for each property described in paragraph (1)(A) for which fee simple title is to be conveyed to the State, the Secretary shall convey, subject to valid existing rights, all right, title, and interest in the property.

(B) OTHER RIGHTS.—For each property described in paragraph (1)(A) for which less than fee simple title is to be conveyed to the State, the Secretary shall reserve to the United States all remaining right, title, and interest of the United States.

(3) MINERALS.—

(A) RIGHTS.—All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State pursuant to this Act shall revert to the United States upon removal of minerals equal in value to the value attributed to the rights in connection with an exchange under this Act.

(B) DEVELOPMENT OF MINERAL INTERESTS.—Development of any mineral interest transferred to the State pursuant to this Act shall be subject to all laws applicable to the development of non-Federal mineral interests, including, when appropriate, laws applicable to the development of non-Federal mineral interests within national forests.

(b) INSPECTIONS FOR HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Prior to any exchange under this Act, the Secretary and the Governor shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials (as defined by applicable law at the time of the inspection).

(2) AVAILABILITY OF RESULTS.—Each party described in paragraph (1) shall make available to the other party the results of each inspection conducted pursuant to paragraph (1).

(3) REMEDIAL ACTION.—Responsibility for costs of remedial action related to materials identified by the inspections described in paragraph (1) shall be borne by those entities responsible under existing law.

(c) PUBLIC INTEREST REQUIREMENT.—With respect to the lands and interests described in section 7, the requirement of section 206(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(a)) that exchanges of lands be in the public interest is deemed to be met.

SEC. 10. MAPS AND LEGAL DESCRIPTIONS.

(a) FILING.—As soon as practicable after the date of enactment of this Act, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) FORCE AND EFFECT.—Each map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each map and legal description.

(c) PUBLIC INSPECTION.—Each map and legal description shall be on file and available for public inspection in—

(1) the offices of the Secretary of Agriculture and the Secretary of the Interior in Washington, District of Columbia; and

(2) the offices of the appropriate agencies of the Department of the Interior and the Department of Agriculture in the State.

SEC. 11. PAYMENTS IN LIEU OF TAXES.

Section 6902(b) of title 31, United States Code, is amended by adding at the end the following new sentences: "This subsection shall not apply to payments for lands located in the State of Utah and acquired by the United States if, at the time of the acquisition, a unit of general local government, under applicable State law, was entitled to receive payments from the State for the lands. In the case described in the preceding sentence, a payment under this chapter with respect to the acquired lands may not exceed the payment that would have been made under State law if the lands had not been acquired.".

SEC. 12. CONGRESSIONAL INTENT.

(a) EFFECT ON FUTURE EXCHANGES.—The lands and interests described in section 7 are an offer related only to the State lands and interests in lands described in this Act. Nothing in this Act is intended to preclude conveyance of other lands or interests to the State pursuant to other exchanges under applicable law in existence on the date of enactment of this Act or enacted after the date.

(b) EQUITABLE TREATMENT OF COUNTIES.—It is the intent of Congress that the State should establish a funding mechanism, or some other mechanism, to ensure that counties within the State are treated equitably as a result of the exchanges made pursuant to this Act.

SEC. 13. COSTS.

The United States and the State shall each bear its own respective costs incurred in carrying out this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BENNETT. Mr. President, I join with the senior Senator from the State of Utah to introduce the Utah Schools and Lands Improvement Act of 1993.

The State of Utah has been interested in obtaining a resolution to the State school trust land issue for many years. This legislation orders an exchange of Utah school trust lands found within national parks, two Indian reservations and Federal Forest Service lands. In exchange for these lands, the State of Utah will receive Federal lands of equal value to be determined by appraisals to be conducted by the Department of the Interior.

I support this approach and recognize that the various interests which supported this legislation last year came very close to seeing it pass in the final days of the session. I am hopeful that we will be able to resolve any differences quickly this year.

It is terribly frustrating to see our education demands in Utah and not have the resources that other Western States have in terms of using land sections to develop funding revenues. This legislation will release approximately 200,000 acres of lands which are trapped by within federally managed lands and allow the resulting revenue to be used for educational purposes.

The Governor of Utah joins us in endorsing this legislative initiative as well as other key education and environmental groups in Utah. As a member of the Energy and Natural Resources Committee, I intend to seek the early consideration of this legislation.

By Mr. GLENN (for himself, Mr. PRYOR, Mr. STEVENS, Mr. LIEBERMAN, Mr. LEVIN, Mr. AKAKA, Mr. SARBANES, Mr. CONRAD, Mr. SASSER, Mr. LEAHY, and Mr. DORGAN):

S. 185. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

HATCH ACT REFORM AMENDMENTS OF 1993

• Mr. GLENN. Mr. President, the legislation I am introducing today would amend the Hatch Act—the 1939 statute which prohibits most Federal civilian and postal employees from political activities. I am pleased to have Senators PRYOR, STEVENS, LIEBERMAN, LEVIN, AKAKA, SARBANES, CONRAD, SASSER, LEAHY, and DORGAN joining me today as original cosponsors.

This bill is identical to S. 135 which passed the Senate in 1990 by a vote of 67 to 30. President Bush vetoed the measure and the Senate failed to override that veto by two votes. It is my expectation that this legislation will not be vetoed in the 103d Congress.

This legislation would allow our Nation's civil servants to participate voluntarily, as private citizens, in the Nation's political process. It would eliminate many of the complicated, restrictive, and confusing rules which inhibit the political activities and conduct of Federal employees. This legislation puts an end to the game of what I call trivial confusion.

For example:

Under current law if you are "Hatched," you may wear a campaign button on the job and write a check to the candidate of your choice. But, you cannot give any in-kind contribution on your own time such as stuffing envelopes or circulating a nominating petition. This legislation would prohibit civil servants from wearing campaign buttons on the job, but would allow them to participate voluntarily in certain campaign-related activities away from the job.

Under current law if you are "Hatched," you can't wave a political poster at a rally, but you can post it on your car or your front lawn. This bill would allow Hatched employees to waive posters at rallies so long as they were not wearing work-related uniforms or insignias.

Under current law if you are "Hatched," you may express your opinion about a candidate publicly, but you can't make a speech or "campaign for or against a candidate." This legislation would allow Hatched employees to fully participate in party caucuses.

The current Hatch Act even extends to letters to the editor on partisan political issues. This legislation would allow Hatched employees to write letters to the editor like all other citizens.

In other words, this bill would restore these constitutional rights to 3 million people—rights which most of us take for granted. The right of American citizens in good standing to participate in the politics of the Nation—a fundamental principle in our democratic society.

The purpose of this legislation is to reform, not repeal, a 54-year-old law. The history of this important law demonstrates that this reform is both appropriate and necessary.

When the Hatch Act was passed in 1939, the development of a professional civil service was being undermined by patronage appointments. More than 60 new Federal agencies had been created by the end of 1934, but only 5 had been placed under the jurisdiction of the Civil Service Commission. This meant that the majority of these agencies were being staffed on the basis of political patronage rather than merit competition. This rapid growth of patronage jobs—more than 300,000—caused congressional concern that some civil servants might be working for partisan, rather than national, interests.

The issues raised in the 1939 congressional debate offer a good perspective on the motivation for the original act. I quote from the floor debate of Mr. McClean of New Jersey on July 20, 1939:

It was established many years ago that the Merit System should control in the appointment of persons to public office, and that the political idea that "to the victor belongs the spoils" should no longer be the measure by which appointment is made. If that principle had been adhered to there would be no reason, and hence no demand, for this legislation. But the New Deal, under the pretense of emergency, saw fit to disregard the Merit System and to provide in all legislation adopted that in making appointments to public office the provisions of civil service laws should not apply. But for this there would be no occasion for the enactment of this legislation.

In passing the Hatch Act, Congress was attempting to protect the civil service from undue political influence by prohibiting Federal workers from engaging in partisan political activities altogether. Fifty-four years later, we have a dramatically different situation—we have an established, professional civil service, hired on a competitive, merit basis. We also have many

different laws, on the books, to protect Federal employees from coercion.

It is important to distinguish civil service hiring procedures and merit principles from the edicts of the Hatch Act. There is nothing in this Hatch Act reform bill that would change Federal civil service laws requiring that Federal employees be hired and promoted based upon their qualifications.

In developing this legislation, the Governmental Affairs Committee exercised extreme caution in balancing the need to protect the integrity of the civil service with our duty to protect the constitutional right of all citizens to participate in the Nation's political processes.

Under the reform proposal, "Hatched" employees would enjoy more freedoms after working hours by being allowed to work voluntarily, as private citizens, for the candidates and causes of their choice. For example, they would be allowed to carry posters at political rallies, stuff envelopes, participate in voter registration drives, and distribute campaign material while off the job. These are basic rights that other Americans take for granted.

But there are strong prohibitions afforded by the original Hatch Act which are as important today as they were in 1939. These prohibitions would not be altered under this bill. Under this bill, Federal employees still could not run for partisan elective office. Under this bill, Federal employees still could not solicit political contributions from the general public or subordinate employees. And under this bill, coercion of subordinates would still be banned.

The legislation would attempt to end the confusion of current law by making a clear distinction between activity on the job and activity away from work on an employee's own time. All political activity on the job would be banned. This includes the wearing of campaign buttons, which is allowed under current law. The bill would retain all current law prohibitions and penalties against the use of one's official position to influence other employees. In fact, under this bill criminal penalties for those convicted of such abuse would be increased. In addition, it would prohibit Federal workers from engaging in any political activity while wearing uniforms or insignia that identifies them as a Federal or postal employee.

Mr. President, I urge my colleagues to give Federal workers the right to participate more fully in the political processes, a right denied to them for 54 years. Mr. President, reforming the Hatch Act requires us to practice what we preach: That democracy benefits from the free participation of law-biding citizens. I ask unanimous consent that the 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. 185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hatch Act Reform Amendments of 1993".

SEC. 2. POLITICAL ACTIVITIES.

(a) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"§ 7321. Political participation

"It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency other than the General Accounting Office; or

"(B) a position within the competitive service which is not in an Executive agency; but does not include a member of the uniformed services;

"(2) 'partisan political office' means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

"(3) 'political contribution'—

"(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

"(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose.

"§ 7323. Political activity authorized; prohibitions

"(a) Subject to the provisions of subsection (b), an employee may take an active part in political management or in political campaigns, except an employee may not—

"(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

"(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is—

"(A) a member of the same Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));

"(B) not a subordinate employee; and

"(C) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of the enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))); or

"(3) run for the nomination or as a candidate for election to a partisan political office; or

"(4) knowingly solicit or discourage the participation in any political activity of any person who—

"(A) has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing office of such employee; or

"(B) is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the employing office of such employee.

"(b)(1) An employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

"(2) No employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

"(3) For purposes of this subsection, the term 'active part in political management or in a political campaign' means those acts of political management or political campaigning which were prohibited for employees of the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

"§ 7324. Political activities on duty; prohibition

"(a) An employee may not engage in political activity—

"(1) while the employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

"(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

"(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

"(b)(1) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

"(2) Paragraph (1) applies to an employee—

"(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

"(B) who is—

"(i) an employee paid from an appropriation for the Executive Office of the President; or

"(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.

"§ 7325. Political activity permitted; employees residing in certain municipalities

"The Office of Personnel Management may prescribe regulations permitting employees, without regard to the prohibitions in paragraphs (2) and (3) of section 7323 of this title, to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Office considers it to be in their domestic interest, when—

"(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

"(2) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

"§ 7326. Penalties

"Any employee who has been determined by the Merit Systems Protection Board to have violated on two occasions any provision of section 7323 or 7324 of this title, shall upon such second determination by the Merit System Protection Board be removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title). Such removal shall not be effective until all available appeals are final.".

(b)(1) Section 3302(2) of title 5, United States Code, is amended by striking out "7203, 7321, and 7322" and inserting in lieu thereof "and 7203".

(2) The table of sections for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"7321. Political participation.
"7322. Definitions.
"7323. Political activity authorized; prohibitions.
"7324. Political activities on duty; prohibition.
"7325. Political activity permitted; employees residing in certain municipalities.
"7326. Penalties.".

SEC. 3. AMENDMENT TO CHAPTER 12 OF TITLE 5, UNITED STATES CODE.

Section 1216(c) of title 5, United States Code, is amended to read as follows:

"(c) If the Special Counsel receives an allegation concerning any matter under paragraph (1), (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 and disciplinary action under section 1215 in the same way as if a prohibited personnel practice were involved.".

SEC. 4. AMENDMENTS TO TITLE 18.

(a) Section 602 of title 18, United States Code, relating to solicitation of political contributions, is amended—

(1) by inserting "(a)" before "It";

(2) in paragraph (4) by striking out all that follows "Treasury of the United States" and inserting in lieu thereof a semicolon and "to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both."; and

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

"(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(b) Section 603 of title 18, United States Code, relating to making political contributions, is amended by adding at the end thereof the following new subsection:

"(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(c)(1) Chapter 29 of title 18, United States Code, relating to elections and political activities is amended by adding at the end thereof the following new section:

"§ 610. Coercion of political activity

"It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.".

(2) The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following:

"610. Coercion of political activity.".

SEC. 5. AMENDMENTS TO THE VOTING RIGHTS ACT OF 1965.

Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities".

SEC. 6. AMENDMENTS RELATING TO APPLICATION OF CHAPTER 15 OF TITLE 5, UNITED STATES CODE.

(a) Section 1501(1) of title 5, United States Code, is amended by inserting ", the District of Columbia," after "State".

(b) Section 675(e) of the Community Services Block Grant Act (42 U.S.C. 9904(e)) is repealed.

SEC. 7. APPLICABILITY TO POSTAL EMPLOYEES.

The amendments made by this Act, and any regulations thereunder, shall apply with respect to employees of the United States Postal Service and the Postal Rate Commission, pursuant to sections 410(b) and 3604(e) of title 39, United States Code.

SEC. 8. EFFECTIVE DATE.

(a) The amendments made by this Act shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7325 of title 5, United States Code (as added by section 2 of this Act), shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this Act of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under that provision, and that provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of that penalty, forfeiture, or liability.

(c) No provision of this Act shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this Act. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.●

By Mr. REID:

S. 186. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

SPENDING CONTROL AND PROGRAMS EVALUATION ACT OF 1993

Mr. REID. Mr. President, today, I am reintroducing the Spending Control and Programs Evaluation Act.

It is an understatement to say that the Federal Government faces a budget and really a deficit crisis. In 1992, our budget deficit was about $300 billion. This year the deficit is estimated by some to be about $340 billion. The national debt already stands at $4 trillion. Needless to say, we must get this under control.

Not only, Mr. President, does the Government face a monetary crisis, it also faces an American public that believes Washington does not work. I think they are wrong, but that is a concept that many have.

I return to the Senate this year, after facing voters in Nevada, and I can tell my colleagues first hand that the voters in Nevada, like across the country, are angry. The bottom line is that voters think that we in Washington waste a lot of their tax dollars. As I have indicated, this phenomenon is not unique to Nevada. Throughout his campaign, President Clinton stressed the need to change the way the Federal Government operates. None of the fixes we have tried in recent years to control deficit spending have worked or appear to have a likelihood of working—not the budget deal of 1990, not the mindless rush to surrender budget accountability to the private sector in the name of privatization, and certainly not Gramm-Rudman-Hollings.

It is time we take the steps that will be needed to eliminate our budget deficits and begin reducing the national debt. We need to know more about what we are doing when we make decisions on Federal spending programs, and we ought to revisit these decisions on a regular basis to see if they are still valid. Currently, we passed legislation authorizing Federal spending in a piecemeal fashion, which comes to

the Appropriations Committee, and we, because of the authorization process, many times appropriate in a piecemeal fashion. Over time, this is bound to create duplication of effort and in some cases, contradictory efforts. Let us take a look at the Federal agencies that administer agricultural-related activities.

These include:

Farmers Home Administration;

Rural Electrification Administration;

Federal Crop Insurance Corporation;

Agricultural Cooperative Service;

Agricultural Marketing Service;

Animal and Plant Health Inspection Service;

Food Safety and Inspection Service;

Packers and Stockyards Administration;

Food and Nutrition Service;

Human Nutrition Information Service;

Agricultual Stabilization and Conservation Service;

Commodity Credit Corporation;

Foreign Agriculture Service;

Office of International Cooperation and Development;

Agricultural Research Service;

Cooperative State Research Service;

Extension Service;

National Agricultural Library;

Economic Research Service;

National Agricultural Statistics Service;

Soil Conservation Service;

Economic Research Service;

National Agricultural Statistics Service;

World Agricultural Outlook Board;

Federal Grain Inspection Service;

Center for Veterinary Medicine;

Center for Food Safety and Applied Nutrition;

Food and Drug Administration;

Farm Credit Administration; and the

Commodity Future Trading Commission.

It is hard to believe, but that is a fact. I do not mean to single out only agriculture. We could look at other areas and find the same duplication. I merely wish to point out that with agriculture, Congress' left hand often doesn't know what its right hand is doing. Congress is, in many cases, wasting the time of executive branch agencies and the money of taxpayers, because we do not spend the time necessary to occasionally make comprehensive examinations of existing programs. In an era when every penny must be stretched to the limit, this state of affairs, I do not think, should be allowed to continue.

What the Senate needs to make intelligent decisions on its spending priorities is a comprehensive and organized evaluation of the various spending programs and a requirement that decisions on these programs be reviewed on a regular basis. A first step was taken in this direction during Senate consideration of last year's budget resolution when my amendment calling for a review or existing spending programs was approved by voice vote.

Mr. President, one of the President Clinton's favorite think tanks is the Progressive Policy Institute. Very recently, the Progressive Policy Institute published a book called "Mandate for Change." The aim of this book is to spell out new ideas on how to tackle America's toughest problems, primarily how to change the way the Federal Government operates. One of the chapters in "Mandate for Change" was written by David Osborne, a well-known political scientist and coauthor of another well-known book, "Reinventing Government." Mr. Osborne points out in "Mandate for Change" the need for legislation to review all of our Federal programs through a sunset law. The legislation I introduced last year, and am reintroducing today, is just that—a sunset bill.

This legislation is a comprehensive budget reform package, and it is done simply. This legislation will force Congress to evaluate and reauthorize nearly every Federal spending program at least once every 10 years or the programs fail.

The first step in this direction is to require our committees to review and evaluate the programs under their jurisdiction. I cannot imagine anyone questioning the need for such review and evaluation. It cannot do any harm. However, Congress, and in particular the Senate, has become a firehouse. Instead of proactive work we are performing reactive work. We have lost control over two or our most important responsibilities: managing the Nation's financial resources and maintaining the trust of the American people.

The bill I am reintroducing, by requiring a periodic comprehensive review of Federal spending programs, will enable Congress to become more proactive and less reactive. It will allow us to return to enacting long-term policies. In effect, what it will do is require us to reauthorize programs every 10 years or they fail.

Mr. President, I hope that my colleagues will join me in working to rationalize our spending process. I believe this legislation is a chance to bring real change to the way we do business—a change that will be cheered by this Nation's taxpayers.

I request that the full text of my bill be printed in the RECORD at this point.

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

S. 186

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 "Spending Control and Programs Evaluation Act of 1993".

SEC. 2. PURPOSES OF ACT.

The purposes of this Act are—

(1) to require that most Government programs be reauthorized according to a schedule at least once every 10 years;

(2) to limit the length of time for which Government programs can be authorized to 10 years;

(3) to bar the expenditure of funds for Government programs which have not been provided for by a law enacted during the 10-year sunset reauthorization cycle; and

(4) to encourage the reexamination of selected Government programs each Congress.

SEC. 3. DEFINITIONS AND CONSTRUCTION.

(a) DEFINITIONS.—For purposes of this Act—

(1) The term "budget authority" has the meaning given to it by section 3(2) of the Congressional Budget Act of 1974.

(2) The term "permanent budget authority" means budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require recurring action by the Congress, but does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years.

(3) The term "Comptroller General" means the Comptroller General of the United States.

(4) The term "agency" means an executive agency as defined in section 105 of title 5, United States Code, except that such term includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office.

(5) The term "sunset reauthorization cycle" means the period of 5 Congresses beginning with the One Hundred Third Congress and with each sixth Congress following the One Hundred Third Congress.

(b) TREATMENT OF PROGRAMS.—For purposes of this Act, each program (including any program exempted by a provision of law from inclusion in the Budget of the United States) shall be assigned to the functional and subfunctional categories to which it is assigned in the Budget of the United States Government, fiscal year 1993. Each committee of the Senate or the House of Representatives which reports any bill or resolution which authorizes the enactment of new budget authority for a program not included in the fiscal year 1993 budget shall include, in the committee report accompanying such bill or resolution (and, where appropriate, the conferees shall include in their joint statement on such bill or resolution), a statement as to the functional and subfunctional category to which such program is to be assigned.

(c) REAUTHORIZATION DATE.—For purposes of titles I, II, and III of this Act, the reauthorization date applicable to a program is the date specified for such program under section 101(b).

TITLE I—REAUTHORIZATION OF GOVERNMENT PROGRAMS

SEC. 101. REAUTHORIZATION CYCLE.

(a) GENERAL RULE.—Each Government program (except those listed in section 103) shall be reauthorized at least once during each sunset reauthorization cycle during the Congress in which the reauthorization date applicable to such program (pursuant to subsection (b)) occurs.

(b) FIRST REAUTHORIZATION DATE.—The first reauthorization date applicable to a Government program is the date specified in the following table, and each subsequent reauthorization date applicable to a program is the date ten years following the preceding reauthorization date:

Programs included within subfunctional category	First reauthorization date
254 Space, Science, Applications and Technology.	September 30, 1995.
272 Energy Conservation.	
301 Water Resources.	
352 Agriculture and Research Services.	
371 Mortgage Credit and Thrift Insurance.	
376 Other Advancement and Regulation of Commerce.	
501 Elementary, Secondary, and Vocational Education.	
601 General Retirement and Disability Insurance.	
602 Federal Employment Retirement and Disability.	
703 Hospital and Medical Care for Veterans.	
806 Other General Government.	
851 General Revenue Sharing.	
051 Department of Defense—Military.	September 30, 1997.
053 Atomic Energy Defense Activities.	
154 Foreign Information and Exchange Act.	
251 General Science and Basic Research.	
306 Other Natural Resources.	
351 Farm Income Stabilization.	
401 Ground Transportation.	
502 Higher Education.	
553 Education and Training of Health Care Work Force.	
701 Income Security for Veterans.	
752 Federal Litigative and Judicial Activities.	
802 Executive Director and Management.	
803 Central Fiscal Operations.	
054 Defense Related Activities.	September 30, 1999.
152 Military Assistance.	
155 International Financial Programs.	
253 Space Flight.	
255 Supporting Space Activities.	
274 Emergency Energy Preparedness.	
302 Conservation and Land Management.	
304 Pollution Control and Abatement.	
407 Other Transportation.	
504 Training and Employment.	
506 Social Services.	
554 Consumer and Occupational Health and Safety.	
704 Veterans Housing.	
751 Federal Law Enforcement Activities.	
801 Legislative Function.	
852 Other General Purpose Fiscal Assistance.	
153 Conduct of Foreign Affairs.	September 30, 2001.
271 Energy Supply.	
303 Recreational Resources.	
402 Air Transportation.	
505 Other Labor Services.	
551 Health Care Services.	
604 Public Assistance and Other Income Supplements.	
702 Veterans Education, Training, and Rehabilitation.	
753 Federal Correctional Activities.	
805 Central Personnel Management.	
902 Other Interest.	
151 Foreign Economic and Financial Assistance.	September 30, 2003.
276 Energy Information, Policy and Regulation.	
372 Postal Service.	
403 Water Transportation.	
451 Community Development.	
452 Area and Regional Development.	
453 Disaster Relief and Insurance.	
503 Research and General Education Aids.	
552 Health Research.	
603 Unemployment Compensation.	
705 Other Veterans Benefits and Services.	
754 Criminal Justice Assistance.	
804 General Property and Record Management.	
901 Interest on the Public Debt.	

(c) POINT OF ORDER TO PRESERVE SUNSET.—(1) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for a period of more than 10 fiscal years, for an indefinite period, or (except during the Congress in which such next reauthorization date occurs) for any fiscal year beginning after the next reauthorization date applicable to such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment to the bill or resolution which would make the authorization period conform to the requirement of such sentence.

(2)(A) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program for any fiscal year beginning after any reauthorization date applicable to such program under subsection (b), unless the provision of such new budget authority is specifically authorized by a law which constitutes a required authorization for such program.

(B) For the purposes of this title, the term "required authorization" means a law authorizing the enactment of new budget authority for a program, which complies with the provisions of paragraph (1).

(3) No new budget authority may be obligated or expended for a program for a fiscal year beginning after the last fiscal year in a sunset reauthorization cycle unless a provision of law providing for the expenditure of such funds has been enacted during such sunset reauthorization cycle.

(4) Any provision of law providing permanent budget authority for a program shall cease to be effective (for the purpose of providing such budget authority) on the first reauthorization date applicable to such program.

(5) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program unless the bill or resolution, or amendment thereto (or the report which accompanies such bill or resolution), includes a specific reference to the provision of law which constitutes a required authorization for such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which provides such reference to the appropriate provision of law.

SEC. 102. REAUTHORIZATION REVIEW.

(a) GENERAL RULE.—It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which has been reported by a committee and which authorizes the enactment of new budget authority for a program for a fiscal year beginning after the next reauthorization date applicable to such program, unless a reauthorization review of such program has been completed during the Congress in which the reauthorization date for such program occurs (or during a subsequent Congress when such required authorization is considered), and the report accompanying such bill or resolution includes a separate section entitled "Reauthorization Review" recommending, based on such review, whether the program or the laws affecting such program should be continued without change, continued with modifications, or terminated, and also includes, to the extent the committee or committees having jurisdiction deem appropriate, each of the following matters:

(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

(2) An identification of any other programs having similar objectives, and a justification of the need for the proposed program in comparison with those other programs which may be potentially conflicting or duplicative.

(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

(4) A comparison of the amount of new budget authority which was authorized for the program in each of the previous four fiscal years and the amount of new budget authority provided in each such year.

(b) REVIEW OF NEW AUTHORITY.—It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for which there previously has been no such authorization unless the report accompanying such bill or resolution sets forth, to the extent that the committee or committees having jurisdiction deem appropriate, the information specified in subsections (a)(2) and (a)(3).

(c) CONGRESSIONAL REVIEW BY AUTHORIZING COMMITTEES.—Each committee having legislative jurisdiction over a program referred to in section 103 shall conduct a review of such program of the type described in subsection (a) of this section at least once during each sunset reauthorization cycle, during the Congress in which the reauthorization date applicable to such program occurs, and shall submit to the Senate or the House of Representatives, as the case may be, a report containing its recommendations and other information of the type described in subsection (a). It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution reported by the committee having legislative jurisdiction which authorizes the enactment of new budget authority for such program unless such report accompanies such bill or resolution, or has been submitted during the Congress in which the reauthorization date for such program occurred as provided in section 101(b), whichever first occurs.

SEC. 103. PROGRAMS SUBJECT TO REVIEW ONLY.

(a) REVIEW OF CERTAIN PROGRAMS.—The program listed in subsection (b) shall be subject to the reauthorization cycle and review as provided in section 102(c).

(b) PROGRAMS.—The programs referred to in subsection (a) are the following:

(1) Programs included within functional category 900 (Interest).

(2) Any Federal programs or activities to enforce civil rights guaranteed by the Constitution of the United States or to enforce antidiscrimination laws of the United States, including but not limited to the investigation of violations of civil rights, civil or criminal litigation or the implementation or enforcement of judgments resulting from such litigation, and administrative activities in support of the foregoing.

(3) Programs which are related to the administration of the Federal judiciary and which are classified in the fiscal year 1993 budget under subfunctional category 752 (Federal litigative and judicial activities).

(4) Payments of refunds of internal revenue collections as provided in title I of the Supplemental Treasury and Post Office Departments Appropriation Act of 1949 (62 Stat. 561), but not to include refunds to persons in excess of their tax payments.

(5) Programs included in the fiscal year 1993 budget in subfunctional categories 701 (Income security for veterans), 702 (Veterans education, training, and rehabilitation), 704 (Veterans housing), and programs for providing health care which are included in such budget in subfunctional category 703 (Hospital and medical care for veterans).

(6) Social Security and Federal employee retirement programs including the following:

(A) Programs funded through trust funds which are included with subfunctional categories 551 (Health care services), 601 (General retirement and disability insurance), or 602 (Federal employee retirement and disability).

(B) Retirement pay and retired pay of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the Reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve; and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code (survivor's benefits), classified in the fiscal year 1993 budget in subfunctional category 051 (Department of Defense—military).

(C) Retirement pay and medical benefits for retired commissioned officers of the Coast Guard, the Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric Commissioned Corps and their survivors and dependents, classified in the fiscal year 1988 budget in subfunctional category 551 (Health care services) or in subfunctional category 306 (Other natural resources.

(D) Retired pay of military personnel of the Coast Guard and Coast Guard Reserve, members of the former Lighthouse Service, and for annuities payable to beneficiaries of retired military personnel under the retired serviceman's family protection plan (10 U.S.C. 1431-1446) and survivor benefit plan (10 U.S.C. 1447-1455), classified in the fiscal year 1988 budget in subfunctional category 403 (Water transportation).

(E) Payments to the Central Intelligence Agency Retirement and Disability Fund, classified in fiscal year 1993 budget in subfunctional category 054 (Defense-related activities).

(F) Payments to the Civil Service Retirement and Disability Fund for financing unfunded liabilities, classified in fiscal year 1993 budget in subfunctional category 805 (Central personnel management).

(G) Payments to the Foreign Service Retirement and Disability Fund, classified in fiscal year 1993 budget in subfunctional category 153 (Conduct of foreign affairs).

(H) Payments to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, classified in fiscal year 1993 budget in various subfunctional categories.

(I) Administration of the retirement and disability programs set forth in this section.

SEC. 104. MISCELLANEOUS PROVISIONS.

(a) MODIFICATION OF SCHEDULE.—The reauthorization schedule contained in section 101(b) may be changed by concurrent resolution of the two Houses of the Congress (except that changes in the schedule affecting permanent appropriations may be made only by law).

(b) COMMITTEE REFERRAL.—All messages, petitions, memorials, concurrent resolutions, and bills proposing changes in section 101(b) and all bills proposing changes in section 103, shall be referred first to the committee with legislative jurisdiction over any program affected by the proposal and sequentially to the Committee on Rules in the House of Representatives or to the Committee on Rules and Administration in the Senate.

(c) COMMITTEE REPORTS.—Except as provided in subsection (e), the Committee on Rules in the House of Representatives or the Committee on Rules and Administration in the Senate shall report with its recommendations any concurrent resolution or bill referred to it under subsection (b) and which previously has been reported favorably by a committee of legislative jurisdiction within 30 days (not counting any day on which the Senate or the House of Representatives is not in session), beginning with the day following the day on which such resolution or bill is so referred.

(d) COMMITTEE RECOMMENDATIONS.—The recommendations of the Committee on Rules or the Committee on Rules and Administration pursuant to subsection (c) or (e) shall include a statement on each of the following matters:

(1) The effect the proposed change would have on the sunset reauthorization schedule.

(2) The effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of Congress.

(3) Any suggested grouping of similar programs which would further the goals of this Act to make more effective comparisons between programs having like objective.

(e) COMMITTEE REFERRAL AMENDMENTS TO THIS ACT.—Any concurrent resolution or bill proposing a change in section 101(b) or 103 shall be referred in the House to the Committee on Rules and in the Senate to the Committee on Rules and Administration. Such committee shall report an omnibus concurrent resolution or bill containing its recommendations regarding the proposed changes and consideration of such bill or resolution shall be highly privileged in the House of Representatives and privileged in the Senate. The provisions of subsections (c) and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to consideration of rescission bills, shall apply to the consideration of concurrent resolutions and bills proposing changes reported pursuant to this subsection, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

(f) POINT OF ORDER.—It shall not be in order in the Senate or the House of Representatives to consider a bill or resolution reported pursuant to subsection (a), (b), (c), or (e) which proposes a reauthorization date for a program beyond the final reauthorization date of the sunset reauthorization cycle then in progress. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which meets the requirements of this subsection.

TITLE II—PROGRAM INVENTORY

SEC. 201. PROGRAM INVENTORY.

(a) PREPARATION.—The Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, shall prepare an inventory of Federal programs (hereafter in this title referred to as the "program inventory").

(b) PURPOSE.—The purpose of the program inventory is to advise and assist the Congress in carrying out the requirements of titles I and III. Such inventory shall not in any way bind the committees of the Senate or the House of Representatives with respect to their responsibilities under such titles and shall not infringe on the legislative and oversight responsibilities of such committees. The Comptroller General shall compile and maintain the inventory, and the Director of the Congressional Budget Office shall provide budgetary information for inclusion in the inventory.

(c) SUBMISSION DATE.—Not later than April 1, 1993, the Comptroller General, after consultation with the Director of the Congressional Budget Office and the Director of the Congressional Research Service, shall submit the program inventory to the Senate and House of Representatives.

(d) CATEGORIES IN REPORT.—In the report submitted under this section, the Comptroller General, after consultation and in cooperation with and consideration of the views and recommendations of the Director of the Congressional Budget Office, shall group programs into program areas appropriate for the exercise of the review and reexamination requirements of this Act. Such groupings shall identify program areas in a manner which classifies each program in only one functional and only one subfunctional category and which is consistent with the structure of national needs, agency missions, and basic programs developed pursuant to section 1105 of title 31, United States Code.

(e) PROGRAM ANALYSIS.—The program inventory shall set forth for each program each of the following matters:

(1) The specific provision or provisions of law authorizing the program.

(2) The committees of the Senate and the House of Representatives which have legislative or oversight jurisdiction over the program.

(3) A brief statement of the purpose or purposes to be achieved by the program.

(4) The committees which have jurisdiction over legislation providing new budget authority for the program, including the appropriate subcommittees of the Committees on Appropriations of the Senate and the House of Representatives.

(5) The agency and, if applicable, the subdivision thereof responsible for administering the program.

(6) The grants-in-aid, if any, provided by such program to State and local governments.

(7) The next reauthorization date for the program.

(8) A unique identification number which links the program and functional category structure.

(9) The year in which the program was originally established and, where applicable, the year in which the program expires.

(10) Where applicable, the year in which new budget authority for the program was last authorized and the year in which current authorizations of new budget authority expire.

(f) UNAUTHORIZED PROGRAMS.—The inventory shall contain a separate tabular listing of programs which are not required to be reauthorized pursuant to section 101(c).

(g) ANALYSIS OF NEW BUDGET AUTHORITY.—The report also shall set forth for each program whether the new budget authority provided for such programs is—

(1) authorized for a definite period of time;

(2) authorized in a specific dollar amount but without limit of time;

(3) authorized without limit of time or dollar amounts;

(4) not specifically authorized; or

(5) permanently provided,

as determined by the Director of the Congressional Budget Office.

(h) OTHER DATA.—For each program or group of programs, the program inventory also shall include information prepared by the Director of the Congressional Budget Office indicating each of the following matters:

(1) The amounts of new budget authority authorized and provided for the program for each of the preceding four fiscal years and, where applicable, the four succeeding fiscal years.

(2) The functional and subfunctional category in which the program is presently clas-

sified and was classified under the fiscal year 1993 budget.

(3) The identification code and title of the appropriation account in which budget authority is provided for the program.

SEC. 202. EXCHANGE OF INFORMATION.

The General Accounting Office, the Congressional Research Service, and the Congressional Budget Office shall permit the mutual exchange of available information in their possession which would aid in the compilation of the program inventory.

SEC. 203. AGENCY COOPERATION.

The Office of Management and Budget, and the Executive agencies and the subdivisions thereof shall, to the extent necessary and possible, provide the General Accounting Office with assistance requested by the Comptroller General in the compilation of the program inventory.

SEC. 204. CONGRESSIONAL REVIEW.

Each committee of the Senate and the House of Representatives, the Congressional Budget Office, and the Congressional Research Service shall review the program inventory as submitted under section 201 and not later than June 1, 1993, each shall advise the Comptroller General of any revisions in the composition or identification of programs and groups of programs which it recommends. After full consideration of the reports of all such committees and officials, the Comptroller General in consultation with the committees of the Senate and the House of Representatives shall report, not later than July 1, 1993, a revised program inventory to the Senate and the House of Representatives.

SEC. 205. REVISIONS OF INVENTORY.

(a) REVISIONS OF INVENTORY.—The Comptroller General, after the close of each session of the Congress, shall revise the program inventory and report the revisions to the Senate and the House of Representatives.

(b) CONGRESSIONAL REPORT.—After the close of each session of the Congress, the Director of the Congressional Budget Office shall prepare a report, for inclusion in the revised inventory, with respect to each program included in the program inventory and each program established by law during such session, which includes the amount of the new budget authority authorized and the amount of new budget authority provided for the current fiscal year and each of the 5 succeeding fiscal years. If new budget authority is not authorized or provided or is authorized or provided for an indefinite amount for any of such 5 succeeding fiscal years with respect to any program, the Director shall make projections of the amounts of such new budget authority necessary to be authorized or provided for any such fiscal year to maintain a current level of services.

(c) LIST OF PROGRAMS NOT REAUTHORIZED.—Not later than one year after the first or any subsequent reauthorization date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, shall compile a list of the provisions of law related to all programs subject to such reauthorization date for which new budget authority was not authorized. The Director of the Congressional Budget Office shall include such a list in the report required by subsection (b). The committees with legislative jurisdiction over the affected programs shall study the affected provisions and make any recommendations they deem to be appropriate with regard to such provisions to the Senate and the House of Representatives.

SEC. 206. ADEQUACY ASSESSMENT.

The Director of the Congressional Budget Office and the Comptroller General shall include in their respective reports to the Congress pursuant to section 202(f) of the Congressional Budget Act of 1974 and section 719 of title 31, United States Code, an assessment of the adequacy of the functional and subfunctional categories contained in section 101(b) of this Act for grouping programs of like missions or objectives.

SEC. 207. REPORT ON PENDING LEGISLATION.

(a) ANNUAL REPORT.—The Director of the Congressional Budget Office shall tabulate and issue an annual report on the progress of congressional action on bills and resolutions reported by a committee of either House or passed by either House which authorize the enactment of new budget authority for programs.

(b) CONTENTS OF REPORT.—The report shall include an up-to-date tabulation for the fiscal year beginning October 1 and the succeeding four fiscal years of the amounts of budget authority—

(1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or the House of Representatives; or

(2) if budget authority is not authorized or proposed to be authorized for any of the 5 fiscal years, the amounts necessary to maintain a current level of services for programs in the inventory.

(c) PROGRAMS SUBJECT TO REAUTHORIZATION.—The Director of the Congressional Budget Office shall issue periodic reports on the programs and the provisions of laws which are scheduled for reauthorization in each Congress pursuant to the reauthorization schedule in section 101(b). In these reports, the Director shall identify each provision of law which authorizes the enactment of new budget authority for programs scheduled for reauthorization and the title of the appropriation bill, or part thereof, which would provide new budget authority pursuant to each authorization.

TITLE III—PROGRAM REEXAMINATION

SEC. 301. REEXAMINATION BY CONGRESS.

(a) COMMITTEE REEXAMINATION.—Each committee of the Senate and the House of Representatives periodically shall provide through the procedures established in section 302, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

(b) SELECTION CRITERIA.—In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

(2) The extent to which a program or group of programs appears to require significant change.

(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

(4) The desirability of examining related programs concurrently.

SEC. 302. FUNDING RESOLUTION AND REPORT.

(a) FUNDING RESOLUTION AND REPORT.—(1) The funding resolution first reported by each committee of the Senate in 1994, and thereafter for the first session of each Congress, shall include, and the first funding resolution introduced by each committee of the House of Representatives (and referred to the Committee on House Administration) for such year and thereafter for the first session of each Congress shall include, a section setting forth the committee's plan for reexamination of programs under this title. Such plan shall include each of the following matters:

(A) The programs to be reexamined and the reasons for their selection.

(B) The scheduled completion date for each program reexamination, which date shall not be later than the end of the Congress preceding the Congress in which the reauthorization date applicable to a program occurs as provided in section 101(b), unless the committee explains in a statement in the report accompanying its proposed funding resolution (in the Senate), or in a statement supplied by the respective committee and included in the report of the Committee on House Administration (in the House of Representatives), the reasons for a later completion date, except that reports on programs scheduled for reauthorization during the 103d Congress and selected for reexamination in a committee's plan adopted in 1993 may be submitted at any time on or before February 15, 1994.

(C) The estimated cost for each reexamination.

(2) The report accompanying the funding resolution reported by each committee of the Senate in 1993 and thereafter for the first session of each Congress, shall include, and the report accompanying the funding resolution reported by the Committee on House Administration with respect to each committee of the House of Representatives shall include, a statement of that committee, with respect to each reexamination in its plan, of each of the following matters:

(A) A description of the components of the reexamination.

(B) A statement of whether the reexamination is to be conducted (i) by the committee, or (ii) at the request and under the direction of or under contract with the committee, as the case may be, by one or more instrumentalities of the legislative branch, one or more instrumentalities of the executive branch, or one or more nongovernmental organizations, or (iii) by a combination of the foregoing.

(3) It shall not be in order to consider a funding resolution with respect to a committee of the Senate or the House of Representatives in 1993, and thereafter for the first session of a Congress, unless—

(A) such resolution includes a section containing the information described in paragraph (1) and the report accompanying such resolution contains the information described in paragraph (2); and

(B) the report required by subsection (c) with respect to each program reexamination scheduled for completion during the preceding Congress by such committee has been submitted for printing.

(4) It shall not be in order to consider an amendment to the section of a funding resolution described in paragraph (1) reported by a committee of the Senate for a year, or reported by the Committee on House Administration with respect to a committee of the House of Representatives for a year—

(A) if such amendment would require reexamination of a program which has been reexamined by such committee under this section during any of the five preceding years;

(B) if such amendment would cause such section not to contain the information described in paragraph (1) with respect to each program to be reexamined by such committee; or

(C) if notice of intention to propose such amendment has not been given to such com-

mittee and, in the case of an amendment in the Senate, to the Committee on Rules and Administration of the Senate, or, in the case of an amendment in the House of Representatives, to the Committee on House Administration, not later than January 20 of the calendar year in which such year begins or the first day of the session of the Congress in which such year begins, whichever is later.

The notice required by subparagraph (C) shall include the substance of the amendment intended to be proposed, and, if such amendment would add one or more programs to be reexamined, shall include the information described in paragraphs (1) and (2) with respect to each such program. Subparagraph (C) shall not apply to amendments proposed by such committee or by the Committee on Rules and Administration or House Administration, as the case may be.

(b) CONSULTATION WITH OTHER COMMITTEES.—In order to achieve coordination of program reexamination each committee shall, in preparing each reexamination plan required by subsection (a), consult with appropriate committees of the Senate or appropriate committees of the House of Representatives, as the case may be, and shall inform itself of related activities of and support or assistance that may be provided by (1) the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, and the Office of Technology Assessment, and (2) appropriate instrumentalities in the executive and judicial branches.

(c) COMMITTEE REPORTS.—Each committee shall prepare and have printed a report with respect to each reexamination completed under this title. Each such report shall be delivered to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, not later than the date specified in the resolution and printed as a Senate or House document, accordingly. To the extent permitted by law or regulation, such number of additional copies as the committee may order shall be printed for the use of the committee. If two or more committees have legislative jurisdiction over the same program or portions of the same program, such committees may reexamine such program jointly and submit a joint report with respect to such reexamination.

(d) CONTENTS OF COMMITTEE REPORT.—The report pursuant to subsection (c) shall set forth the findings, recommendations, and justifications with respect to the program, and shall include to the extent the committee deems appropriate, each of the following matters:

(1) An identification of the objectives intended for the program and the problem it was intended to address.

(2) An identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the program is intended to address and an assessment of the potential primary and secondary effects of the proposed program.

(3) An identification of any other program having potentially conflicting or duplicative objectives.

(4) A statement of the number and types of beneficiaries or persons served by the program.

(5) An assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

(6) An assessment of the cost effectiveness of the program, including where appropriate, a cost-benefit analysis of the operation of the program.

(7) An assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program.

(8) Information on the regulatory, privacy, and paperwork impacts of the program.

(e) TITLE I SATISFIED.—A report submitted pursuant to this section shall be deemed to satisfy the reauthorization review requirements of title I.

SEC. 303. EXECUTIVE REVIEW.

Each department or agency of the executive branch which is responsible for the administration of a program selected for reexamination pursuant to this title shall, not later than 6 months before the completion date specified for reexamination reports pursuant to section 302(a)(1)(B), submit to the Office of Management and Budget and to the appropriate committee or committees of the Senate and the House of Representatives a report of its findings, recommendations, and justifications with respect to each of the matters set forth in section 302(d), and the Office of Management and Budget shall submit to such committee or committees such comments as it deems appropriate.

SEC. 304. DEFINITIONS.

For the purposes of this title—

(1) the term "funding resolution" means, with respect to each committee of the House of Representatives, the primary funding resolution for such committee which is effective for the duration of a Congress; and

(2) an amendment to a funding resolution includes a resolution of the Senate which amends such funding resolution.

TITLE IV—MISCELLANEOUS

SEC. 401. AGENCY APPROPRIATIONS REQUESTS.

Section 1108(e) of title 31, United States Code, is amended by inserting before the period a comma and "or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 1105 of this title for the fiscal year".

SEC. 402. NONDISCLOSURE.

Nothing in this Act shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law.

SEC. 403. RULEMAKING.

The provisions of this section and sections 101(a), 101(b), 101(c)(1), 101(c)(2), 101(c)(5), 102, 104(b), 104(c), 104(d), 104(e), 104(f), title III (except section 303), section 405, and section 406 of this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 404. EXECUTIVE ASSISTANCE AND REGULATORY DUPLICATION AND CONFLICTS REPORT.

(a) EXECUTIVE ASSISTANCE.—(1) To assist in the review or reexamination of a program, the head of an agency which administers such program and the head of any other agency, when requested, shall provide to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program such studies, information, analyses, reports, and assistance as the committee may request.

(2) Not later than 6 months before the first reauthorization date specified for a program in section 101(b) the head of the agency which administers such program or the head of any other agency, when requested by a committee of the Senate or the House of Representatives, shall conduct a review of those regulations currently promulgated and in use by that agency which the committee specifically has requested be reviewed and submit a report to the Senate or the House of Representatives as the case may be, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized and stating the basis for its decision.

(3) On or before October 1 of the year preceding the beginning of the Congress in which occurs the reauthorization date for a program, the Comptroller General shall furnish to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program a listing of the prior audits and reviews of such program completed during the preceding 6 years.

(4) Consistent with the discharge of the duties and functions imposed by law on them or their respective Offices or Service, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the Senate and the House of Representatives such information, analyses, and reports as the committee may request to assist it in conducting reviews or evaluations of programs.

(b) REGULATORY DUPLICATION AND CONFLICT REPORT.—(1) On or before October 1 of the year preceding the beginning of the Congress in which occurs the reauthorization date for a program, the President, with the cooperation of the head of each appropriate agency, shall submit to the Congress a "Regulatory Duplication and Conflict Report" for all such programs scheduled for reauthorization in the next Congress.

(2) Each such regulatory duplication and conflicts report shall—

(A) identify regulatory policies, including data collection requirements, of such programs or the agencies which administer them, which duplicate or conflict with each other or with rules or regulations or regulatory policies of other programs or agencies, and identify the provisions of law which authorize or require such duplicative or conflicting regulatory policies or the promulgation of such duplicative or conflicting rules or regulations;

(B) identify the regulatory policies, including data collection requirements, of such programs which are, or which tend to be, duplicative of or in conflict with rules or regulations or regulatory policies of State or local governments; and

(C) contain recommendations which address the conflicts or duplications identified in subparagraphs (A) and (B).

(3) The regulatory duplication and conflicts report submitted by the President pursuant to this subsection shall be referred to the committee or committees of the House of Representatives and the Senate with legislative jurisdiction over the programs affected by the reports.

SEC. 405. SUNSET REAUTHORIZATION BILL.

(a) COMMITTEE INTRODUCTION.—Not later than 15 days after the beginning of the sec-

ond regular session of the Congress in which occurs the reauthorization date applicable to a program under section 101(b), the chairmen of the committees of the Senate and the House of Representatives having legislative jurisdiction over such programs shall introduce, in their respective Houses, a bill which, if enacted into law, would constitute a required authorization (as defined in section 101(c)(1)(B)), and such a bill (hereafter in this section referred to as a "sunset reauthorization bill") shall be referred to the appropriate committee of the Senate or the House of Representatives, as the case may be. This subsection shall not apply in the case of a program which has been reauthorized by a required authorization which was signed into law by the President prior to 15 days after the beginning of the second regular session of the Congress in which occurs the reauthorization date applicable to such program.

(b) DISCHARGE FOR FAILURE TO CONSIDER.—If the committee to which a sunset reauthorization bill for a program has not reported such bill by May 15 of the year in which the reauthorization date for such program occurs, and no other bill which would constitute a required authorization for such program has been enacted into law by that date, it is in order to move to discharge the committee from further consideration of the sunset reauthorization bill at any time thereafter.

(c) DISCHARGE PROCEDURES.—The provisions of section 912(a) of title 5, United States Code, as it relates to the discharge of resolutions of disapproval on reorganization plans, shall apply to motions to discharge sunset reauthorization bills, and the provisions of subsections (b)(2), (c) (2) through (5), and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to the consideration of rescission bills shall apply to the consideration of such sunset reauthorization bills, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

SEC. 406. COMMITTEE JURISDICTION OVER ACT.

The Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House of Representatives shall review the operation of the procedures established by this Act, and shall submit a report not later than December 31, 1998, and each 5 years thereafter, setting forth their findings and recommendations. Such reviews and reports may be conducted jointly.

SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years ending before October 1, 2003, such sums as may be necessary to carry out the review requirement of titles I and III and the requirements for the compilation of the inventory of Federal programs as set forth in title II.

By Mr. BURNS (for himself, Mr. SHELBY, Mr. HOLLINGS, Mr. PRYOR, Mr. BOND, Mr. SASSER, Mr. KEMPTHORNE, Mr. REID, and Mr. PRESSLER):

S. 187. A bill to protect individuals engaged in lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes; to the Committee on Energy and Natural Resources.

RECREATIONAL HUNTING SAFETY AND PRESERVATION ACT OF 1993

Mr. BURNS. Mr. President, I rise today to introduce the Recreational Hunting Safety and Preservation Act of 1993.

America's cherished system of hunting, long admired by people throughout the world, is being seriously threatened by the tactics of a small, but well-organized group of antihunting activists.

Because of the dramatic increase in the numbers and nature of well-orchestrated attacks against hunters, 41 States have enacted laws outlawing deliberate acts that disrupt lawful hunts.

Unfortunately, much more remains to be done to reverse these alarming trends. The Federal Government, which owns over 35 percent of Montana and more than one-third of the land in the United States, needs to protect hunters on Federal lands from the harassment of antihunting saboteurs.

These saboteurs have decided not to try and change the laws or beliefs of Americans but instead have chartered a confrontational path of harassment, intimidation, and obstruction aimed at legitimate and law-abiding sport hunters.

This is why Senator SHELBY and I are introducing the Recreational Hunting Safety and Preservation Act, to protect the American hunter.

This bill simply says that any person who knowingly acts with intent to obstruct, impede, or otherwise interfere with the conduct of a lawful hunt on land with a Federal interest may be assessed a civil penalty, injunctive relief, and civil lawsuits.

Harassment of legitimate and lawful hunting is on the rise. Harassment is an unreasonable interference with hunting. Harassment is being done by groups whose true goals are to end all use of animals, including the use of animals in medical research and testing; the raising and eating of meat; the wearing of fur, leather, wool, and silk; circus and rodeos; the keeping of pets, and the many varied uses of animal products in industrial processes.

The groups who pursue these goals are not content with the normal mechanisms offered for debate in our free society.

Hunting is a traditional and beneficial recreation, both for the hunter and for the management of wildlife populations. Nearly one-half of the hunting that takes place in this country today is done on Federal lands.

The 18 million licensed hunters in the United States have been the major financial supporters of wildlife conservation. Over the last 50 years hunters have contributed over $2.5 billion toward wildlife conservation through excise taxes, duck stamps, and license fees. This bill will continue this tradition by contributing all moneys collected as fines to the North American waterfowl management plan and the Pittman-Robertson Act. Both of these programs acquire lands to protect wildlife habitat.

Under the combination of revenue from hunting and management of populations through hunting, wildlife is more varied and abundant today than at any time since the pioneering era.

Even though 41 States have enacted hunter protection laws, it is not clear that those laws would always apply on Federal lands. Even if State laws applied on Federal lands, this legislation would add some unique approaches and avenues that would aid significantly in the control of harassment.

When a person buys a State hunting license, he or she deserves the opportunity for a quality outdoor experience and should not be subjected to harassment by others.

Hunting is a legitimate, lawful sport, and compatible with good management and conservation practices when done properly. Therefore, it is the role of the Federal Government to do what it can to protect the rights of law-abiding citizens engaged in a Government-sanctioned sport and to protect the activists as well.

Mr. SHELBY. Mr. President, I rise today to join my colleague, Senator BURNS, in introducing the Recreational Hunting Safety and Preservation Act of 1993. This bill will protect individuals engaged in a lawful hunt on Federal lands and make it illegal to interfere with and to harass hunters pursuing their sport.

There is a real need for this type of legislation because during the past few years, the incidence of small, well-orchestrated attacks by anti-hunting activists against hunters has increased, dramatically. I believe that these anti-hunting activists may be well-intentioned, but they are not well-informed. They do not realize the need for careful, prudent wildlife management. They fail to see the important contributions hunters and fishermen make to the continued propagation of our wildlife resources. Without hunting and fishing, many of the species that anti-hunting activists seek to protect will be threatened because population control is essential to our ecological system.

In addition, there also is a need to protect hunters on Federal lands since the Federal Government owns more than one-third of the land in the United States. Only 34 States have passed laws to make deliberate acts that disrupt lawful hunts illegal.

As someone who enjoys the outdoors and especially the challenge of hunting fowl, I remain an advocate of wildlife management and the conservation of our environment. Every time I go hunting, I learn more about my surroundings. I always come back to Washington with a greater appreciation for the outdoors. Rarely have I met people more enthusiastic about

preserving wildlife and the environment than hunters and fishermen. These individuals love the outdoors and want to find sensible ways to manage wildlife populations for the benefit of the animals and future sportsmen and women. Therefore, I believe if we continue to support and promote realistic policies, anti-hunting activists will understand that hunting and fishing play a vital role in the management and preservation of the environment.

Most Americans do not realize that the 18 million licensed hunters in the United States have played a major role financially in supporting wildlife conservation. In fact, during the past 50 years, through the collection of Federal excise taxes paid by U.S. hunters and fishermen, the States have collected more than $2.5 billion for sport fish and wildlife restoration, hunter education, research, habitat management, and population control. This is a clear example of the longstanding cooperation America's outdoor sports enthusiasts have had with State and Federal wildlife agencies. We must educate the public about the benefits of hunting and fishing. By teaching the public about the value of our Nation's natural resources and the role hunters and fishermen play in the environment, we will be leading the way in preserving America's great outdoors.

This bill that Senator BURNS and I are introducing today would go a long way in assisting Federal and State wildlife agencies to achieve their desired wildlife management results while providing valuable recreational experiences for hunters and fishermen. The legislation would protect law-abiding sportsmen and women engaged in a lawful activity from being harmed by the misinformed. In addition, the legislation would require that all funds collected as fines be contributed to the North American waterfowl management plan and the Pittman-Robertson Act—programs which acquire lands for the protection of wildlife habitat.

Our forefathers hunted and fished for survival and were held in high esteem in their communities. Although the role of hunters and anglers has changed from a necessity to a recreational activity, the sport provides a beneficial service to mankind by conserving wildlife. It is time that we restored sportsmen and women to a position of respect in our society by protecting them from harassment. This will ensure that generations to come will find the same pleasure in hunting and fishing in America's great outdoors that we have had and that we hope to continue to have in the future.

By Mr. HELMS:

S. 198. A bill to amend the Internal Revenue Code of 1986 to provide that the one-time exclusion of gain from sale of a principal residence shall not be precluded because the taxpayer's spouse, before becoming married to the taxpayer, elected the exclusion; to the Committee on Finance.

S. 199. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion or gain from sale of a principal residence to be taken before age 55 if the taxpayer or family member suffers a catastrophic illness; to the Committee on Finance.

TAX TREATMENT OF THE SALE OF A PRINCIPAL RESIDENCE.

Mr. HELMS. Mr. President, today I am introducing two bills—identical to legislation I introduced in the last Congress—to modify the one-time capital gains tax exclusion that is currently allowed for taxpayers over the age of 55 when they sell a home.

Section 121 of the Internal Revenue Code allows an individual over the age of 55 to exclude from taxable income up to $125,000 of capital gains from the sale of a residence. This exclusion may be claimed only once by the taxpayer or his spouse. However, section 121 has become a threat to the well-being of many Americans who desperately need the Tax Code to work for them and not against them.

The first bill in this package would allow a taxpayer to claim the one-time capital gains exclusion before the age of 55 in the event that the taxpayer or a member of the taxpayer's family suffers a catastrophic illness. The second bill would allow a taxpayer to claim the exclusion on a sale even though his or her spouse may have already claimed such a deduction before they were married.

Mr. President, the first measure is identical to legislation offered in the 101st Congress by our former colleague, Bill Armstrong. It would allow an individual who faces a catastrophic illness in his or her family to take advantage of the one-time capital gains exclusion prior to the age of 55. Under this bill, a taxpayer of any age would be able to exclude from taxable income up to $125,000 capital gains if a parent, spouse, or child of the taxpayer is physically or mentally incapable of self-care and that condition has lasted, or is expected to last, for at least 6 months. Once a taxpayer elects to exercise this exclusion, it would not be available again to that taxpayer.

More and more families face the exorbitant and unexpected cost associated with the onset of a catastrophic illness. Because of the high cost of long-term care, many taxpayers facing these costs are forced to sell their homes to pay medical bills. To add to the burden shouldered by the family, the Federal Government imposes a capital gains tax on the profits the taxpayer may realize.

This legislation provides one small way Congress can help families deal with the costs of long-term care without creating another massive and costly new Federal program and without forcing private businesses to carry the burden.

Mr. President, my second bill would remedy an unintended marriage penalty that exists in section 121. This problem was brought to my attention by Mr. Alan McKease from Hendersonville, NC, who at the time was 70 years old. Mr. McKease's wife suffered from cancer. When she died in 1989, neither she nor Mr. McKease had used the one-time capital gains exclusion that was available to them. They had planned to use the exclusion later to help pay for the cost of a good retirement home.

A couple of years after his wife's death, Mr. McKease married a 70-year-old widow. When he sold his home, he was shocked to learn that he couldn't exercise his one-time capital gains exclusion because his new wife and her late husband had already used the exclusion when they sold a previous residence.

Mr. President, there were ways that Mr. McKease could have avoided this problem. He could have sold his home before he remarried and found a new home, whether or not he was ready to do so. Or, if he and his wife wished to keep his home for the time being, they could have lived together without getting married. In that way, Mr. McKease could have retained his exclusion until he and his second wife decided to sell the home. That is why I referred to this section as containing a marriage penalty.

Mr. President, it should not be necessary for taxpayers to play such games to qualify within the provisions of our income tax laws. That is why I am proposing that we amend section 121, so that taxpayers who find themselves in a situation like that of Mr. McKease will be able to exercise the one-time capital gains exclusion even if their spouse has exercised the exclusion before they were married.

It is about time that Congress does something right. Reforming the tax laws in the manner proposed in these two bills is a good place to start.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 198

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

SECTION 1. ELECTION BY TAXPAYER OF ONE-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE ALLOWED EVEN IF TAXPAYER'S SPOUSE ELECTED THE EXCLUSION BEFORE BECOMING MARRIED TO TAXPAYER.

(a) IN GENERAL.—Paragraph (2) of section 121(b) of the Internal Revenue Code of 1986 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"(2) APPLICATION TO ONLY ONE SALE OR EXCHANGE.—Subsection (a) shall not apply to any sale or exchange if—

"(A) in the case of an unmarried individual, an election by such individual under subsection (a) with respect to any other sale or exchange is in effect, or

"(B) in the case of married individuals, an election by each such individual under subsection (a) with respect to any other sale or exchange is in effect."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 121(d) of such Code is amended to read as follows:

"(2) PROPERTY OF DECEASED SPOUSE.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if the deceased spouse (during the 5-year period ending on the date of the sale or exchange) satisfied the holding and use requirements of subsection (a)(2) with respect to such property, then such individual shall be treated as satisfying the holding and use requirements of subsection (a)(2) with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

S. 199

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

SECTION 1. EXCLUSION ON GAIN FROM HOME SALE TO APPLY IF TAXPAYER OR FAMILY MEMBER SUFFERS CATASTROPHIC ILLNESS.

(a) IN GENERAL.—Paragraph (1) of section 121(a) of the Internal Revenue Code of 1986 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"(1) either—

"(A) the taxpayer has attained the age of 55 before the date of such sale or exchange, or

"(B) as of the date of such sale or exchange, the taxpayer, or a parent, spouse, or child of the taxpayer—

"(i) is physically or mentally incapable of self-care, and

"(ii) has had such condition, or has been certified by a medical practitioner licensed under State law as expecting to have such condition, for a period of at least 6 months, and".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 121(d) of the Internal Revenue Code of 1986 is amended by inserting "or condition" after "age" each place it appears.

(2)(A) The heading for section 121 of such Code is amended by striking "WHO HAS ATTAINED AGE 55" and inserting "IN CERTAIN CASES".

(B) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking "who has attained age 55" and inserting "in certain cases".

(3) Each of the following provisions of such Code are amended by striking "who has attained age 55" and inserting "in certain cases":

(A) Section 1033(h)(3).

(B) Section 1034(1).

(C) Section 1038(e)(1)(A).

(D) Section 1250(d)(7)(B).

(E) Section 6012(c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

By Mr. HELMS:

S. 200. A bill to amend title 18, United States Code, to establish fair competition between the private sector and the Federal Prison Industries; to the Committee on the Judiciary.

FEDERAL PRISON INDUSTRIES REFORM ACT OF 1993

Mr. HELMS. Mr. President, I am once again offering legislation to reform the Federal Prison Industries, also known as UNICOR, by amending the statute which presently allows prisons to borrow money from the U.S. Treasury and receive a preference when selling prison-made products to the Federal Government.

Mr. President, Federal Prison Industries is, in fact, a vary large corporation. It is engaged in the business of making chairs, tables, desks, and other office products. It uses Federal prisoners to manufacture these items. It borrows money from the Government to finance its activities then sells the products to the Federal Government.

What originally started out as a teaching program for prisoners has now become a corporate giant.

Mr. President, Congress has created a Government-operated company which has a clear competitive edge over private companies. Because of the preference given to it by the Congress, Prison Industries can even keep the Government from giving contracts to private manufacturers.

If that weren't enough, Mr. President, prison products need not even meet the same quality standards which are required of the private sector. This is a multi-million-dollar industry making furniture that the Government must buy without adherence to the high quality expected of products purchased from the private producers.

Mr. President, we must get rid of the preference which Prison Industries receives in securing Government contracts. In other words, Federal Prison Industries receive a special Government benefit at the expense of a lot of hard working people across the country. That does not make sense.

When borrowing authority is extended, small businesses across the country could be destroyed. Prisons hold a clear advantage over any business they care to compete with because they receive preference on all Government contracts they choose to bid on. That is to say Prisons are given a right of first refusal.

Mr. President, as I said earlier this is not a small corporation. In 1990, UNICOR sales represented 25 percent of Federal office furniture purchases. In the same year total sales of prison furniture to the Government went up 14 percent while private sector sales to the Government increased only 0.7 percent.

In fiscal year 1990, metal and wood product sales of Prison Industries were $136.5 million. This would make Prison Industries the 16th largest U.S. furniture manufacturer in terms of sales.

In addition to the competition from UNICOR, the furniture industry also faces competition from prison systems at the State level, as well as billions of dollars entering our Nation from abroad.

Mr. President, we are talking about an industry which claims a net worth over $250 million. Despite that, the Bureau of Prisons continues to add factories to its already enormous industrial plant. How many corporations can boast of a capacity like that?

Nobody is opposed to prisoner training. Certainly, Mr. President, I am not, but this corporation goes far beyond the intent of the original training program. For example, one-quarter of the furniture in this country is manufactured in North Carolina. Prison Industries is out there competing with companies which are already under assault from foreign competition. Think about it: Men and women in North Carolina, and Michigan, and South Carolina, are being put out of work by an agency of the Federal Government—the Federal Bureau of Prisons. We must not allow this to continue.

This legislation institutes four simple reforms designed to bring some fairness to our domestic industries:

It sunsets the borrowing authority in 3 years which will allow us to study the effect this measure has had on business competing with Prison Industries.

It does away with the Prison Industries contract preference so that all of our businesses may compete for Federal contracts on an equal footing.

It requires Prison Industries to comply with GSA standards. The public should know that its tax dollars buy only the best products.

It requires the President to appoint a representative of the effected industries, the people who speak for the furniture and textile companies, to sit on the board of directors. We need to make sure that Prison industries do not undercut the private sector.

Mr. President, I cannot emphasize how important these reforms are. This legislation has received the support of the U.S. Chamber of Commerce, the American Furniture Manufacturers Association, and the National Federation of Independent Business. They understand the illogic of having the Federal prison system get special treatment in the marketplace. We cannot continue to penalize the hard-working, law-abiding people of our country. I urge Senators to support this legislation.

Mr. President, I ask unanimous consent that the entire text of this legislation be printed in the RECORD at the conclusion of my remarks.

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

S. 200

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Federal Prison Industries Reform Act".

SEC. 2. FEDERAL PROCUREMENT STANDARDS.

Section 4124(a) of title 18, United States Code, is amended—

(1) by striking "shall" and inserting "may" in the first sentence; and

(2) by inserting after the first sentence the following: "In no event shall such a purchase involve a product which does not otherwise meet the same or equivalent quality standards which would be applied by the General Services Administrator to a comparable product if purchased from a private sector source or vendor.".

SEC. 3. BOARD OF DIRECTORS COMPOSITION.

Section 4121 of title 18, United States Code, is amended by inserting at the end thereof the following:

"Not later than 120 days after the date of enactment of this sentence, the President shall appoint one additional member of the Board of Directors of Federal Prison Industries from a list of not more than 5 persons provided by the following organizations: the Chamber of Commerce of the United States, the National Federation of Independent Business, the American Furniture Manufacturers Association, the Printing Industries of America, and the National Association of Wholesale Distributors.".

SEC. 4. EXPIRATION OF BORROWING AUTHORITY.

Section 4129(a)(1) of title 18, United States Code, is amended in the second sentence by striking "authorized" and inserting " authorized, for 3 years after the date of enactment of this amendment,".

By Mr. HELMS:

S. 201. A bill to amend bankruptcy rule 7004 to require that service of process on an insured depository institution be made by personal service on an officer of the institution; to the Committee on the Judiciary.

BANKRUPTCY PROCEEDINGS SERVICE OF PROCESS ACT 1993

Mr. HELMS. Mr. President, I am today introducing a bill to address a problem brought to my attention by one of North Carolina's foremost bankers, Mr. William L. Burns, Jr., president of Central Carolina Bank in Durham.

A few years ago, Bill Burns discussed with me the problems created for banking institutions by the provisions of the rules of bankruptcy procedure governing service of process in bankruptcy adversary proceedings. Specifically, the rules provide that service of process against a bank by an individual or company filing bankruptcy can be accomplished by simply sending a letter by first class mail to a managing agent of the bank.

This process automatically puts a bank at a disadvantage because, first, a legal document received in the large volume of regularly delivered mail received in a bank's many branches is much less likely than certified or registered mail to receive the necessary prompt attention; and second, the person at the bank to whom the letter is addressed often does not have sufficient authority to ensure a response within the time period required by the Bankruptcy Code.

While banking institutions have an interest in seeing this process made more fair, so do the American taxpayers—since they are the ones who ultimately insure most of the deposits in these institutions, So, today, I am introducing legislation which will make this process more fair to all involved, and help ensure that justice is served in bankruptcy proceedings.

This legislation is similar to—but not identical to—a provision I proposed to members of the Judiciary Committee which was included in the bankruptcy reform bill (S. 1985). The provision amended rule 7004(b) of the bankruptcy rules to require that service of process in a bankruptcy proceeding be accomplished by certified or registered mail.

I was pleased the Judiciary Committee included this provision in their bankruptcy reform bill. And while their bill—including the Helms provision—passed the full Senate, it failed to get enacted in the rush of business accompanying the final hours of the 102d Congress.

Mr. President, shortly after the Helms provision was approved by the Judiciary Committee, that committee received a letter of opposition from the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States.

I have since revised my proposed legislation to help meet the objections of the Committee on Rules and Practice, specifically by applying the new provision to service of process only in those instances it is made upon a federally insured depository institution. The legislation I am introducing includes these revisions.

Mr. President, this is obviously a general overview of an issue involving some very technical legal issues. Senators may wish to take a moment—or have their staffs take a moment—to review this issue in more detail by reading the following items, which, Mr. President, I ask unanimous consent to be printed in the RECORD at the conclusion of my remarks:

First, a letter dated September 26, 1991 from Mr. Richard Prentis, Jr., of the Durham, NC, law firm of Stubbs, Cole, Breedlove, Prentis & Biggs to Bill Burns outlining the problems created by the current service of process procedure and discussing proposed improvements to the procedure.

Second, the letter from Robert E. Keeton, chairman of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States to our colleague and chairman of the Senate Judiciary Committee, JOE BIDEN, outlining the advisory committee's objections to the service of process revisions including in the committee's bankruptcy reform bill.

Third, a letter from Mr. Prentis to Mr. Burns dated December 7, 1992, responding to the arguments made in the aforementioned letter from Mr. Keeton to Senator BIDEN; and,

Fourth, the text of the bankruptcy process reform legislation I am introducing today.

Mr. President, this is an issue of simple fairness: Banks—most of the deposits of which are guaranteed by the American taxpayer—should be provided a reasonable opportunity to respond to court documents when involved in a bankruptcy adversary proceeding. Under current rules of bankruptcy procedure, they often are not afforded this opportunity—which is why the legislation I introduce today is so necessary.

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

S. 201

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

SECTION 1. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

Rule 7004 of the Bankruptcy Rules is amended—

(1) in subsection (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition"; and

(2) by adding at the end the following new subdivisions:

"(H) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION.—Notwithstanding any other provision of this rule or any other rule or law, service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall be made by personal service on an officer of the institution.".

STUBBS COLE, BREEDLOVE,
PRENTIS & BIGGS,
Durham, NC, September 26, 1991.

WILLIAM L. BURNS, Jr.,
President, Central Carolina Bank and Trust Co.
Durham, NC.

DEAR BILL: You have asked me to articulate my concerns and opinions relating to service to process against a bank in a bankruptcy adversary proceeding. An "adversary proceeding" is simply a lawsuit with one or more plaintiffs and one or more defendants which is brought under the jurisdiction of the United States Bankruptcy Court and within the overall context of a pending bankruptcy case. Typically, the plaintiff in such an adversary proceeding will be the Trustee for the Debtor in the bankruptcy proceeding who is seeking some affirmative relief against some third party such as an attempt to recover money to be added to the assets of the bankruptcy estate.

Although the "adversary proceeding" is an expedited procedure since it is brought under the jurisdiction of the Bankruptcy Court rather than through the normal federal court system or through the state court system, the impact of such a proceeding has the same consequences as any litigation in any court.

Rule 7003 of the Rules of Bankruptcy Procedure provides that a Summons and Complaint in an adversary proceeding can be served simply by mailing by first class mail

"to the attention of an officer, a managing or general agent." Thus, under this Bankruptcy Rule, the courts have permitted service of process against a bank simply by the mailing by first class mail to "managing agent" of the bank. We have been extremely concerned that such service of process for a Summons and Complaint which may seek significant affirmative relief, and which certainly requires a timely response, may not be addressed to a person of specific enough authority to insure a prompt response.

I understand that in reviewing a possible legislative revision of this liberal service of process Rule, concerns have been raised that any revision of the Rule remain consistent with the normal Rules of Civil Procedure. In response to that legislative concern, I believe the following points should be addressed.

1. The Federal Rules of Civil Procedure, which govern the filing of a Summons and Compliant in the United States District Court, also permit service upon a domestic or foreign corporation by delivery of a copy of the Summons and Compliant "to an officer, a managing or general agent . . . by mailing a copy of the summons and of the complaint (by first class mail, postage prepaid)." However, the Federal Rules of Civil Procedure contain a "safeguard" which, in Rule 4(c)(2)(C)(ii), further provides as follows:

The mailing of the Summons and Complaint must also be accompanied by "two (2) copies of a notice and acknowledgment . . . and a return envelope, postage prepaid, addressed to the sender. If no acknowledgment of service under this subdivision of this Rule is received by the sender within twenty (20) days after the date of mailing, service of such summons and complaint shall be made by personal delivery by either a deputy United States Marshal or by some other individual who is not a party and who is not less than eighteen (18) years of age.

In other words, even the Federal Rules of Civil Procedure provide that if an attempt is made to serve a Summons and Complaint only by first class mail, the plaintiff must receive an acknowledgment from the defendant that the defendant has been served or the service is deemed ineffective and must be served in person by an individual or a deputy marshal.

2. It is our recommendation that the Rules of Bankruptcy Procedure be amended to at least provide for the addition of the "safeguard" provision as contained in the Federal Rules of Civil Procedure as outlined above. More importantly, we do not feel it would be burdensome upon a plaintiff in a bankruptcy adversary proceeding or the Bankruptcy Court to require that in the case of service of process upon a federally insured banking institution, the plaintiff be required to deliver the document by mail or in person to a specifically named officer of that bank rather than to an unnamed individual merely specified as "managing agent." We believe the amendment to the Rules of Bankruptcy Procedure should provide for this special consideration for banking institutions for the following reasons:

(a) Banks are inherently large institutions with multiple offices, multiple mailing addresses and with individuals in charge of those various offices of varying degrees of experience and responsibility. Service of process upon a banking institution cannot be compared and should not be the same as service of process upon the typical corporation;

(b) the very nature of banking business results in a very high volume of mail and mere service of process by first class mail to an undesignated person inherently contains a great potential of error;

(c) As a federally insured institution, there is a general taxpayer and public interest in insuring that banks are protected against unfair entry of default on filed claims and unnecessary losses.

3. Finally, we think it should be emphasized that the problems which are outlined in this letter will only increase with time. As the trend toward larger banks through merger, acquisition, and normal growth continues, the problem of service of process by mere mail delivery will become increasingly more severe. At the same time, bankruptcy filings are increasing dramatically, bankruptcy proceedings are becoming more litigious, and more theories are being developed for the assertion of claims against banks, including a growing body of law in the area of lender liability, preferences, and violations of governmental regulations.

In summary, the filing of an adversary proceeding Summons and Complaint against a bank in a bankruptcy procedure can carry consequences as significant as the initiation of any litigation in any court against a bank. In order to insure that the bank at least has an opportunity to challenge the plaintiff's allegations and to raise appropriate defenses, the Rules of Bankruptcy Procedure should be modified so as to insure that the plaintiff in such an adversary proceeding is required to prove that, in fact, a responsible officer or agent of the bank received actual notice and knowledge of the filing of the litigation. Expansion of the Federal Rules of Bankruptcy Procedure to include the "safeguard" provision of the Federal Rules of Civil Procedure, and further expansion to require delivery of a summons and complaint to a specific officer of a federally insured banking institution would provide at least the assurance that the bank has received notice that it is a defendant in litigation.

I hope these thoughts are of assistance to you and that you will not hesitate to give me a call if I can address any other concerns or elaborate further upon the points made in this letter.

Sincerely yours,

RICHARD F. PRENTIS, Jr.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES,

Washington, DC, March 26, 1992.

Hon. JOSEPH R. BIDEN, Jr.

Chairman, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate Judiciary Committee reported out S. 1985, the National Bankruptcy Review Commission Act on March 19, 1992. Section 407 of the pending legislation would amend Bankruptcy Rule 7004(b)(3) to require that service of a complaint and summons upon a corporation in an adversary proceeding be accomplished by certified mail with a return receipt. Under the present rule, service of process in such cases can be made by any form of first class mail, without requiring a return receipt.

Rule 704, the predecessor of 7004(b)(3) of the Bankruptcy Rules of Procedure, was amended in 1976. Prior to the amendment, the rule did require service of process by first class mail with a return receipt. Experience with that procedure, however, proved unsatisfactory. Although the defendant's correct address was used, oftentimes the defendant was unavailable to the delivering postman, either to sign or refuse delivery. This created a good deal of confusion and delay in the litigation process. The rule was amended in 1976 to correct this problem and to permit service of process by first class mail.

The 1976 amendment to rule 704, now set forth as rule 7004(b)(3), has worked well. In most adversary proceedings, the corporation that is served process under rule 7004 is already part of the bankruptcy litigation. The corporation's correct address has been identified and notices of other proceedings in the bankruptcy litigation have been mailed and received by the corporation. As a result, misdirected mailings are infrequent. The change proposed in section 407 is ill-advised and could result in substantial and unnecessary cost to the debtor's estate, thereby reducing the amount available to creditors.

The proposed amendment would reinstitute a procedure that historically proved troublesome and would recreate the problems that had been corrected. In addition, the amendment conflicts with the Rules Enabling Act, 28 U.S.C. §§2071–2077, which provides a formal rule-making process that ensures that each proposed new rule or rule amendment receives wide and critical review. Under the Act, any proposed change to the rules must be published and circulated to the bench and bar, and to the public generally, for comment and suggestion. Public hearings on all proposed changes to the rules are held in most cases. Thereafter, rule changes are promulgated only after the Congress has had an opportunity to review them and has taken no action to defer or otherwise alter them following adoption by the Judicial Conference and the Supreme Court of the United States.

Section 407 of the pending legislation would in effect amend the Federal Rules of Bankruptcy Procedure outside the procedures of the Rules Enabling Act. I am aware of no reason why the normal process should be avoided in this instance. The Judicial Conference's Advisory Committee on Bankruptcy Rules is responsible to carry on a continuous study of the operation and effect of the bankruptcy rules of procedure. Although there has been no demonstrated need for a change in rule 7004(b)(3), the Advisory Committee will take the proposed change under consideration. To allow the proposed rule change to be considered in accordance with established procedures, I request that section 407 be deleted in the final version of the bill.

I appreciate your consideration of this request.

Sincerely,

ROBERT E. KEETON,
Chairman.

STUBBS, COLE, BREEDLOVE, PRENTIS & BIGGS,

Durham, NC, December 7, 1992.

Re bankruptcy rule 7004(b)(3)—proposed amendment.

W.L. BURNS, Jr.,

President, Central Carolina Bank and Trust Co., Durham, NC.

DEAR BILL: I have reviewed the letter dated March 26, 1992 from Robert E. Keeton, Chairman of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States to Senator Joseph R. Biden, Jr., Chairman of the Committee of the Judiciary.

The letter to Senator Biden recommends against adoption of the proposed amendment to Bankruptcy Rule 7004(b)(3) which would require service of process upon a corporation in a bankruptcy adversary proceeding to be

accomplished by certified mail with a return receipt as opposed to the current version of that Rule which requires only first class mail with no return receipt in order to accomplish service of process. The letter to Senator Biden makes the following points:

1. Prior to 1976 the Bankruptcy Rules did require service by certified mail with return receipt and, according to the author of the letter, this was unsatisfactory as many defendants were "unavailable to the delivery postman . . . or refuse(d) delivery."

2. Service by first class mail is more expedient and any saving of costs of serving summons in adversary proceedings under the current Rule 7004 is a benefit to the Bankrupt estate and all creditors.

3. The adoption of the proposed amendment conflicts with the Rules Enabling Act which requires a formal rule making process to be followed before such an amendment can be adopted.

The proposed amendment to Rule 7004 provides a substantial benefit to the banking industry and our efforts must persist in obtaining an adoption of this amendment. Our initial efforts to obtain some relief for banking institutions resulted in an excellent amendment being proposed by Senator Helms which added a new paragraph (g) to Section 2 of Rule 7004 which provided as follows:

"service upon an insured depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1830(c), may be made by personal service on the vice president or other executive officer of such institution, notwithstanding any other provision of law."

It is my understanding that at the committee level this paragraph (g) was eliminated and as a compromise an attempt was made to render service of process more stringent upon all corporations. The letter to Senator Biden addresses this compromise proposal and the points which are addressed in that letter may have some validity as to service of process on ordinary and usual business corporations but do not have validity when applied to a federally insured banking institution.

With special emphasis upon the unique needs and burdens upon insured banking institutions I would address the points made in the letter to Senator Biden as follows:

1. In any civil litigation including a Bankruptcy adversary proceeding a delay can be incurred if service is attempted by certified mail with return receipt when the defendant is actively attempting to avoid service of process. It is not uncommon for a defendant to change address or to refuse to accept delivery of certified mail. However, this is not the case when banks are adversary proceeding defendants. Bank addresses and locations of business are well defined, highly visible, well known and virtually permanent. A rather loose requirement that the summons be delivered by certified mail return receipt required to any officer of the bank can be easily accomplished at virtually any branch office and presents no impediment, delay or additional cost to the judicial process.

2. The expediency which they are attempting to obtain by not amending Rule 7004 does not equitably balance against the extreme risk to a defendant bank. As the letter to Senator Biden states, there are frequent mailings to creditors in bankruptcy proceedings and, because banks are in the financial transaction business, banks are involved in a higher percentage of Bankruptcy proceedings than any other type of business. As a result banks receive a large volume of mail relating to bankruptcy proceedings. However, a large majority of the mail is not of a critical nature and is for informational purposes only. It is extremely misleading for a bank to receive a mailing of the extreme importance of a summons in an adversary proceeding for which substantial affirmative relief against the bank may be sought in the same mailing format as countless notices are received.

3. A very large percentage of Bankruptcy Adversary proceedings relate to attempts by a Bankruptcy Trustee or creditors to set aside or reduce the value of collateral acquired by other creditors in the Bankruptcy proceeding. Since banks are in the lending business and since most large loans are collateralized, banks constitute a large percentage of defendants in bankruptcy adversary proceedings usually with large claims at stake. Therefore, banks are at a higher risk than other potential defendants.

4. While it may be true that the proposed amendment has not been proposed and reviewed in accordance with the Rules Enabling Act, it is also true and, in my opinion, more important that the proposed amendment conforms with the already existing requirements of the Federal Rules of Civil Procedure. In fact, it is still less burdensome than those Federal Rules. Since the affirmative relief which can be sought against a banking institution in a adversary proceeding in a bankruptcy can be just as burdensome as a law suit filed against the bank in District Court it would seem appropriate that the bank be provided the same safeguards as are provided by the Rules of Civil procedure. Moreover, there appears to be no compelling reason why the Rules for service of process under the Rules of Bankruptcy procedure should be different from the Rules for service of process under the Federal Rules of Civil Procedure.

In summary, in responding to the letter to Senator Biden the following points should be emphasized:

1. Senator Helms' proposed bill provided a specific protection contained in paragraph (g) for banking institutions. This paragraph (g) was eliminated and as a compromise an amendment was proposed making the service of process Rules upon corporations in general more stringent.

2. Concerns which may be raised regarding more restrictive service of process rules as to general corporations are not valid when raised in regard to service of process upon banking institutions. More stringent service of process rules as to banking institution do not impose a greater burden upon the bankruptcy estate and are inherently in the public interest to prevent unwarranted losses by Federally insured institutions.

3. Bankruptcy proceedings should not be "ambush" proceedings designed to "trick" some creditors from losing rights for the benefit of other creditors. If a legitimate claim exists in an adversary proceeding, it should be assured that the defendants have actual notice of the assertion of that claim and a fair opportunity to defend its position.

4. Federally insured banking institutions should be provided special relief and more stringent service of process rules should be applied. If Bankruptcy Rule 7004 is not amended to extend this protection to all corporations then it should at least be amended to extend this protection to banking institutions. It is in the public interest to avoid unwarranted losses by banks, the new proposed rule would not be burdensome upon a bankruptcy estate since banks can be easily served even under the new rule, and the banks should be afforded at least the same protection as provided by the Federal Rules of Civil procedure.

I hope that the information contained in this letter will be of assistance in building a strong case for the adoption of the proposed amendment to Bankruptcy Rule 7004(b)(3) or for adding paragraph (g) back to the proposed amendment. Of course, I would be glad to assist in any way possible.

With kind regards, I am

Sincerely yours,

RICHARD F. PRENTIS, Jr.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. METZENBAUM, Mr. SIMON, Mr. WELLSTONE, Mr. WOFFORD, Mr. DURENBERGER, and Mr. BINGAMAN):

S. 203. A bill to amend the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, and for other purposes; to the Committee on Labor and Human Resources.

LONG-TERM CARE INSURANCE STANDARDS AND ACCOUNTABILITY ACT

Mr. KENNEDY. Mr. President, I am honored to join with Senator HATCH, Senator METZENBAUM, Senator SIMON, Senator WELLSTONE, Senator WOFFORD, Senator DURENBERGER, and Senator BINGAMAN in reintroducing legislation reported by the Committee on Labor and Human Resources last summer to protect citizens who purchase long-term care insurance.

According to studies by the Brookings Institution, between 35 and 50 percent of today's senior citizens will enter a nursing home at some point in their lives. Millions more will need help with basic needs such as walking, eating, and dressing if they are to continue living independently at home or in their communities.

Long-term care is not just a crisis for the elderly—it is a crisis for their families as well. Few relatives are prepared—either financially or emotionally—to take on the heavy responsibility of providing the care that their loved ones need. Medicare does not cover such costs at all. Because of its means test, assistance from Medicaid does not become available until families have virtually exhausted their life savings.

In recent years, to fill the gap in long-term care, the private insurance industry has begun to offer policies to provide protection. The number of citizens with long-term care policies has doubled in the past 3 years, and several million policies have been sold. But this rapid growth is accompanied by serious problems.

These problems include high rates of lapsed policies, abuses by insurance agents, and substantial reductions in the value of benefits during the long time that may elapse between the purchase of a policy and when it is needed.

Too many senior citizens who purchase a policy let it lapse. A recent survey by the Health Insurance Asso-

ciation of America found lapse rates of 12 percent a year. In other words, if 100 senior citizens buy a long-term care policy at age 65, fewer than 2 will still have coverage at age 85, when they are most likely to need it.

In addition, agents' commissions are designed so that 70 to 80 percent of their total compensation on a policy is paid up front, at the time of the initial sale. Only 20 to 30 percent is based on policy renewals. The result is to encourage the sale of multiple policies to senior citizens, and discourage the renewal of existing policies.

Because of rising costs, policies adequate today are likely to provide only minimal protection when they are needed in the future. A nursing home stay that now costs on average of $86 a day will cost $228 20 years from now, assuming a modest inflation rate of just 5 percent a year. The most recent GAO study of States' compliance with voluntary standards for inflation protection found that 40 States were not in compliance.

In response to similar abuses in so-called Medigap policies to protect the elderly against bills not covered by Medicare, Congress passed legislation in 1990 setting basic standards for such policies.

Similar legislation is needed now to correct the abuses in private long-term care policies. The bill we are introducing today is modeled after the Medigap legislation. The key provisions will establish mandatory standards for adequate coverage; require protection against lapses; revise agents' commissions to encourage renewals and discourage multiple sales; and require training for agents in order to reduce the level of misinformation given to elderly purchasers. Agents are to be required to offer inflation protection to every consumer; however, inflation protection is not a mandatory feature of every policy, as last year's bill proposed.

Protection from abuses by the insurance industry is only a small part of the solution to the Nation's long-term care needs. Most senior citizens cannot afford adequate private long-term care insurance. According to a June 1990 study by Families USA Foundation, 84 percent of Americans age 65 to 79 could not afford the average cost of a basic long-term care insurance policy. This cost ranges from about $1,300 annually at age 65 to nearly $4,000 at age 79. Younger persons with disabilities also have great difficulty in obtaining such insurance.

For these reasons, the Nation needs a more comprehensive solution to long-term care. It is time for America to redeem the promise of Medicare and Social Security by adding a vital third component—long-term care for disabled Americans of all ages, with that assistance provided, whenever possible, in a person's own home. The task will be difficult—but we must succeed. No honorable society can deny decent care to its elderly and disabled citizens.

In the meantime, the Long-Term Care Insurance and Accountability Act that we are introducing today will provide the substantial additional protection that millions of senior citizens deserve and need. I am pleased that the Consumers Union, Families USA, the United Seniors Health Cooperative, and the National Association of Home Care have all endorsed this legislation. I urge the Congress to act quickly on this important legislation.

Mr. HATCH. Mr. President, each one of us has either had to face, or will have to face, the day that an aging parent or other loved one will stand in need of long-term care. I am certain that I speak for all of us when I say that we want our parents and loved ones to be cared for in a manner that both preserves their dignity and provides the quality care they need.

Today, many elderly Americans and their families are impoverished by the cost of long-term care. This is a sobering thought, bearing in mind that our society is rapidly aging. This is highlighted by the fact that a baby-boomer was just inaugurated as President.

Owing to the tremendous financial burden such long-term care has upon the individual, the family, and society, the financing of long-term care becomes an increasingly important issue for ourselves and our children.

There are those who say that it should fall upon the shoulders of the Government to ensure that such long-term care is provided. But, this would require yet another expensive entitlement program. Today, we are struggling to balance the budget and our current obligations. It would not be a service to American families if we established such a Federal program that could not deliver on its promises or that compounded the economic difficulties caused by our Federal debt. Even if it were desirable, a long-term care program is not feasible in the near future.

I believe that many Americans have begun to look ahead and are attempting to take responsibility for their own long-term care needs and those of their families. They are doing this by purchasing long-term care insurance, as is evidenced by the number of Americans with such insurance increasing from 100,000 just 5 years ago to over 2 million today. This is not only commendable—it is necessary, and is a trend that I think ought to be encouraged.

If the purchase of long-term care insurance is to be encouraged, measures must be taken to protect consumers and to ensure that the policies they purchase today give them the protection they will need tomorrow. This measure should be beneficial to stimulate consumer confidence in such policies.

However, in proposing legislation in this area, we must carefully balance the need to provide standards with the necessity not erode the benefits by saddling these plans with overbearing regulations that stifle innovation and inhibit growth. Such overregulation would prove most harmful to the consumer in the end.

Bipartisan cooperation has resulted in the creation of the Long-Term Care Insurance Improvement and Accountability Act. This legislation strikes a positive balance between protecting the consumer and allowing the long-term care insurance industry to grow.

Through this legislation, the Government encourages the use of long-term care insurance by establishing guidelines and standards which will protect the purchase of these policies. Several of these provisions include requiring long-term care policies to include a nonforfeiture provision; the usage of uniform language and definitions making long-term care policies easier to compare; information allowing consumers to make better purchasing decisions; and, standards for home-care and community services. Along with the standards proposed in this bill, I believe that tax clarification is also necessary and I will work with my colleagues on the Finance Committee on this aspect of the issue as well.

Mr. President, I believe the provisions of this bill will provide consumer protection as well as allow industry growth. I commend Senator KENNEDY for his spirit of cooperation and diligence in ensuring that this critical policy balance was achieved in this bill. I am pleased to join with him today in introducing this legislation.

Mr. WELLSTONE. Mr. President, I am pleased to be an original cosponsor of the Long-Term Care Insurance Improvement and Accountability Act. I know from my own experience with my parents, both of whom had Alzheimer's disease, how devastating long-term chronic illness can be. It is tragic that this difficult experience is compounded for so many elderly and disabled people in need by unscrupulous insurance company practices, and by inadequate insurance plans.

Health insurance abuse of the elderly is a national scandal. Congress took a positive step in passing legislation that restricted abuses in the marketing of Medigap insurance, and passage of the Long-Term Care Insurance Improvement and Accountability Act will be another important step in protecting some of our most vulnerable consumers from fraudulent insurance practices.

I was moved by the inspiring example of Richard Gehring, who testified at the Labor and Human Resources Committee last year about his own experiences caring for his wife, and about the stories he has heard as chair of the Minnesota Alzheimer's Association regarding long-term care insurance abuses.

I agree with Mr. Gehring's assessment that only comprehensive social insurance for long-term care and acute care will really solve the problem of access to affordable care. I am convinced that as we work toward that goal, passage of this bill will help protect many seniors from needless confusion about benefits, as well as from outright fraud and abuse.

By Mr. WARNER (for himself and Mr. ROBB):

S. 204. 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 LANDS 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 Governor 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 one-million-dollar appropriation to make possible the purchase of park lands. A few days later, the legislature agreed and appropriated the funds. This one-million-dollar 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 Common wealth 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 the Interior to transfer to the Commonwealth—without reimbursement—all right, title, and interest in and to the roads within the park 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 following my remarks.

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

69-059 O—97 Vol. 139 (Pt. 1) 40

S. 204

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.●

By Mr. ROTH:

S. 205. A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; to the Committee on the Judiciary.

NATIONAL TRIAD PROGRAM ACT OF 1993

● Mr. ROTH. Mr. President, today I rise to introduce the National Triad Program Act of 1993. This legislation is almost identical to the National Triad Program Act of 1992 (S. 2484) which passed the Senate in the final days of last session, but was not considered by the House of Representatives.

I am introducing this important legislation at the start of the session so that it will not get lost in the shuffle as I believe it did in the final days of last session.

As we all know, America is growing older. Today over 30 million Americans are 65 or older. By the year 2030 that number will more than double. At the same time, older Americans are increasingly becoming the victims of often violent crime. For example, in my State of Delaware crimes against older persons have doubled in the past 5 years.

The National Triad Program Act is a positive step in the direction of addressing the many problems associated with the growing criminal victimization of older Americans. The act will assure that older Americans receive the law enforcement attention they deserve and, more importantly, the act will ensure that older Americans do not become victims of crime in the first place.

The triad concept was developed by and involves cooperation between the American Association of Retired Persons [AARP], the International Association of Chiefs of Police, and the National Sheriffs Association to combat crime against older persons. While some States already have local triad programs, the National Triad Program Act will serve the important function of developing and spreading the triad concept.

The National Triad Program Act of 1993 requires that $5,000,000 of the funds authorized to be appropriated to the National Institute of Justice be used to: Set up 20 triad pilot programs—which can include existing programs—fund a national training and technical assistance effort; develop public service announcements concerning the triad concept; conduct a national assessment of crimes against the elderly; and evaluate the pilot programs.

I urge my colleagues to join me in passing this important legislation. Mr. President, I ask unanimous consent that the test of this bill be printed in the RECORD immediately following my remarks.

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

S. 205

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 "National Triad Program Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) older Americans are among the most rapidly growing segments of our society;

(2) currently, the elderly comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of our Nation's population;

(3) older Americans find themselves uniquely situated in our society, environmentally and physically;

(4) many elderly Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors;

(5) physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to an older person's susceptibility to criminal victimization;

(6) our elders are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that elderly victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against the elderly are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) although a few studies have attempted to define and estimate the extent of elder abuse and neglect, both in their homes and in institutional settings, many experts believe that this crime is substantially underreported and undetected;

(10) similarly, while some evidence suggests that the elderly may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud;

(11) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against the elderly;

(12) these differences, in turn, can contribute to inconsistent approaches to the problem and inhibit a genuinely effective response;

(13) there are, however, a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of the elderly;

(14) the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort;

(15) recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal Government seeks to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population; and

(16) our goal is to support a coordinated effort among law enforcement and social service agencies to stem the tide of transgenerational violence against the elderly and to support media and nonmedia strategies aimed at increasing both public understanding of the problem and the elderly person's skills in preventing crime against themselves and their property.

SEC. 3. PURPOSE.

The purpose of this Act is to address the problem of crime against the elderly in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in implementing specific programs of crime prevention, victim assistance, citizen involvement, and public education that offer a high probability of improving the coordinated effectiveness of law enforcement and social service efforts. The efforts of local coalitions, such as the Triad model being piloted in a number of areas by National Sheriffs' Association, International Association of the Chiefs of Police, and American Association of Retired Persons, are of particular interest.

SEC. 4. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to as the "Director") shall conduct a national assessment of—

(1) the nature and extent of crimes against the elderly;

(2) the needs of law enforcement, health, and social service organizations in working to prevent, identify, investigate, and provide assistance to victims of those crimes; and

(3) promising strategies to respond effectively to those challenges.

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a range of sources in order to develop accurate information on the nature and extent of crimes against the elderly, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) the problem of the most vulnerable and hard-to-reach elderly who are in poor health, are living alone or without family nearby, or are living in high crime areas;

(3) the problem of elderly who are abused and neglected, sometimes in the home and sometimes in health care facilities, sometimes subjected to physical abuse and at other times to verbal aggression and neglect;

(4) the problem of fear of victimization, which inhibits the freedom of the elderly and can make them prisoners in their homes;

(5) the identification of strategies and techniques that have been shown to be effective, or appear to hold promise of being effective, in responding to the problems described in this subsection and in preventing, reducing, and ameliorating the impact of crime against the elderly;

(6) the analysis of the factors that enhance or inhibit development of a coordinated response by law enforcement, health care, and social service providers to crimes against the elderly and the treatment of elderly victims; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against the elderly, including the changes anticipated in the crimes themselves and appropriate responses as our society increasingly ages, and the identification and evaluation of effective and fiscally feasible approaches to prevent and reduce victimization of our Nation's elderly citizens.

(c) DISSEMINATION.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs referred to in sections 2 and 3, the Director shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 5. PILOT PROGRAMS.

(a) AWARDS.—The Director may make awards to coalitions of local law enforcement agencies, victim service providers, and organizations representing the elderly for pilot programs and field tests of particularly promising strategies and models for forging partnerships for crime prevention and service provision based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) ELIGIBILITY.—Pilot programs funded under this section may include existing general service coalitions of law enforcement, victim service, and elder advocate organizations that wish to use additional funds to work at a particular problem in their community, such as fraud, burglary, or abuse and neglect, or to target a particular geographic area in need of intensive services.

SEC. 6. EVALUATION AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 4 and the pilot programs under section 5, the Director may make awards to—

(1) coalitions of national law enforcement, victim service, and elder advocate organizations, for the purposes of providing training and technical assistance in implementing pilot programs, including programs based on the concepts of the Triad;

(2) research organizations, for the purposes of—

(A) investigating the types of elder victimization shown by the national assessment to present particularly critical problems or to be emerging crimes about which little is known;

(B) evaluating the effectiveness of selected pilot programs; and

(C) conducting the research and development identified through the national assessment as being critical; and

(3) public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against the elderly and promoting ideas or programs to prevent them.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Of amounts authorized to be appropriated to the National Institute of Justice under section 1001(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(2)), $5,000,000 shall be available to carry out this Act, of which—

(1) up to $2,000,000 may be used to fund up to 20 pilot programs;

(2) up to $1,000,000 may be used to fund a national training and technical assistance effort;

(3) up to $1,000,000 may be used to develop public service announcements; and

(4) up to $1,000,000 may be used for the national assessment, the evaluation of pilot programs, and the carrying out of the research agenda.●

By Mr. BROWN (for himself and Mr. CAMPBELL):

S. 206. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

COLORADO WILDERNESS BILL

Mr. BROWN. Mr. President, today Senator CAMPBELL and I introduce the Colorado Wilderness Act of 1993. This bill achieves what is important to Colorado—it protects 766,670 acres of Colorado's most pristine lands, and explicitly protects access to and the use of existing water rights in these areas. Efforts to enact a Colorado wilderness legislation have spanned more than a decade. Senator CAMPBELL and I believe that this bill represents a legitimate and fair compromise of an extremely complex and divisive issue. This bill is the product of compromise between the Colorado delegation and House leaders, and I think represents the compromise that reaches out to preserve the best. It is the same bill that the Senate passed on October 8, 1992.

I would not introduce this bill today if it did not represent a complete and absolute protection of both Colorado's ability to develop and use water allocated to it and existing, absolute and conditional water rights.

The water issues associated with these proposed wilderness areas were particularly difficult to resolve because of the strong and diametrically opposed views held by many members of the water user and environmental communities. Fortunately, we have been able to produce water language that is a true compromise that does not injure the fundamental principles that have much value for Colorado—protection of wild lands and protection of Colorado's future ability to develop and use all of its interstate water entitlements.

The issue of the existence of Federal reserved water rights for the upstream areas is moot, because the bill provides that no one can assert such a right, and no court or agency could ever consider in any fashion such a claim. This ensures that wilderness status will never result in an encroachment on Colorado's ability to use its interstate water allocations. The bill addresses the difficult issue of downstream wilderness study areas, where there could be conflicts with water storage and diversion. Where potential conflict exists, the areas are not classified as wilderness areas. This ensures that there will be no effect on existing and future water use. In order to make this intent crystal clear, there is also an explicit disclaimer of a Federal reserved right for these areas, and the existence of these areas cannot be used as a basis to affect upstream activities as a part of any administrative or regulatory program.

Passage of the Colorado Wilderness Act will not only protect more than three-quarters of a million acres of some of Colorado's most beautiful wilderness, it is another way to ensure preservation of Colorado's past. It is a past rich in history and full of respect for the land that will be given to our children and our children's children.

One of the largest areas to be protected is in Colorado's most majestic mountain range, the Sangre de Cristo. Home to three of the State's 14,000-foot peaks, this area contains some of the most beautiful back-country with cascading waterfalls and sparkling trout-filled streams. In addition, the Sangre de Cristo provides winter range for deer, elk, and bighorn sheep. Adjacent to the Great Sand Dunes, this wilderness area will provide the people of Colorado some of the most spectacular recreational opportunities in the State.

This is just one example of the scenic natural beauty protected by this bill. There are many more. In total, approximately 766,670 acres will be protected, an area nearly as large as the State of Rhode Island.

This bill breaks a 12-year stalemate in the designation of new Colorado wilderness. The water provisions of this bill are designed to both protect the new wilderness additions, including wilderness water values, and at the same time protect Colorado's ability to develop and use its water entitlements.

And while those on either side who refuse to compromise may object, people who truly value Colorado wilderness and water should support this bill so that we as a State and a Nation can move forward with protection and recognition of these important wilderness lands.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 206

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 "Colorado Wilderness Act of 1993".

SEC. 2. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following lands in the State of Colorado are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Gunnison Basin Resource Area administered by the Bureau of Land Management which comprise approximately 3,390 acres, as generally depicted on a map entitled "America Flats Additions to the Big Blue Wilderness-Proposal (American Flats)", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the wilderness area designated by Public Law 96-560 and renamed "Uncompahgre Wilderness" by section 3(f) of this Act.

(2) Certain lands in the Gunnison Resource Area administered by the Bureau of Land Management which comprise approximately 815 acres, as generally depicted on a map entitled "Bill Hare Gulch and Larson Creek Additions to the Big Blue Wilderness", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the wilderness area designated by Public Law 96-560 and renamed "Uncompahgre Wilderness" by section 3(f) of this Act.

(3) Certain lands in the Pike and San Isabel National Forests which comprise approximately 43,410 acres, as generally depicted on a map entitled "Buffalo Peaks Wilderness Proposal", dated January, 1993, and which shall be known as the Buffalo Peaks Wilderness.

(4) Certain lands in the Gunnison National Forest and in the Bureau of Land Management Powderhorn Primitive Area which comprise approximately 60,100 acres as generally depicted on a map entitled "Powderhorn Wilderness Proposal", dated January, 1993, and which shall be known as the Powderhorn Wilderness.

(5) Certain lands in the Routt National Forest which comprise approximately 20,750 acres, as generally depicted on a map entitled "Davis Peak Additions to Mount Zirkel Wilderness Proposal", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Mount Zirkel Wilderness designated by Public Law 88-555.

(6) Certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests which comprise approximately 33,060 acres as generally depicted on a map entitled "Fossil Ridge Wilderness Proposal", dated January, 1993, and which shall be known as the Wren and Tim Wirth Wilderness Area.

(7) Certain lands in the San Isabel National Forest which comprise approximately 22,040 acres as generally depicted on a map entitled "Greenhorn Mountain Wilderness Proposal", dated January, 1993, and which shall be known as the Greenhorn Mountain Wilderness.

(8) Certain lands within the Pike and San Isabel National Forests which comprise approximately 14,700 acres, as generally depicted on a map entitled "Lost Creek Wilderness Addition Proposal", dated January, 1993, which are hereby incorporated in and shall be deemed to be a part of the Lost Creek Wilderness designated by Public law 96-560: *Provided*, That the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized to acquire, only by donation or exchange, various mineral reservations held by the State of Colorado within the boundaries of the Lost Creek Wilderness additions designated by this Act.

(9) Certain lands in the Grand Mesa, Uncompahgre, and the Gunnison National Forests which comprise approximately 5,500 acres, as generally depicted on a map entitled "Oh-Be-Joyful Addition to the Raggeds Wilderness Proposal", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Raggeds Wilderness designated by Public Law 96-560.

(10) Certain lands in the Rio Grande National Forest which comprise approximately 226,455 acres, as generally depicted on a map entitled "Sangre de Cristo Wilderness Proposal", dated January, 1993, and which shall be known as the Sangre de Cristo Wilderness.

(11) Certain lands in the Routt National Forest which comprise approximately 47,140 acres, as generally depicted on a map entitled "Service Creek Wilderness Proposal (Sarvis Creek Wilderness)", dated January, 1993, which shall be known as the Sarvis Creek Wilderness: *Provided*, That the Secretary is authorized to acquire by purchase, donation, or exchange, lands or interests therein within the boundaries of the Sarvis Creek Wilderness only with the consent of the owner thereof.

(12) Certain lands in the San Juan National Forest which comprise approximately 31,100 acres, as generally depicted on a map entitled "South San Juan Wilderness Expansion Proposal" (V-Rock Trail and Montezuma Peak), dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the South San Juan Wilderness designated by Public law 96-560.

(13) Certain lands in the White River National Forest which comprise approximately 8,330 acres, as generally depicted on a map entitled "Spruce Creek Additions to the Hunter-Fryingpan Wilderness Proposal", dated January, 1993, and which hereby incorporated in and shall be deemed to be a part of the Hunter Fryingpan Wilderness designated by Public law 95-327: *Provided*, That no right, or claim of right, to the diversion and use of the waters of Hunter Creek, the Fryingpan or Roaring Fork Rivers, or any tributaries of said creeks or rivers, by the Fryingpan-Arkansas Project, Public Law 87-590, and the reauthorization thereof by Public law 93-193, as modified as proposed in the September 1959 report of the Bureau of Reclamation entitled "Ruedi Dam and Reservoir, Colorado", and as further modified and described in the description of the proposal contained in the final environmental statement for said project, dated April 16, 1975, under the laws of the State of Colorado, shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said Fryingpan-Arkansas Project facilities, nor the operation thereof, pursuant to the Operating Principles, House Document 187, Eighty-third Congress, and pursuant to the water laws of the State of Colorado: *Provided further*, That nothing in this Act shall be construed to impede, limit, or prevent the use by the Fryingpan-Arkansas Project of its diversion systems to their full extent.

(14) Certain lands in the Arapaho National Forest which comprise approximately 8,095 acres, as generally depicted on a map entitled "Byers Peak Wilderness Proposal", dated January, 1993, and which shall be known as the Byers Peak Wilderness.

(15) Certain lands in the Arapaho National Forest which comprise approximately 12,300 acres, as generally depicted on a map entitled "Vasquez Peak Wilderness Proposal", dated January, 1993, and which shall be known as the Vasquez Peak Wilderness.

(16) Certain lands in the San Juan National Forest which comprise approximately 28,740 acres, as generally depicted on a map entitled "West Needle Wilderness Proposal and Weminuche Additions", dated January, 1993, and which are hereby incorporated in and shall be deemed to be a part of the Weminuche Wilderness designated by Public Law 93-632.

(17) Certain lands in the Rio Grande National Forest which comprise approximately 25,640 acres, as generally depicted on a map entitled "Wheeler Additions to the La Garita Wilderness Proposal", dated January, 1993, and which shall be incorporated into and shall be deemed to be a part of the La Garita Wilderness.

(18) Certain lands in the Arapaho National Forest which comprise approximately 13,175 acres, as generally depicted on a map entitled "Farr Wilderness Proposal", dated January, 1993, and which shall be known as the Farr Wilderness.

(19) Certain lands in the Arapaho National Forest which comprise approximately 6,990 acres, as generally depicted on a map entitled "Bowen Gulch Additions to Never Summer Wilderness Proposal", dated January, 1993, which are hereby incorporated into and shall be deemed to be a part of the Never Summer Wilderness.

(b) MAPS AND DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the appropriate Secretary shall file a map and a legal description of each area designated as wilderness by this Act with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Each map and description shall have the same force and effect as if included in this Act, except that the Secretary is authorized to correct clerical and typographical errors in such legal descriptions and maps. Such maps and legal descriptions shall be on file and available for public inspection in the Office of the Chief of Forest Service, Department of Agriculture and the Office of the Director of the Bureau of Land Management, Department of the Interior, as appropriate.

SEC. 3. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—(1) Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture or the Secretary of the Interior (in the case of the portion of Powderhorn Wilderness managed by the Bureau of Land Management) in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect

to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(2) Administrative jurisdiction over those lands designated as wilderness pursuant to paragraph (2) of section 2(a) of this Act, and which, as of the date of enactment of this Act, are administered by the Bureau of Land Management, is hereby transferred to the Forest Service.

(b) GRAZING.—Grazing of livestock in wilderness areas designated by this Act shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), as further interpreted by section 108 of Public Law 96-560, and, as regards wilderness managed by the Bureau of Land Management, the guidelines set forth in Appendix A of House Report 101-405 of the 101st Congress.

(c) STATE JURISDICTION.—As provided in Section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Colorado with respect to wildlife and fish in Colorado.

(d) CONFORMING AMENDMENT.—Section 2(e) of the Endangered American Wilderness Act of 1978 (92 Stat. 41) is amended by striking "Subject to" and all that follows through "System".

(e) BUFFER ZONES.—Congress does not intend that the designation by this Act of wilderness areas in the State of Colorado creates or implies the creation of protective perimeters or buffer zones around any wilderness area. The fact that non-wilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(f) WILDERNESS NAME CHANGE.—The wilderness area designated as "Big Blue Wilderness" by section 102(a)(1) of Public Law 96-560, and the additions thereto made by paragraphs (1) and (2) of section 2(a) of this Act, shall hereafter be known as the Uncompahgre Wilderness. Any reference to the Big Blue Wilderness in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Uncompahgre Wilderness.

(g)(1) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of affected National Forests, as modified by this subsection, shall be considered to be the boundaries of such National Forests as of January 1, 1965.

(2) Nothing in this subsection shall affect valid existing rights of any person under the authority of law.

(3) Authorizations to use lands transferred by this subsection which were issued prior to the date of enactment of this Act, shall remain subject to the laws and regulations under which they were issued, to the extent consistent with this Act. Such authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture, and the applicable law, including this Act. The change of administrative jurisdiction resulting from the enactment of this subsection shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

SEC. 4. WILDERNESS RELEASE.

(a) REPEAL OF WILDERNESS STUDY PROVISIONS.—Sections 105 and 106 of the Act of December 22, 1980 (P.L. 96-560), are hereby repealed.

(b) INITIAL PLANS.—Section 107(b)(2) of the Act of December 22, 1980 (P.L. 96-560) is amended by striking out ", except those lands remaining in further planning upon enactment of this Act, areas listed in section 105 and 106 of this Act, or previously congressionally designated wilderness study areas,".

SEC. 5. FOSSIL RIDGE RECREATION MANAGEMENT AREA.

(a) ESTABLISHMENT.—(1) In order to conserve, protect, and enhance the scenic, wildlife, recreational, and other natural resource values of the Fossil Ridge area, there is hereby established the Fossil Ridge Recreation Management Area (hereinafter referred to as the "recreation management area").

(2) The recreation management area shall consist of certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests, Colorado, which comprise approximately 43,900 acres as generally depicted as "Area A" on a map entitled, "Fossil Ridge Wilderness Proposal", dated January, 1993.

(b) ADMINISTRATION.—The Secretary of Agriculture shall administer the recreation management area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) WITHDRAWAL.—Subject to valid existing rights, all lands within the recreation management area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) TIMBER HARVESTING.—No timber harvesting shall be allowed within the recreation management area except for any minimum necessary to protect the forest from insects and disease, and for public safety.

(e) LIVESTOCK GRAZING.—The designation of the recreation management are shall not be construed to prohibit, or change the administration of, the grazing of livestock within the recreation management area.

(f) DEVELOPMENT.—No developed campgrounds shall be constructed within the recreation management area. After the date of enactment of this Act, no new roads or trails may be constructed within the recreation management area.

(g) OFF-ROAD RECREATION.—Motorized travel shall be permitted within the recreation management area only on those designated trails and routes existing as of July 1, 1991.

SEC. 6. BOWEN GULCH PROTECTION AREA.

(a) ESTABLISHMENT.—(1) There is hereby established in the Arapaho National Forest, Colorado, the Bowen Gulch Protection Area (hereinafter in this Act referred to as the "protection area").

(2) The protection area shall consist of certain lands in the Arapaho National Forest, Colorado, which comprise approximately 11,600 acres as generally depicted as "Area A" on a map entitled "Bowen Gulch Additions to Never Summer Wilderness Proposal", dated January, 1993.

(b) ADMINISTRATION.—The Secretary shall administer the protection area in accordance with this section and the laws and regulations generally applicable to the National Forest System.

(c) WITHDRAWAL.—Subject to valid existing rights, all lands within the protection area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from disposition under the mineral and geothermal leasing laws, including all amendments thereto.

(d) DEVELOPMENT.—No developed campgrounds shall be constructed within the protection area. After the date of enactment of this Act, no new roads or trails may be constructed within the protection area.

(e) TIMBER HARVESTING.—No timber harvesting shall be allowed within the protection area except for any minimum necessary to protect the forest from insects and disease, and for public safety.

(f) MOTORIZED TRAVEL.—Motorized travel shall be permitted within the protection area only on those designated trails and routes existing as of July 1, 1991, and only during periods of adequate snow cover. At all other times, mechanized, nonmotorized travel shall be permitted within the protection area.

(g) MANAGEMENT PLAN.—During the preparation of the revision of the Land and Resource Management Plan for the Arapaho National Forest, the Forest Service shall develop a management plan for the protection area, after providing for public consultation.

SEC. 7. OTHER LANDS.

Nothing in this Act shall affect ownership or use of lands or interests therein not owned by the United States or access to such lands available under other applicable law.

SEC. 8. WATER.

(a) FINDINGS, PURPOSE, AND DEFINITIONS.—(1) Congress finds that—

(A) the lands designated as wilderness by this Act are located at the headwaters of the streams and rivers on those lands, with few, if any, actual or proposed water resource facilities located upstream from such lands and few, if any, opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness values of such lands; and

(B) the lands designated as wilderness by this Act are not suitable for use for development of new water resource facilities, or for the expansion of existing facilities; and

(C) therefore, it is possible to provide for proper management and protection of the wilderness value of such lands in ways different from those utilized in other legislation designating as wilderness lands not sharing the attributes of the lands designated as wilderness by this Act.

(2) The purpose of this section is to protect the wilderness values of the lands designated as wilderness by this Act by means other than those based on a federal reserved water right.

(3) As used in this section, the term "water resource facility" means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.

(b) RESTRICTIONS ON RIGHTS AND DISCLAIMER OF EFFECT.—(1) Neither the Secretary, nor any other officer, employee, representative, or agent of the United States, nor any other person, shall assert in any court or agency, nor shall any court or agency consider, any claim to or for water or water rights in the State of Colorado, which is based on any construction of any portion of this Act, or the designation of any lands as wilderness by this Act, as constituting an express or implied reservation of water or water rights.

(2)(A) Nothing in this Act shall constitute or be construed to constitute either an ex-

press or implied reservation of any water or water rights with respect to the Piedra, Roubideau, and Tabeguache areas identified in section 9 of this Act, or the Bowen Gulch Protection Area or the Fossil Ridge Recreation Management Area identified in sections 5 and 6 of this Act.

(B) Nothing in this Act shall be construed as a creation, recognition, disclaimer, relinquishment, or reduction of any water rights of the United States in the State of Colorado existing before the date of enactment of this Act, except as provided in subsection (g)(2) of this section.

(C) Except as provided in subsection (g) of this section, nothing in this Act shall be construed as constituting an interpretation of any other Act or any designation made by or pursuant thereto.

(D) Nothing in this section shall be construed as establishing a precedent with regard to any future wilderness designations.

(c) NEW OR EXPANDED PROJECTS.—(1) Notwithstanding any other provision of law, on and after the date of enactment of this Act neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the areas described in sections 2, 5, 6 and 9 of this Act or the enlargement of any water resource facility within the areas described in sections 2, 5, 6 and 9 of this Act.

(d) ACCESS AND OPERATION.—(1) Subject to the provisions of this subsection (d), the Secretary shall allow reasonable access to water resource facilities in existence on the date of enactment of this Act within the areas described in sections 2, 5, 6 and 9 of this Act, including motorized access where necessary and customarily employed on routes existing as of the date of enactment of this Act.

(2) Existing access routes within such areas customarily employed as of the date of enactment of this Act may be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have no increased adverse impacts on the resources and values of the areas described in sections 2, 5, 6 and 9 of this Act than existed as of the date of enactment of this Act.

(3) Subject to the provisions of subsections (c) and (d), the Secretary shall allow water resource facilities existing on the date of enactment of this Act within areas described in sections 2, 5, 6 and 9 of this Act to be used, operated, maintained, repaired, and replaced to the extent necessary for the continued exercise, in accordance with Colorado state law, of vested water rights adjudicated for use in connection with such facilities by a court of competent jurisdiction prior to the date of enactment of this Act; Provided, That the impact of an existing facility on the water resources and values of the area shall not be increased as a result of changes in the adjudicated type of use of such facility as of the date of enactment of this Act.

(4) Water resource facilities, and access route serving such facilities, existing within the areas described in sections 2, 5, 6 and 9 of this Act on the date of enactment of this Act shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and values of the areas described in sections 2, 5, 6 and 9 of this Act.

(e) Except as provided in subsections (c) and (d) of this section, the provisions of this Act related to the areas described in sections 2, 5, 6, and 9 of this Act, and the inclusion in the National Wilderness Preservation System of the areas described in section 2 of this Act, shall not be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resource facilities in existence on the date of enactment of this Act within the boundaries of the areas described in sections 2, 5, 6, and 9 of this Act.

(f) MONITORING AND IMPLEMENTATION.—The Secretaries of Agriculture and the Interior shall monitor the operation of and access to water resource facilities within the areas described in sections 2, 5, 6, and 9 of this Act and take all steps necessary to implement the provisions of this section.

(g) INTERSTATE COMPACTS AND NORTH PLATTE RIVER.—(1) Nothing in this Act, and nothing in any previous Act designating any lands as wilderness, shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States. Except as expressly provided in this section, nothing in this Act shall affect or limit the development or use by existing and future holders of vested water rights of Colorado's full apportionment of such waters.

(2) Notwithstanding any other provision of law, neither the Secretary nor any other officer, employee, or agent of the United States, or any other person, shall assert in any court or agency of the United States or any other jurisdiction any rights, and no court or agency of the United States shall consider any claim or defense asserted by any person based upon such rights, which may be determined to have been established for waters of the North Platte River for purposes of the Platte River Wilderness Area established by Public Law 98-550, located on the Colorado-Wyoming state boundary, to the extent such rights would limit the use or development of water within Colorado by present and future holders of vested water rights in the North Platte River and its tributaries, to the full extent allowed under interstate compact or United States Supreme Court equitable decree. Any such rights shall be exercised as if junior to, in a manner so as not to prevent, the use or development of Colorado's full entitlement to interstate waters of the North Platte River and its tributaries within Colorado allowed under interstate compact or United States Supreme Court equitable decree.

SEC. 9. PIEDRA, ROUBIDEAU, AND TABAGUACHE AREAS.

(a) AREAS.—The provisions of this section shall apply to the following areas:

(1) Certain lands in the San Juan National Forest, comprising approximately 62,550 acres as generally depicted on the map entitled "Piedra Area" dated January, 1993; and

(2) Certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests, comprising approximately 19,650 acres, as generally depicted on the map entitled "Roubideau Area" dated January, 1993; and

(3) Certain lands in the Grand Mesa, Uncompahgre, and Gunnison National Forests and in the Montrose District of the Bureau of Land Management, comprising approximately 17,240 acres, as generally depicted on the map entitled "Tabeguache Area" dated January, 1993.

(b) MANAGEMENT.—Subject to valid existing rights, the areas described in subsection (a) are withdrawn from all forms of location, leasing, patent, disposition, or disposal under public land, mining, and mineral and geothermal leasing laws of the United States.

(2) The areas described in subsection (a) shall not be subject to any obligation to further study such lands for wilderness designation.

(3) Until Congress determines otherwise, and subject to the provisions of section 8 of this Act, activities within such areas shall be managed by the Secretary of Agriculture and Secretary of the Interior so as to maintain the areas' presently existing wilderness character and potential for the inclusion in the National Wilderness Preservation System.

(4) Livestock grazing in such areas shall be permitted and managed to the same extent and in the same manner as of the date of enactment of this Act. Except as provided by this Act, mechanized or motorized travel shall not be permitted in such areas; Provided, That the Secretary may permit motorized travel on trail number 535 in the San Juan National Forest during periods of adequate snow cover.

(c) DATA COLLECTION.—The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Colorado Water Conservation Board, shall compile data concerning the water resources of the areas described in subsection (a), and existing and proposed water resources facilities affecting such values.

SEC. 10. SPANISH PEAKS FURTHER PLANNING AREA STUDY.

(a) REPORT.—Not later than three years from the date of enactment of this Act, the Secretary shall report to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of private property interests located within the Spanish Peaks Further Planning area of the Pike-San Isabel National Forest in Colorado.

(b) CONTENTS OF REPORT.—The report required by this section shall identify the location of all private property situated within the exterior boundaries of the Spanish Peaks area; the nature of such property interests; the acreage of such private property interests; and the Secretary's views on whether the owners of said properties would be willing to enter into either a sale or exchange of these properties at fair market value if such a transaction became available in the near future.

(c) NO AUTHORIZATION OF EMINENT DOMAIN.—Nothing contained in this Act authorizes, and nothing in this Act shall be construed to authorize, the acquisition of real property by eminent domain.

(d) For a period of three years from the date of enactment of this Act, the Secretary shall manage the Spanish Peaks Further Planning Area as provided by the Colorado Wilderness Act of 1980.

Mr. CAMPBELL. Mr. President, Senator BROWN and I are reintroducing a wilderness bill for Colorado that we nearly succeeded in passing in the waning hours of the 102d Congress. Although the Senate passed the bill, unfortunately the other body adjourned before it could be passed by unanimous consent. But, like the ball team after a heartbreaking game which the home team loses in the bottom of the ninth, we vowed to return next season and win the championship.

The names of the wilderness areas protected by this bill read like a Colorado history book—the Uncompahgre Wilderness, the Farr Wilderness, the

Sangre De Cristo Wilderness, Cannibal Plateau, Byers Peak, Davis Peak, and on and on.

Twelve years in the making, this bill has taken herculean efforts. It has taken the cooperation, understanding, and help of the House Interior Committee chairmen who stood firm in their demands that these areas be adequately protected. It has taken the work of former Senators Wirth, Hart, and Armstrong and Representative Ray Kogovsek. All laid the groundwork for today's feat.

The Colorado Wilderness Act we are introducing is similar to the bill passed by the House in early September 1992. It protects more than 600,000 acres as wilderness and withdraws another 155,080 from timber harvesting, mineral entry, and restricts motorized entry to trails that exist as of the date of enactment of this act.

The bill adopts an approach I suggested in my substitute last year with regard to release language. My approach simplifies the issue of releasing areas not designated as wilderness by repealing the provisions of the 1980 Colorado Wilderness Act that direct the Forest Service to conduct studies and manage these areas to preserve their wilderness characteristics.

We have resolved the wilderness reserve water rights controversy, at least as it relates to this bill, by closing the courthouse door to the Federal Government and third parties. The bill prohibits the assertion of a Federal reserve water right in court or in any administrative proceeding. We have ensured protection of these areas, however, prohibiting the construction of new projects or the expansion of existing projects if the expansion adversely impacts the wilderness characteristics of the particular area.

Fortunately, because there are few, if any, conflicts or water rights in the areas, this prohibition will not handicap Colorado water users. The language also ensures that irrigators and others will continue to be able to have motorized access to their existing water projects to operate and maintain them.

Finally, because this bill takes the Forest Service out of the water rights arena, with respect to the wilderness areas designated by this bill, we have given the agency the power to monitor the operation and access to water resource facilities and to take all steps necessary to protect the wilderness characteristics of these areas.

It is my firm belief that this bill resolves a decade-year-long stalemate, and I urge my colleagues to help Senator BROWN and myself protect wilderness areas that are second to none and truly belong in a league of their own.

By Mr. LOTT:

S. 207. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

OLDER AMERICANS FREEDOM TO WORK ACT OF 1993

Mr. LOTT. Mr. President, Today I am introducing the Older Americans Freedom To Work Act of 1993 to eliminate the Social Security earnings test for individuals who have attained retirement age.

As the Social Security Act is designed, the Government seems to give little thought to older Americans' ability to make an important contribution to our work force. Senior citizens are subject to taxes such as the Federal Contributions Act [FICA], even in situations were they are receiving Social Security benefits. They are also subject to various Federal, State, and local taxes.

This brings me to the biggest outrage: The Social Security retirement earnings limit. Presently, this limit reduces benefits to persons between ages 65 and 69 who earn more than $10,560 yearly. These reductions amount to $1 in reduced benefits for every $3 in earnings above the aforementioned limit, $1 for $3 withholding rate.

The earnings test is very unfair, but it also poses a serious threat to the labor work force. Demographers tell us that between the years 20000 and 2010 the baby boom generation will be in their retirement years. With fewer babies being born to replace them, this Nation is looking at a severe labor shortage. The skills and expertise of older workers is desperately needed.

An earnings limit for Social Security beneficiaries is an ill-conceived idea and an administrative nightmare for the Social Security Administration [SSA]. SSA spends a great deal of money and devotes a full 8 percent of its employees to police the income levels of retirees. For beneficiaries, the income limit is a frustrating experience of estimating and reporting income levels to SSA.

In the 1930's, when the earned income limit was devised, encouraging the elderly to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers. Today, with our shrinking labor force, such a policy is absurd. We need the skills, wisdom, and experience of our older workers, and my proposal will encourage them to remain in the labor force.

In the 102d Congress, the Senate adopted an amendment to the Older Americans Reauthorization Amendments to repeal the earnings test. While it was dropped from final passage, this legislation has perennial bipartisan interest and support.

It is a pleasure to again sponsor legislation in the Senate to abolish the onerous retirement earnings test. This begins the process of providing employment opportunities for older Americans without punishing them for their efforts. It is my understanding that the President supports lifting the earnings test for retirees, and I urge my colleagues to join me in supporting this vitally important legislation. Thank you. I ask unamious consent that the text of the bill be printed in the RECORD below my statement.

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

S. 207

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 "Older Americans' Freedom to Work Act of 1993".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act (42 U.S.C. (f)(8)(D)) is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of

the Social Security Act (42 U.S.C. 403) is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act (42 U.S.C. 402(w)(2)(B)(ii) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1993)".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1993.

By Mr. BUMPERS:

S. 208. A bill to reform the concessions policies of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

CONCESSIONS POLICY REFORM ACT OF 1993

Mr. BUMPERS. Mr. President, I rise today to introduce a bill to correct what I consider to be one of the major abuses that continues in this country, the way we award concession contracts in our national parks. I introduced this bill last year and held hearings as chairman of the Subcommittee on Public Lands, National Parks, and Forests. This is one of those things that people like "Prime Time Live" and "60 Minutes" and the press, from time to time, like to talk about because it is pretty outrageous the policies we have pursued in granting concession contracts in our national parks for many, many years.

I am obviously determined to do my best to correct this, as I have in the past. Secretary Lujan was aware of it and made some moves toward correcting these abuses. And in discussing this with our new Secretary of Interior, Secretary Babbitt, I feel that he not only is acutely aware of the problems but is willing to do something about them.

Let me just briefly state extemporaneously the present system under which we allow people to operate concession facilities in our national parks.

Mr. President, this issue has been simmering for some time, and the reason it has is because in 1991, which is the last year we have figures for, concessionaires in the national parks had gross incomes of about $620 million. The Park Service received in return, under the existing contracts, $18 million.

Now, if my arithmetic is correct, Mr. President, the U.S. Government and the taxpayers of America got less than a 3 percent return on all these park concession contracts—Yosemite, Grand Canyon, you name it—all those big contracts where they take in tens of millions of dollars, and the Government got less than a 3-percent return on what the park concessionaires earned.

Number two, when a contract expires, as the one in Yosemite is about to do, it is almost impossible under existing law for anybody else to get that contract because the existing concessionaire, barring some charge of a felony or cheating the Government, and so on, has what it called a "preferential right of renewal."

What that means, Mr. President, is that if I chose to go out and bid the contract at Yosemite, which is about to be relet—and, incidentally, I intend to hold a hearing on that contract because it goes right to the heart of what we are talking about. It may be a perfectly good contract and favorable to the Government. But I am going to hold a hearing on it to make sure, because it is one of the biggest contracts in the entire National Park System.

But how would you like to go, as I suggested a moment ago, to the National Park Service and say, "I would like to have the concession contract for example, Yosemite." After all, it is a $100 million operation. "I will give you a 10 percent return," and all of these other things. "I will build a new hotel." I will do all of these things. "The existing concessionaire there is only paying you a 3-percent return. So how about me bidding on it on a competitive basis?"

They say, "That is fine. What is your best offer?"

You tell them what you will do. Do you know what the Park Service does then? They go to the existing concessionaire and say, "We have a bidder who will give us 10 percent of what he takes in."

Do you know what that concessionaire has a right to do under existing law? He can meet my bid, and he gets the contract.

Now, you tell me, how many bidders are you going to attract when they know, no matter what they bid, the existing concessionaire has a right to meet your bid, and he gets the contract?

Now, that is not the way we do business in America, Mr. President. And I am proposing to change that. I want it done on a competitive basis. I said many times on the floor of the Senate that when I was Governor of my State, I assumed if we did anything but competitive bids, I would have gone to the slammer.

Third, Mr. President, is the concept of possessionary interest. And I want you to listen to this one. The concessionaire goes to the Park Service and says, "I would like to add a $10 million addition to the lodge."

So they negotiate with the Park Service, which says, "OK; you build this $10 million addition on the hotel." And here is the way it works. The concessionaire builds a $10 million addition on the hotel and depreciates it, we will say, over a 20-year period. And let us assume he has a 20-year contract. At the end of 20 years, he has taken a tax depreciation. For tax purposes, he has depreciated $500,000 a year. He has depreciated the entire $10 million investment. And then, if he loses the contract at the end of 20 years, he is entitled to what is called "sound value." Do you know what that is? That is essentially fair market value.

Mr. President, it is not inconceivable that the hotel he spent $10 million for is now worth $15 million, even though he has depreciated the entire $10 million for tax purposes.

Now, one of the reasons you do not have active bidding on these contracts is because whoever bids, if he gets the contract, has to pay the old concessionaire sound value, fair market value, of $15 million. Not only has the guy gotten $5 million back more than he paid in for it, but he has depreciated the thing for tax purposes. Now, how silly can we get?

Mr. President, the President pro tempore, who is presiding over the Senate right now, has heard me make a speech about mining law reform no less than 100 times. And if there is an abuse of the taxpayers of this country greater or as great as what is going on in the mining industry—which I will address Thursday on the floor of this body—it is the way we let these contracts to park concessionaires.

Now, Mr. President, every July 4, and at every Chamber of Commerce banquet, all 100 Members of this body go around talking about "I will treat your business as though it is my business; I will handle taxpayers' money as though it is my money. We will do business in a businesslike way." And then we allow this situation to continue.

I want to tell you something else, Mr. President. I have seen the National Rifle Association and some other lobby groups around here stretch their muscle a few times. There is one body, the National Park Concessioners Organization, which is almost as tough as the National Rifle Association. So I have no delusions about the difficulty of getting this bill passed. But it is inexcusable to continue such a policy.

Mr. President, my bill makes a few significant changes from last year's version. Last year, I provided that 50 percent—I believe it was 50 percent—of the franchise fees received by the Government would go to buy these possessionary interests. But I have changed it this year to provide that the money goes back to the Park Service to meet its most pressing needs, and to the park that generated the fees. The parks that generate the greatest fees are usually the ones most used and most abused and most threatened.

Now, there are some other provisions in here, Mr. President.

No contract will be for more than 10 years. Mr. President, you would be interested to know that a lot of these concessionaires have had these contracts in the family for 50 years. They are handed down the way a farm is handed down to the first-born son. And so we make a lot of changes. But first, we say: You do not have a preferential right to this contract. Second, you are going to have to compete with other people for the contract. Third, you do not have a possessionary interest any longer, and we are not going to allow you to continue to abuse the Tax Code—and the people of America at the same time—to your own enrichment.

I have nothing against these people. As a matter of fact, we have a lot of small operators who are outfitters, river runners, and guides, and we have exempted them under our bill from the preferential right of renewal limitation if they do not have a possessionary interest.

But I am telling you for us to sit idly by and go home and talk to the chamber of commerce about how terrible this deficit is and then to accept 3-percent return on park concessions or no return on the 4 billion dollars' worth of minerals being taken off Federal lands every year—we do not get a nickel for that, we get the happy joy of cleaning up the Superfund sites—they lose at a cost of anywhere from $5 to $50 billion.

Mr. METZENBAUM. Will the Senator yield?

Mr. BUMPERS. I yield.

The PRESIDENT pro tempore. The time of the Senator from Arkansas has expired.

Mr. BUMPERS. I ask unanimous consent that I be allowed to proceed in a colloquy with the Senator from Ohio for 3 minutes.

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

Mr. METZENBAUM. Mr. President, I rise to commend my colleague from Arkansas. He is right to target on this issue of the concession contracts. It is not a new issue. It is an issue that some of us fought for before, he fought for and I fought for, and we have run up against a stone wall. And regrettably some of the people in this body who are so anxious to balance the budget and talk about it all the time have been the ones who have been the most difficult in order to make it possible to pass legislation to do something about it.

This is one of the greatest ripoffs in the entire country. The Senator from Arkansas is trying to do something about it. I would consider it a privilege to be associated with him as a cosponsor of his legislation.

I, at the same time, wish him to know that I think once again on the question of grazing fees, another area where he has been the champion and leader in trying to bring about a modification of the present rules, he is right there. He could not be more right.

It is time that we do something to take some of this greed away from some people who are able to pay an unfair amount to the Government for grazing rights, and who are able to pay an unfair amount for concession contracts. It is an absolute absurdity to be getting less than 3 percent on the fees paid for concession contracts in this country.

I thank the Senator for his leadership. I thank him for allowing me the opportunity to publicly state my own view.

Mr. BUMPERS. Mr. President, I thank the Senator from Ohio very much for his kind remarks. I know he sat for years on the Energy Committee meetings where this issue has been debated and hearings have been held. He has always been on the cutting edge along with me. I thank him very much for the remarks.

I ask unanimous consent that the bill also be printed at the conclusion of my formal remarks.

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

The bill will be received and appropriately referred.

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

S. 208

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Concessions Policy Reform Act of 1993".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended, (16 U.S.C. 1, 2-4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of preserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress finds that the preservation of park values requires that public accommodations, facilities, and services be limited to those necessary and appropriate to carry out the approved management objectives for each park.

(b) POLICY.—It is the policy of the Congress that—

(1) public facilities or services shall be provided within a park only when the private sector or other public agencies cannot adequately provide such facilities or services in the vicinity of the park;

(2) if the Secretary determines that public facilities or services should be provided within a park, such facilities or services shall be limited to locations and designs consistent with the highest degree of resource preservation and protection of the aesthetic values of the park;

(3) such facilities and services should be awarded through competitive bid procedures; and

(4) such facilities or services should be provided to the public at reasonable rates.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "bid" means the complete proposal for a concessions contract offered by a potential or existing concessioner in response to the minimum requirements for the contract established by the Secretary;

(2) "concessioner" means a private person, corporation, or other entity to whom a concessions contract has been awarded;

(3) "concessions contract" means a contract, including permits, to provide facilities or services, or both, at a park;

(4) "facilities" means improvements to real property within parks used to provide accommodations, facilities, or services to park visitors;

(5) "park" means a unit of the National Park System; and

(6) "Secretary" means the Secretary of the Interior.

SEC. 4. REPEAL OF CONCESSIONS POLICY ACT OF 1965.

The Act of October 9, 1965, Public Law 89-249 (79 Stat. 969, 16 U.S.C. 20-20g), entitled "An Act relating to the establishment of concession policies administered in the areas administered by the National Park Service and for other purposes", is hereby repealed. The repeal of such Act shall not affect the validity of any contract entered into under such Act, but the provisions of this Act shall apply to any such contract except to the extent such provisions are inconsistent with the express terms and conditions of the contract.

SEC. 5. CONCESSIONS POLICY.

Subject to the findings and policy stated in section 2 of this Act, and upon a determination by the Secretary that facilities or services are necessary and appropriate for the accommodation of visitors at a park, the Secretary shall, consistent with the provisions of this Act, laws relating generally to the administration and management of units of the National Park System, and the park's general management plan, authorize private persons, corporations, or other entities to provide and operate such facilities or services as the Secretary deems necessary and appropriate.

SEC. 6. COMPETITIVE BID PROCEDURES.

(a) IN GENERAL.—Except as provided in subsection (b), and consistent with the provisions of subsection (f), any concessions contract entered into pursuant to this Act shall be awarded only through competitive bid procedures. Within 180 days after the date of enactment of this Act, the Secretary shall promulgate appropriate regulations establishing such procedures.

(b) TEMPORARY CONTRACT.—Notwithstanding the provisions of subsection (a), the Secretary may waive competitive bid procedures and award a temporary concessions contract in order to avoid interruption of services to the public at a park.

(c) PUBLICATION OF CONTRACT REQUIREMENTS.—Prior to soliciting bids for a conces-

sions contract at a park, the Secretary shall publish in the Federal Register the minimum bid requirements for such contract, as set forth in subsection (d). The Secretary shall also publish the terms and conditions of the previous concessions contract awarded for such park, and such financial information of the existing concessioner pertaining directly to the operation of the affected concessions facilities and services during the preceding contract period as the Secretary determines is necessary to allow for the submission of competitive bids. Any concessions contract entered into pursuant to this Act shall provide that the concessioner shall waive any claim of confidentiality with respect to the potential disclosure of such information by the Secretary.

(d) MINIMUM BID REQUIREMENTS.—(1) No bid shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include, but need not be limited to, the amount of franchise fee, the duration of the contract, and facilities or services required to be provided by the concessioner.

(2)(A) The Secretary may reject any bid, notwithstanding the amount of franchise fee offered, if the Secretary determines that the bidder is not qualified, is likely to provide unsatisfactory service, or that the bid is not responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(3) If all bids submitted to the Secretary either fail to meet the minimum bid requirements or are rejected by the Secretary, the Secretary shall establish new minimum bid requirements and re-initiate the competitive bid process pursuant to this section.

(e) CONGRESSIONAL NOTIFICATION.—(1) The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of $1,000,000 or a duration of greater than five years to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) The Secretary shall not ratify any such proposed contract until at least 60 days subsequent to the notification of both Committees.

(f) NO PREFERENTIAL RIGHTS OF RENEWAL.—(1) Except as provided in paragraph (2), the Secretary shall not grant a preferential right to a concessioner to renew a concessions contract executed pursuant to this Act.

(2)(A) Notwithstanding the provisions of paragraph (1), the Secretary may grant a preferential right of renewal to a concessioner—

(i) for a concessions contract which—

(I) authorizes a concessioner to provide outfitting or guide services (including, but not limited to "river running" or other similar services) within a park; and

(II) does not grant the concessioner any interest in any structure, fixture, or improvement pursuant to section 11 of this Act; and

(ii) where the Secretary determines that the concessioner has operated satisfactorily on all evaluations conducted during the term of the previous contract; and

(iii) where the Secretary determines that the concessioner's bid for the new contract satisfies the minimum bid requirements established by the Secretary.

(B) For the purpose of paragraph (2), the term "preferential right of renewal" means that the Secretary may allow a concessioner satisfying the requirements of subparagraph (A) the opportunity to match any higher bid submitted to the Secretary.

(g) NO PREFERENTIAL RIGHT TO ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services at a park.

SEC. 7. FRANCHISE FEES.

(a) IN GENERAL.—Franchise fees, however stated, shall be determined competitively from among those bids determined by the Secretary—

(1) to have satisfied the minimum bid requirements established pursuant to section 6(d); and

(2) to be responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(b) MINIMUM FEE.—Such fee shall not be less than the minimum fee established by the Secretary for each contract. The minimum fee shall provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

(c) OBJECTIVES OF FEE.—Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

SEC. 8. USE OF FRANCHISE FEES.

All receipts collected pursuant to this Act shall be covered into a special account established in the Treasury of the United States. Amounts covered into such account in a fiscal year shall be available for expenditure, subject to appropriation, solely as follows:

(1) 50 percent shall be allocated among the units of the National Park System in the same proportion as franchise fees collected from a specific unit bears to the total amount covered into the account for each fiscal year, to be used for resource management and protection, maintenance activities, interpretation, and research; and

(2) 50 percent shall be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research.

SEC. 9. DURATION OF CONTRACT.

(a) MAXIMUM TERM.—A concessions contract entered into pursuant to this Act shall be awarded for a term not to exceed ten years.

(b) TEMPORARY CONTRACT.—A temporary concessions contract awarded on a non-competitive basis pursuant to section 6(b) of this Act shall be for a term not to exceed two years.

SEC. 10. TRANSFER OF CONTRACT.

(a) IN GENERAL.—(1) No concessions contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner without prior written notification to, and approval of the Secretary. The Secretary shall not approve the transfer of a concessions contract to any individual, corporation or other entity if the Secretary determines that such individual, corporation or entity is, or will be, unable to adequately provide the appropriate facilities or services required by the contract.

(2) The Secretary shall reject any proposal to transfer, assign, sell, or otherwise convey a concessions contract if the Secretary determines that such transfer, assignment, sale or conveyance is not consistent with the objectives of protecting and preserving park resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(b) CONGRESSIONAL NOTIFICATION.—Within 30 days after receiving a proposal to transfer, assign, sell, or otherwise convey a concessions contract, the Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of such proposal. Approval of such proposal, if granted by the Secretary, shall not take effect until 60 days after the date of notification of both Committees.

SEC. 11. PROTECTION OF CONCESSIONER INVESTMENT.

(a) EXISTING STRUCTURES.—(1) A concessioner who before the date of the enactment of this Act has acquired or constructed, or has commenced acquisition or construction of any structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concessions contract, shall have a possessory interest therein, to the extent provided by such contract.

(2) The provisions of this subsection shall not apply to a concessioner whose contract in effect on the date of enactment of this Act does not include recognition of a possessory interest.

(3) With respect to a concessions contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (a)(1), except that the actual original cost of such structure, fixture, or improvement shall be deemed to be the value of the possessory interest as of the termination date of the previous concessions contract.

(b) NEW STRUCTURES.—(1) On or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concessions contract, shall have an interest in such structure, fixture, or improvement equivalent to the actual original cost of acquiring or constructing such structure, fixture, or improvement, less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles: *Provided*, That in no event shall the estimated useful life of such asset exceed 31.5 years.

(2) In the event that the contract expires or is terminated prior to the recovery of such costs, the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure, fixture, or improvement. A successor concessioner may not revalue the interest in such structure, fixture, or improvement, the method of depreciation, or the estimated useful life of the asset.

(3) Such costs shall be accounted for in the schedule of rates and charges established pursuant to section 13 of this Act.

(4) Title to any such structure, fixture, or improvement shall be vested in the United States.

(c) INSURANCE, MAINTENANCE AND REPAIR.—Nothing in this section shall affect the obligation of each concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

(d) PUBLIC REVIEW.—The construction of any new, additional, or replacement structure, fixture, or improvement involving costs of $1,000,000 or more, provided or financed by

a concessioner, upon land owned by the United States within a park, shall be authorized only after public review, including an opportunity for public hearings, to determine whether such construction is appropriate and consistent with the purposes of the National Park System, the laws relating generally to the administration and management of the system, and the park's general management plan. The requirements of this subsection may be satisfied by the public review and hearings associated with the development of the general management plan for the park.

SEC. 12. UTILITY COSTS.

(a) IN GENERAL.—A concessions contract entered into pursuant to this Act shall provide that the concessioner shall be responsible for all utility costs incurred by the concessioner.

(b) CONFORMING AMENDMENT.—Section 1 of the Act of August 8, 1953 (16 U.S.C. 1b) is amended in paragraph 4 by striking "concessioners,".

SEC. 13. RATES AND CHARGES TO PUBLIC.

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the bid specifications and contract, be judged primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variance, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

SEC. 14. CONCESSIONER PERFORMANCE EVALUATION.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, after an appropriate period for public comment, regulations establishing standards and criteria for evaluating the performance of concessions operating within parks.

(b) PERIODIC EVALUATION.—(1) The Secretary shall periodically conduct an evaluation of each concessioner operating under a concessions contract pursuant to this Act, as appropriate, to determine whether such concessioner has performed satisfactorily. If the Secretary's performance evaluation results in an unsatisfactory rating of the concessioner's overall operation, the Secretary shall prepare an analysis of the minimum requirements necessary for the operation to be rated satisfactory, and shall so notify the concessioner in writing.

(2) The concessioner shall be responsible for all costs associated with any subsequent evaluations resulting from an unsatisfactory rating.

(3) If the Secretary terminates a concessions contract pursuant to this section, the Secretary shall solicit bids for a new contract consistent with the provisions of this Act.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of each unsatisfactory rating and of each concessions contract terminated pursuant to this section.

SEC. 15. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been, and are being faithfully performed, and the Secretary or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary deems necessary.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner or subconcessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner or subconcessioner related to the contracts or contracts involved.

SEC. 16. EXEMPTION FROM CERTAIN LEASE REQUIREMENTS.

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this Act.

SEC. 17. CONFORMING AMENDMENT.

Subsection (h) of section 2 of the Act of August 21, 1935, the Historical Sites, Buildings and Antiquities Act (49 Stat. 666; 16 U.S.C. 462(h)), is amended by striking out the proviso therein.

CONCESSIONS POLICY REFORM ACT OF 1993
COMPARISON OF MAJOR ISSUES

The Concessions Policy Reform Act of 1993 makes several significant changes to existing National Bank concessions policies. Listed below are the major policy changes:

FRANCHISE FEES

Currently, franchise fees are determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the contract. In 1991, the average franchise fee received by the Federal Government was approximately 2.89 percent of gross revenues.

The Concessions Policy Reform Act provides that franchise fees shall be determined competitively from among bids the Secretary determines are responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates. The fee shall not be less than the minimum fee established by the Secretary. The minimum fee shall provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

COMPETITIVE BIDDING

The 1965 Act simply authorizes the Secretary to take such actions as may be appropriate to encourage and enable concessioners to provide and operate services and facilities in the National Park System.

The Concessions Policy Reform Act provides that concessions contracts are to be awarded through competitive bidding procedures. The Secretary is required to publish detailed bid requirements in the Federal Register, including the terms and conditions of the previous concessions contract for the park area; along with such financial information of the existing concessioner pertaining directly to the concessions operation as the Secretary determines necessary to allow for the submission of competitive bids. The Secretary may reject any bid, notwithstanding the franchise fee offered, if the Secretary determines that the bid is not responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

LENGTH OF CONTRACT

The 1965 Act does not provide for any limitation on the length of concessions contracts. At some of the larger national parks, the National Park Service has entered into 30 year contracts.

The Concessions Policy Reform Act of 1993 would limit a concessions contract to a term of no more than 10 years.

PREFERENTIAL RIGHT OF RENEWAL

Existing law provides that the Secretary shall grant a preferential right of renewal to an existing concessioner who has performed satisfactorily. The Secretary is also is authorized, but not required, to grant an existing concessioner a preferential right to provide new or additional services at the park.

The Concessions Policy Reform Act would prohibit the Secretary from granting a concessioner a preferential right of renewal or a preferential right to provide new or additional services at a park area. The only exception would be that outfitter and guide services which have performed satisfactorily and which do not have a possessory interest, would be allowed a preferential right of renewal, provided certain criteria are satisfied. Because there are normally multiple companies providing the same or similar-type outfitter services within a specific park, and because no possessory interest is involved, retention of a preferential right of renewal will not serve as a barrier to increased competition.

POSSESSORY INTEREST

Current law states that a concessioner who acquires or constructs any structure within a National Park pursuant to a concessions contract shall have a possessory interest in such structure. The possessory interest is defined as "all incidents of ownership except legal title" and is valued as the replacement cost of the structure, less depreciation. If the concessioner's contract is terminated, or the contract is awarded to a new concessioner, then the Park Service or (in the case of a new contract) the new concessioner is responsible for compensating the previous concessioner for the possessory interest, which for all practical purposes is the fair market value of the structure.

The Concessions Policy Reform Act provides that an existing concessioner who has already constructed, or who has commenced acquisition or construction of a structure pursuant to a concessions contract, shall have a possessory interest to the extent provided by the current concessions contract. If the concessioner does not currently have a possessory interest, the bill makes clear that no new possessory interest is created.

The bill also provides that with respect to new concessions contracts, a concessioner who constructs or acquires a structure within a National park shall, in the event the contract expires or is terminated, be entitled to receive payment equal to the actual original cost (as compared with the existing law's requirement of replacement cost) of acquiring or constructing the structure, less depreciation.

Finally, the bill states that if an existing concessioner with a possessory interest is awarded a new concessions contract, the value of the existing possessory interest from the date of the new contract will be depreciated over a period not exceeding 31.5 years.

USE OF CONCESSIONS REVENUES

The 1965 law provides that the revenues derived from franchise fees are deposited into

the Treasury of the United States. None of the revenues are specifically designated for part-related funding.

Under the Concessions Policy Reform Act, revenues will be deposited into a special account in the Treasury, to be used for resource management and protection, maintenance activities, interpretation, and research. Subject to appropriation, 50 percent of the revenues are to be allocated among units of the National Park System in the same proportion as franchise fees are collected, and 50 percent are to be allocated among park units on the basis of need, to be determined by the Secretary.

CONCESSIONS POLICY

The 1965 Act states that development of concessions facilities shall be limited to those that are necessary and appropriate for public use and enjoyment of the national park area and that are consistent to the highest practicable degree with the preservation and conservation of the area.

The Concessions Policy Reform Act provides that facilities and services shall be provided within a park area only when the private sector or other public agencies cannot adequately provide such facilities or services in the vicinity of the park area.

If facilities or services are to be provided within a park area, they shall be limited to locations and designs consistent with the highest degree of resource preservation and protection of the aesthetic value of the park. The bill also states that facilities or services should be awarded through competitive bidding procedures and that they should be provided to the public at reasonable rates.

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1993—SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the "National Park Service Concessions Policy Reform Act of 1993."

Section 2 contains the Congressional findings and policy.

Section 3 defines certain terms used in the Act.

Section 4 repeals the Concessions Policy Act of 1965 in its entirety. The section provides that the repeal is not to affect the validity of existing concessions contracts, except that the provisions of this Act are to apply to existing contracts to the extent the provisions of this Act are not inconsistent with the express terms and conditions of the contract.

Section 5 sets forth the concessions policy for the National Park Service. The section authorizes the Secretary of the Interior (the "Secretary") to permit necessary and appropriate concessions operations within National Parks, consistent with the provisions of this Act, laws relating generally to the management of units of the National Park System, and the specific park's general management plan.

Section 6 provides for awarding of concessions contracts through competitive bid procedures. Subsection (a) states that except for temporary contracts awarded pursuant to subsection (b), and consistent with the preferential right of renewal for certain outfitter and guide concessioners set forth in subsection (f), all contracts are to be awarded only through competitive bid procedures. The Secretary is directed to promulgate appropriate regulations within 180 days after the date of enactment of this Act.

Subsection (b) states that the Secretary may waive competitive bid procedures and award a temporary concessions contract in order to avoid interruption of services to the public at a park.

Subsection (c) requires that the Secretary publish the minimum bid requirements for a concessions contract in the Federal Register prior to soliciting bids for the contract. The Secretary is also directed to publish the terms and conditions of the previous concessions contract and such financial information of the existing concessioner pertaining directly to the operation of the affected concessions facilities and services as the Secretary determines is necessary to allow for the submission of competitive bids.

Subsection (d)(1) provides that the Secretary may not consider any bid which fails to meet the minimum bid requirements as determined by the Secretary. The minimum bid requirements include, but are not limited to, the amount of franchise fee, the duration of the contract, and the facilities or services required to be provided by the concessioner.

Paragraph (2) makes clear that the Secretary may reject any bid, regardless of the franchise fee offered, if the Secretary determines that the bidder is not qualified, is likely to provide unsatisfactory service, or that the bid is not responsive to the objectives of protecting and preserving the park or of providing necessary and appropriate services to the public at reasonable rates.

Paragraph (3) directs the Secretary to establish new minimum bid requirements and reinitiate the competitive bid process if all bids either fail to meet the minimum bid requirements or are rejected by the Secretary.

Subsection (e) requires the Secretary to submit to the appropriate Congressional Committees any proposed concessions contract with anticipated gross receipts in excess of $1,000,000, or for a duration of more than five years. The Secretary is prohibited from ratifying any proposed contract until at least 60 days after such Congressional notification.

Subsection (f)(1) states that except as provided in paragraph (2), the Secretary may not grant a concessioner a preferential right to renew a concessions contract.

Paragraph (2) permits, but does not require, the Secretary to grant a preferential right of renewal for a concessions contract for outfitter or guide services, provided that the contract does not grant the concessioner an interest in real property (as provided in section 11), the Secretary determines that the concessioner has operated satisfactorily for all evaluations conducted during the previous contract period, and the concessioner's bid for the new contract satisfies the minimum bid requirements established by the Secretary.

Subsection (g) prohibits the Secretary from granting a concessioner a preferential right to provide new or additional services at the park.

Section 7(a) provides that franchise fees are to be determined competitively and shall not be less than a minimum level that the—

Subsection (b) states that the franchise fee shall not be less than the minimum fee established by the Secretary for each concessions contract. The minimum fee is to be set so as to provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

Subsection (c) states that consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the park's resources, and of providing appropriate facilities and services to the public at reasonable rates.

Section 8 establishes a special account in the Treasury of the United States for all receipts collected pursuant to this Act. Subject to appropriation, 50 percent of the franchise fees receipts collected are to be allocated among park units in the same proportion as the percent of franchise fees collected, and 50 percent are to be allocated among park units on the basis of need, in a manner to be determined by the Secretary. Monies expended for parks are to be used for resource management and protection, maintenance activities, interpretation, and research.

Section 9 provides that a concessions contract shall be awarded for a term not to exceed ten years.

Subsection (b) states that a temporary concessions contract shall be for a term not to exceed two years.

Section 10(a) provides that no concessions contract may be transferred, assigned, sold, or otherwise conveyed without prior written notification to, and approval of the Secretary. The Secretary is prohibited from approving any conveyance if the Secretary determines that the new concessioner will be unable to adequately provide the facilities or services required by the contract or that the conveyance is not consistent with the objectives of protecting and preserving the park or of providing necessary and appropriate facilities or services to the public at reasonable rates.

Subsection (b) directs the Secretary to notify the appropriate Congressional Committees within 30 days after receiving a proposal to convey a concessions contract. Secretarial approval of any conveyance may not occur until 60 days after such notification to the Committees.

Section 11 pertains to the protection of concessioner investments. Subsection (a) provides that a concessioner who has commenced acquisition or construction of any structure on Federal land within a park shall have a possessory interest in such structure, to the extent provided by such contract. Paragraph (2) makes clear that this provision does not create a new possessory interest for concessioners whose contract does not include recognition of a possessory interest.

Paragraph (3) states that with respect to a concessions contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) (dealing with new structures) shall apply to such structure, except that for the purpose of establishing the value of the interest, the term "actual original cost" of the structure is deemed to be the value of the possessory interest as of the termination date of the previous concessions contract.

Subsection (b)(1) provides that on or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure within a park shall be entitled to receive from the United States or a successor concessioner payment equivalent to the actual original cost of acquiring or constructing such structure, less straight line depreciation, in the event the contract expires or is terminated by the Secretary. The structure is to be depreciated over its estimated useful life, not to exceed 31.5 years.

Paragraph (2) states that if the contract expires or is terminated prior to the full depreciation of the structure, the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure. The paragraph also makes clear that a successor concessioner may not revalue the interest in the

structure, the method of depreciation, or the estimated useful life of the structure.

Paragraphs (3) and (4) provide that the depreciation costs are to be taken into account in the schedule of rates and charges established pursuant to section 13 of this Act. Title to any such structure, fixture or improvement shall be vested in the United States.

Subsection (d) makes clear that the provisions of this section do not affect the obligation of a concessioner to insure, maintain, and repair structures assigned to the concessioner.

Subsection (d) provides that construction of a new, additional, or replacement structure involving costs of $1,000,000 or more, provided or financed by a concessioner on Federal land within a park, shall be authorized only after public review, including an opportunity for public hearings. The Secretary is also required to notify the appropriate Congressional Committees prior to approving any such construction.

Section 12 requires that a concessions contract must provide that the concessioner shall be responsible for all utility costs incurred by the concessioner.

Subsection (b) makes a conforming change to existing law by deleting the Secretary's authority to provide utility services to concessioners on a reimbursement of appropriation basis.

Section 13 provides that the reasonableness of a concessioner's rates and charges to the public shall be judged primarily by comparison with those rates and charges for similar facilities and services.

Section 14(a) directs the Secretary to publish regulations establishing standards and criteria for evaluating the performance of concessions operations within 180 days after the date of enactment of this Act.

Subsection (b) requires the Secretary to conduct periodic evaluations of each concessioner to determine whether such concessioner has performed satisfactorily. The Secretary is to provide a concessioner rated as operating unsatisfactorily with an analysis of the minimum requirements necessary for the operation to receive a satisfactory rating. If the concessioner terminates a contract pursuant to this section, the new contract is to be awarded pursuant to the requirements of this Act.

Subsection (c) states that the Secretary is to notify the appropriate Congressional Committees of each unsatisfactory rating and of each contract terminated pursuant to this section.

Section 15(a) requires each concessioner to maintain such records as the Secretary requires to enable the Secretary to determine that all terms of the concessioner's contract are being faithfully performed. The subsection also authorizes the Secretary to have access to such financial information as the Secretary deems necessary to ensure that the terms and conditions of the contract are being complied with the concessioner.

Subsection (b) provides that the General Accounting Office shall have access to financial records of a concessioner for five years after the close of the fiscal year of each concessioner.

Section 16 states that the provisions of a 1932 Act relating to the leasing of Federal buildings and properties shall not apply to concessions contracts.

Section 17 makes a conforming amendment to the Historic Sites Act of 1935.

By Mr. PELL (for himself and Ms. MIKULSKI):

S. 209. A bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes; to the Committee on Governmental Affairs.

THE PREVAILING WAGE RATE ADJUSTMENT ACT OF 1993

• Mr. PELL. Mr. President, I am pleased to be joined today by my distinguished colleague from Maryland, Senator MIKULSKI, in introducing legislation to correct an injustice affecting thousands of Federal Government workers who are paid under the so-called prevailing wage rate system. I am also pleased that my colleague Congressman GEORGE HOCHBRUECKNER of New York is introducing identical legislation in the House of Representatives.

Our bill, the Prevailing Wage Rate Adjustment Reform Act of 1993, will give Federal blue-collar workers in the Federal Wage System [FWS] full adjustments to their pay based on the annual local wage survey of private industries in each wage grade area. This legislation is necessary because in every year since 1979 an appropriations pay cap has been placed on the annual adjustments to FWS pay, limiting any increase to that received by General Schedule [GS] employees.

This pay cap is contrary to the intent of the Congress which established the FWS to pay Federal blue-collar workers according to the private sector wages in each of the 135 geographic wage grade areas across the country. After more than a decade of the continuous application of these pay caps, salaries of FWS workers no longer reflect the local prevailing rate paid to employees in similar jobs in private industry. In fact, FWS worker salaries now lag an average of 10 percent behind those paid in the private sector. In some areas the situation is more severe because private sector wages have risen far more sharply. For example, in the Narragansett Bay wage grade area in Rhode Island, FWS workers are paid on average more than 17 percent less than their private sector counterparts. The pay gap varies both by geographic area and grade level and can range from 0 to 35 percent.

I ask unanimous consent that a list of all the wage grade areas ranked by the average pay gap in each area be included in the RECORD.

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

FEDERAL WAGE SYSTEM APPROPRIATED FUND EMPLOYEE COUNTS AND PAY GAPS

[National average pay gaps = 9.55 percent; sorted by average pay gap]

Wage area name	Number employee	Average pay gap	Gap range	
			Minimum (percent)	Maximum (percent)
Richmond, VA	2,496	32.41	31.05	35.54
Dothan, AL	620	26.12	22.11	30.17

FEDERAL WAGE SYSTEM APPROPRIATED FUND EMPLOYEE COUNTS AND PAY GAPS—Continued

[National average pay gaps = 9.55 percent; sorted by average pay gap]

Wage area name	Number employee	Average pay gap	Gap range	
			Minimum (percent)	Maximum (percent)
New Haven-Hartford, CT	735	24.90	22.38	27.50
Shreveport, LA	567	23.53	20.11	26.42
Huntsville, AL	271	21.97	3.47	32.77
Buffalo, NY	642	20.96	11.29	27.59
Northeastern AZ	2,054	20.94	2.65	32.06
Boston, MA	2,956	20.43	6.57	30.02
Charlotte, NC [1]	335	19.41	4.05	26.55
Southwestern, MI	645	18.94	8.08	25.22
Wichita Falls, TX-SW OK	954	18.64	8.38	41.28
Dallas-Fort Worth, TX	1,654	18.64		30.34
Narragansett Bay, RI	940	17.93	7.51	25.58
Nashville, TN	1,973	17.69	1.00	27.80
Santa Barbara, CA	520	17.37		32.91
Philadelphia, PA	11,276	16.98	1.65	26.72
Wilmington, DE [2]	968	16.79		29.06
Syracuse-Utica-Rome, NY	1,038	16.74		31.13
Eastern TN	480	16.63	12.58	19.14
Indianapolis, IN	1,970	16.36	1.71	25.96
Topeka, KS	1,179	15.87	1.46	30.46
Central and Western MA [2]	861	15.70	13.29	18.62
Albany, GA [2]	1,216	15.44	5.01	24.20
Wichita, KS	760	15.25	2.37	22.89
Tulsa, OK	1,295	15.23		23.55
Corpus Christi, TX	3,694	15.06	1.53	23.93
Portland, ME	223	14.76	12.48	18.73
New London, CT	517	14.49	11.86	16.48
North Dakota	1,288	14.46		31.73
Davnprt, IA-Rck Isd, IL-Moline, IL	1,835	13.92	9.75	20.71
Savannah, GA	1,259	13.49	7.92	16.84
Meridian, MS	626	13.44	4.27	19.29
Detroit, MI	1,818	13.42	5.82	20.95
Texarkana, TX [2]	3,332	13.08	11.26	18.08
Louisville, KY	3,263	13.01	8.28	15.84
Portsmouth, NH [2]	4,885	12.96	11.93	14.39
Orlando, FL	284	12.91	5.36	15.79
Seattle-Everett-Tacoma, WA	13,055	12.65	2.81	20.52
St Louis, MO	2,305	12.65		25.42
Rochester, NY	1,150	12.41	10.86	15.07
Bloomington-Bedford-Washington, IN	1,304	12.28	9.39	19.60
Columbus, OH	3,237	12.06		21.75
Fort Wayne-Marion, IN [2]	813	11.48	3.41	20.11
Madison, WI [1]	181	11.41		21.96
West Virginia	984	11.24		17.89
Roanoke, VA	340	11.20	5.78	16.28
Atlanta, GA	1,948	11.14	5.92	14.31
San Bern-Riverside-Ontario, CA	3,236	11.08	2.25	22.49
Minneapolis, MN-St. Paul, WI	1,444	11.04	2.49	16.00
Cedar Rapids-Iowa City, IA	256	10.87	.48	20.94
Augusta, ME	245	10.70		22.78
Cincinnati, OH	377	10.61		18.50
Omaha, NE	1,403	10.61		20.10
Panama City, FL	599	10.46	9.62	14.67
Washington, DC	15,305	10.21		16.20
Dayton, OH	2,458	10.20	.21	16.25
Central, NC	2,357	10.19	6.93	11.29
Reno, NV	847	10.14	.72	17.93
Southeastern NC (1)	4,081	9.97	6.06	12.27
Pensacola, FL (1)	4,779	9.69	.63	14.61
San Diego, CA	7,787	9.42		20.65
Las Vegas, NV	466	9.36	3.56	12.66
Asheville, NC	290	9.27	8.43	10.60
New York, NY	5,741	9.20	4.13	12.62
Houston-Galveston-Texas City, TX	992	9.06	.39	17.06
Columbia, SC	1,393	9.01	6.51	9.77
Los Angeles, CA	9,043	8.81		20.66
Harrisburg, PA	3,794	8.64		18.80
Jackson, MS	1,284	8.62		16.27
Norflk-Prtsmth-N Nws-Hamptn, VA [2]	15,951	8.60	.12	14.63
San Francisco, CA	14,055	8.54		14.86
Anniston-Gadsden, AL [2]	3,268	8.50	4.41	16.59
Denver, CO	1,862	8.39		19.18
Tampa-St Petersburg, FL	976	8.31		15.76
Albuquerque, NM	1,498	8.29		15.82
Lexington, KY	1,120	8.25	.84	13.40
San Antonio, TX [2]	10,781	8.21		13.43
Northwestern MI	545	8.20	1.23	14.66
Stockton, CA	2,122	8.07	3.28	11.70
Augusta, GA	759	8.04	4.17	18.78
Southeastern WA-Eastern OR	462	7.86		14.32
Albany-Schenectady-Troy, NY	1,614	7.86		17.43
Scranton-Wilkes Barre, PA [2]	2,545	7.60	5.96	9.70
New Orleans, LA [2]	802	7.40		14.02
Oklahoma City, OK [2]	7,702	7.35	1.23	15.89
Pittsburgh, PA	2,020	7.31		13.10
Cocoa Beach-Melbourne, FL	417	7.07		12.02
Lake Charles-Alexandria, LA	1,370	7.07		14.27
Newburgh, NY	1,656	6.76	.86	11.97
Northern NY	1,600	6.70	6.50	7.05
Salinas-Monterey, CA	1,030	6.62	.83	22.54
Duluth, MN [2]	260	6.50	1.97	16.40
Phoenix, AZ	1,590	6.23		14.21
Utah	10,075	6.12		13.92
Hagrtwn, MD-Martins, W VA-Chamb, PA	2,873	5.92	.29	17.03
Cleveland, OH	1,410	5.85		12.49
Kansas City, KS/MO	1,730	5.57		15.30
Columbus-Aberdeen, MS	561	5.44	2.50	10.43

FEDERAL WAGE SYSTEM APPROPRIATED FUND EMPLOYEE COUNTS AND PAY GAPS—Continued

[National average pay gaps = 9.55 percent; sorted by average pay gap]

Wage area name	Number employee	Average pay gap	Gap range	
			Minimum (percent)	Maximum (percent)
Waco, TX	2,280	5.42	1.85	8.77
Champaign-Urbana, IL	880	5.36	.....	11.74
Baltimore, MD	4,567	5.09	.....	8.15
Chicago, IL	3,183	4.71	.....	9.53
Southwestern WI	980	4.55	3.14	5.39
Hawaii	7,691	4.36	1.34	6.28
Sacramento, Ca	7,331	4.18	.....	8.59
Columbus, GA	2,570	4.13	.....	16.21
Milwaukee, WI	870	4.07	.....	9.96
Macon, GA[2]	6,168	3.93	1.30	23.71
Boise, ID[2]	661	3.86	.....	9.96
Portland, OR	1,550	3.58	.....	8.83
Des Moines, IA	827	3.26	.57	5.22
Biloxi, MS	1,385	3.21	2.72	4.40
Wyoming	1,665	3.15	.....	10.75
Puerto Rico	1,103	3.00	.33	5.02
Central and Northern ME	618	2.82	.....	15.01
Great Falls, MT	1,623	2.58	.....	5.80
Oscoda-Alpena, MI	273	2.47	.....	9.98
Fresno, CA	1,386	1.94	.....	6.10
Memphis, TN	2,691	1.86	.18	9.04
Southwestern OR	979	1.75	.....	2.98
Tucson, AZ[2]	1,439	1.69	.....	6.80
Little Rock, AR	2,515	1.51	.45	7.26
Southern MO	684	1.41	.35	3.64
Miami, FL	1,505	1.39	.....	2.73
Southern and Western CO	2,217	1.37	.....	6.81
Spokane, WA	1,025	1.29	.....	4.97
Western TX	670	1.22	.....	2.85
Eastern SD	619	1.17	.....	4.76
Charleston, SC	7,318	1.08	.06	6.65
Jacksonville, FL[2]	3,738	1.01	.....	7.21
El Paso, TX	2,354	.85	.....	2.80
Birmingham, AL[1]	393	.55	.....	1.85
Dubuque, IA	136	.46	.....	2.91
Alaska	2,923	.29	.....	2.28
Austin, TX[2]	582	.00	.....	.....
Total/averages	326,976	9.55	.....	41.28

[1] Monroney areas—used non-DoD schedules (most populous schedules)
[2] Monroney areas—used DoD schedules (most populous schedules).

Note.—This list reflects those schedules in effect on 9/30/91 for regular schedule and production facilitating employees.

Mr. PELL. Federal blue-collar employees are a very important component of our Federal work force and for far too long they have been treated like our poor cousins. These are the workers who help to serve our veterans, who maintain our national parks and Government buildings and equipment, and who support our Nation's defense. The work they do should not be underestimated and it is time to stop treating them like second-class citizens.

The result of the pay cap is not only an injustice to Federal workers, but a severe recruitment and retention problem for Federal Government agencies. The FWS system provides for special exceptions to be made in determining wages in cases where there are recruitment and retention problems, but the pay caps have forced a situation where these special exceptions are not adequate to provide a satisfactory solution. Indeed, the special pay alternatives that do exist are now being used as a substitute for adequate comprehensive pay adjustments instead of for the intended purpose of dealing with unusual and limited recruitment and retention problems.

This situation is unfair. It is unfair to all Federal blue-collar employees who were promised fair wages by Congress when the prevailing rate system was designed. And it is particularly unfair now that the white-collar pay system has been reformed to include locality based comparability payments to bring GS salaries in line with private sector wages in local wage areas. The inequities in the Federal Wage System can no longer be tolerated. The bill which we are introducing will do a very simple thing—it will lift the pay cap on Federal blue-collar wages and allow the system to work as it was intended. While a blanket removal of the pay cap may seem to be an unlikely prospect given the size of the Federal budget deficit, the cost of the bill is a measure of the inequity these employees have suffered. If it is not possible to provide total relief to all FWS workers, I believe consideration must be given to providing some relief to those areas in the country that have fallen farthest behind.

Some authorities have argued that the pay cap should be removed gradually. Both the Office of Personnel Management [OPM] in a report to Congress on the problems in the FWS and the U.S. Merit Systems Protection Board [MSPB] in a report entitled "Federal Blue-Collar Employees: A Workforce in Transition" have called for a phase out of the pay caps. These reports also promote various reforms to the system.

Our bill provides the simplest and most immediate way to make the system more fair and equitable, and would be a good starting point for the discussion of changing the FWS. If other changes or reforms must also be made, it is important that we start that dialogue now. The MSPB interviewed numerous individuals involved in the Federal Wage System and in its report it notes that—

pay was one of the first and most frequently mentioned issues. Virtually all of the comments about pay called for a removal of the pay cap. The cap was consistently seen by blue-collar employees, supervisors, and also more than a few white-collar managers as an unfair restriction on the long standing principle that blue-collar pay be based on prevailing rates.

I could not agree more, and as a simple matter of equity we must act now to close the pay disparity gap for Federal blue-collar workers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 209

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 "Prevailing Wage Rate Adjustment Reform Act of 1993".

SEC. 2. WAGE RATES.

Without regard to any other provision of law limiting the amounts payable—

(1) to a prevailing rate employee defined under section 5342(a)(2) of title 5, United States Code;

(2) to an employee covered by section 5348 of such title; or

(3) to any other employee subject to section 616 of the Treasury, Postal Service, and General Government Appropriations Act, 1993, Public Law 102-393; 106 Stat. 1768;

such employees shall be paid, beginning on the effective date of each annual wage survey adjustment in the region after the date of the enactment of this Act, wages as determined and established in accordance with the provisions of subchapter IV of chapter 53, title 5, United States Code.●

By Mr. WOFFORD:

S. 210. A bill to provide for cost-of-living adjustments for pay and retirement benefits for Members of Congress and certain senior Federal officials to be limited by the amount of Social Security cost-of-living adjustments, and for other purposes; to the Committee on Governmental Affairs.

LIMITATIONS ON COST-OF-LIVING ADJUSTMENTS FOR MEMBERS OF CONGRESS AND CERTAIN SENIOR FEDERAL OFFICIALS

● Mr. WOFFORD. Mr. President, in this new Congress, I'll be introducing a series of bills designed to improve our economic competitiveness, protect our natural environment, build a system of national and community service and invest in the future of Pennsylvania communities. Most importantly, I'll also continue and intensify my efforts with my colleagues and our new President to craft reform legislation that will control costs and make health care affordable for every American.

Today I am proposing action on one of the other central priorities that President Clinton stressed in his inaugural speech action to ensure that Congress doesn't forget "those people whose toil and sweat sends us here and pays our way." I propose to ensure that no Members of Congress or senior executive branch officials receive a cost-of-living adjustment to their salaries which exceeds that given to those millions of older Americans struggling to make ends meet on their Social Security checks.

Ever since I came to the Senate I've shared the belief that we must "put aside personal advantage so that we can feel the pain and see the promise of America." So I rejected the use of taxpayer-financed, self-promotional mass mail and returned funds intended for that use to the U.S. Treasury. I rejected a congressional pay raise and am giving the increase to charity. And I offered legislation to end the valuable free health care that Members of Congress received from the Office of Attending Physician in the Capitol—a goal that was accomplished as of May 1, 1992, by an agreement between House and Senate leaders.

It's unfair for Members of Congress and senior executive branch officials to receive a higher cost-of-living adjustment to their salaries and pensions than millions of Americans living on Social Security. This year Social Security retirement benefits will increase only 3 percent—which amounts to a $19

increase in the average monthly benefit.

In contrast, Members of Congress and senior executive branch officials are slated to receive a 3.2-percent increase. And unlike most private sector pensions, this automatic increase will also apply to the pensions of Members of Congress and senior executive branch officials. Now more than ever, most people who receive pensions have no assurance that their benefits will be adjusted for inflation. In fact, they increasingly have to worry whether the promise of that pension will be kept at all.

For this year, I have limited the cost-of-living adjustment for my own staff and for myself to that received by Social Security retirees. I urge my colleagues to take this step as well.

For future years, I am introducing legislation to put Members of Congress and senior executive officials on the same footing as those who depend on Social Security for their retirement. It would base the cost-of-living adjustments to the salaries and pensions of Members of Congress and senior executive branch officials on the same formula used to calculate the increase for Social Security retirees. For former Members and senior officials, my bill would ensure that cost-of-living adjustments would be given only on that amount of their pension allowed under Social Security.

This legislation also seeks to end the controversy surrounding whether cost-of-living adjustments for Members of Congress violate the 27th amendment to the Constitution. My bill would allow Members of Congress' salaries to be adjusted only in nonelection years. All working Americans and retirees—deserve to have their wages and pensions reflect the costs of inflation. But at the dawn of this new era in which we resolve to reform our politics and make Government responsible once again to the people, it's important for our elected Representatives and senior officials to be in the same boat as the people they were sent here to serve.•

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. DOMENICI, Mr. SIMON, Mr. DASCHLE, Mr. GORTON, Mr. BOREN, Mr. MURKOWSKI, Mr. BAUCUS, Mr. CAMPBELL, and Mr. BINGAMAN):

S. 211. A bill to amend the Internal Revenue Code of 1986 to provide tax credits for Indian investment and employment, and for other purposes; to the Committee on Finance.

INDIAN EMPLOYMENT AND INVESTMENT ACT OF 1993

• Mr. MCCAIN. Mr. President, I rise today on behalf of myself and Senators INOUYE, DOMENICI, SIMON, DASCHLE, GORTON, BOREN, MURKOWSKI, BAUCUS, CAMPBELL, and BINGAMAN to introduce the Indian Employment and Investment Act of 1993. This bill is identical to the McCain-Inouye amendment that was offered last year to H.R. 11, the Revenue Act of 1992. That amendment was adopted by the Senate and agreed to in conference.

Before I explain the purpose of this legislation, I want to publicly express my deep appreciation to former chairman and now Treasury Secretary Lloyd Bentsen and Senator BOB PACKWOOD for giving serious consideration to the economic plight of Indian tribes across the Nation and for agreeing to include the McCain-Inouye amendment in H.R. 11. I look forward to working with Chairman MOYNIHAN and Senator PACKWOOD in examining how this legislation might be integrated with the economic stimulus package that will be proposed by the new administration.

The purpose of this legislation is to provide a program of investment and employment incentives that can attract private industry and capital, expand existing industry, and make the private sector a permanent source of economic development on Indian reservations. The bill provides for two Indian tax credits: an investment tax credit and an employment tax credit.

The employment credit provides for a 10-percent credit to the employer based on the qualified wages and qualified health insurance costs paid to an Indian. As an added incentive, a significantly higher employment credit of 30-percent is offered to reservation employers having an Indian work force of at least 85 percent. The amendment is limited to those employees who do not receive wages in excess of $30,000. The credit, which focuses on job creation, would be allowed only for the first 7 years of an Indian's employment.

The investment tax credit is geared specifically to Indian reservations where Indian unemployment levels are unconscionable—the credit being limited in its applicability to businesses locating on Indian reservations where the unemployment rate exceeds the national average by at least 300 percent. This particular credit offers a higher percentage credit for investment in Indian country in order to help mitigate unique problems endemic to Indian country—particularly the enormous lack of infrastructure—which is not commonly shared by other depressed areas. In addition, a higher ITC establishes a differential apart from the rest of the Nation, since Indian country—both historically and at the present time—cannot successfully compete with other areas—including some depressed communities—in attracting businesses due to the double taxation, infrastructure deficits, and related problems.

I want to take a moment to highlight for the benefit of my colleagues several important provisions that are contained in this bill. They include:

First, antigaming restrictions, which would prevent both the investment and employment credits from being used with respect to the development and/or operation of gaming establishments on Indian reservations.

Second, a restriction on the employment credit to new hires only, thereby emphasizing the bill's intent to create new jobs or to expand existing businesses on reservations.

Third, an antichurning amendment to the employer credit provision, to avoid creating an incentive for an employer to discharge current employees and replace them with new or rehired employees after enactment of the bill; and

Fourth, an allowance of one-half of the investment tax credit for qualifying investments on reservations where employment exceeds 150 percent but does not exceed 300 percent of the national unemployment rate, thereby recognizing serious Indian unemployment rates which do not rise to the 300-percent level covered by the general rule.

Mr. President, I harbor no illusion that this legislation is the panacea for all the economic ills afflicting Indian reservations today. I do believe, however, that the adoption of a specific program of Indian tax incentives would be an important first step toward the goal of providing Indian tribal governments with the opportunity to strengthen their economies.

I, of course, remain open to further suggestions as to how this bill can be improved. My goal has always been to fashion a bill that can best meet the needs of Indian communities. I also want to ensure that this bill can be integrated with the economic stimulus package to be worked out between the Congress and the administration. It would be simply unconscionable, however, for the Congress or the administration to allow the existing deplorable socioeconomic conditions to continue within the borders of this Nation. The bill I am introducing today is necessary to ensure that Indian communities—perhaps the most neglected and misunderstood segment of our society—are fully included as we reach out to address the issues of poverty and unemployment in this country. Indian tribal governments—more than any other unit of government within our constitutional system—are deeply affected by the decisions we make here in the Congress.

It has been my privilege to work with Indian tribal governments for over 10 years. During that time one of the fundamental lessons I've learned is that the policies which have been most effective and have brought about meaningful change are those policies which have been closely coordinated with Indian tribal governments.

The Indian Employment and Investment Act meets the threshold test of tribal consultation. In this instance, I have introduced Indian tax incentive

legislation in various forms over the last 10 years. During that time, numerous tribal leaders have offered constructive suggestions as to how such legislation might be amended to better meet their needs. I want to publicly thank all of the tribal leaders who offered their input. I also want to acknowledge the leadership of the Honorable Peterson Zah, president of the Navajo Nation, for his exceptional advocacy on behalf of this specific economic proposal.

I would remind my colleagues that under our Constitution, the Congress has the ultimate authority for Federal Indian policy. For the better part of two centuries, the Congress so poorly exercised that authority that Federal Indian policy became infamous for its shortsightedness, inconsistency, and disruptive consequences.

The reasons for this failure, I believe, is that the Federal Government has tried to dictate and control the development of Indian reservations economies. Government control does not work. Instead, the real economic impact of direct Federal spending has been limited to the planning and other jobs connected to the Federal spending itself. This, of course, disappears once the Federal spending is gone. No long-term viable economy results. Certainly not one that can be self-sustaining.

I believe for several reasons that a strategy of tax incentives such as this legislation proposes is the most effective way that the Federal Government can act to stimulate reservation economic development. Tax incentives do not depend for their effectiveness on the actions of Federal bureaucracies that are often slow moving and unimaginative. The incentives are usable only by viable businesses that expect to earn some profits and hence to have tax obligations against which credits and deductions can be used to diminish their tax obligations. The Federal Government therefore does not spend anything until a real business is created on a reservation and there exist real jobs and real income generated for the benefit for reservation residents. Unlike direct spending programs, if there is no benefit, there is also no cost.

Similarly, there is a minimum of Federal spending required for studies, planning, impact analyses and all the other ways in which substantial Federal funds can be exhausted and yet no businesses, no jobs, and no real economic development are yet in sight. In all too many cases in the past, the real economic impact of direct Federal spending programs has been limited to the planning and other jobs connected to the Federal spending itself. This, of course, disappears once the Federal spending is gone. No long-term viable economy results certainly not one that can be self-sustaining.

The Federal Government has sometimes tried to direct investment into one or another specific area of business activity on reservations—tourism, for example, was a big favorite for a while. By and large, these efforts have not been successful. I believe it is better to establish some general incentives to encourage the private sector to locate on Indian reservations and then to leave it to individual, business, and tribal initiative to determine how these tax incentives will actually be put to use.

The history of this Nation is replete with the devastating results of our ignorance and lack of compassion of the needs of native Americans. Today, we can begin another chapter in our Nation's treatment of native Americans.

Listen to the eloquent but frustrating words of a Hopi mother who is fighting to keep hope alive in her children and appealing to us for action:

MAY 13, 1992.

DEAR SENATOR MCCAIN: I am writing to you in anger and frustration! I realize that you will never read this letter but just putting down the words might make me feel better. When are you people going to do something about jobs for our people?

We are a family of Hopi Indians who have never been on welfare and went to college with much sacrifice on the part of our families because we believed what your culture teaches: "work hard, don't depend on the government and pull yourselves up by your own bootstraps." We have also instilled this in our children. Our sons have now completed school—one with an associate in Computer Electronics and another with a degree in Criminal Justice—and have tried to enter the workforce with their skills only to find no opportunities for them! They cannot even collect unemployment because they have been going to school. We do not mind supporting them and their families while they continue to look for employment but their frustration and discouragement is hard to take! Those of you in power will never know the feelings of a parent to see your grown children's hopes dashed day after day. How long can the human spirit take defeat before turning bitter and hostile? Is it any wonder that people are rioting in L.A. and other cities? Phoenix and other Southwestern Cities will also find themselves in the same situation unless you people remedy this recession.

Wake up! Mr. Congressman, and put your money where your mouth is—give us jobs!

A frustrated mother,

ALFREDA SECAKUKU.

The consistent plea of Indian people through the years is a simple one: that the nature of their situation be recognized and acted upon. I urge my colleagues not to continue to ignore the very real human suffering that has been plaguing native American communities for too long.

Mr. President, I ask unanimous consent that a paper highlighting components of this bill and an excerpt from the joint explanatory statement of the committee of conference on the Indian tax incentives included in H.R. 11, which are identical to the tax incentives included in this bill, be inserted into the CONGRESSIONAL RECORD immediately following my remarks.

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

S. 211

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 Employment and Investment Act of 1993".

SEC. 2. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 of such Code (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:	Indian reservation percentage is:
Reservation personal property	10
New reservation construction property	15
Reservation infrastructure investment	15.

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) QUALIFIED INVESTMENT.—The term 'qualified investment' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be

treated as 'reservation personal property' if it is used or located outside the Indian reservation on a regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

For purposes of this subparagraph, the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property for which depreciation is allowable under section 168 and which is described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property used or located outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(H) COORDINATION WITH OTHER CREDITS.—The term 'qualified Indian reservation property' shall not include any property with respect to which the energy credit or the rehabilitation credit is allowed.

"(3) REAL ESTATE RENTALS.—For purposes of this section, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior.

"(6) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) of such Code (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and" and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 of such Code (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the qualified investment taken into account with respect to the property been limited to an amount which bears the same ratio to the qualified investment with respect to such property as the period such property was held by the taxpayer bears to the applicable recovery period under section 168(g).

"(C) COORDINATION WITH OTHER RECAPTURE PROVISIONS.—In the case of property to which this paragraph applies, paragraph (1) shall not apply and the rules of paragraphs (3), (4), and (5) shall apply."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) of such Code (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) of such Code (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) APPLICATION OF AT-RISK RULES.—Subparagraph (C) of section 49(a)(1) of such Code is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the qualified investment in qualified Indian reservation property."

(g) CLERICAL AMENDMENTS.—

(1) Section 48 of such Code is amended by striking the heading and inserting the following:

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT; INDIAN RESERVATION CREDIT."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy credit; reforestation credit; Indian reservation credit."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1993.

SEC. 3. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding after paragraph (7) the following new paragraph:

"(8) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 of such Code (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees throughout the taxable year) of the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year.

In no event shall the amount of the Indian employment credit for any taxable year exceed the credit limitation amount determined under subsection (e) for such taxable year.

"(2) INDIAN EMPLOYEE.—For purposes of paragraph (1), the term 'Indian employee' means an employee who is an enrolled member of an Indian tribe or the spouse of such a member.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(B) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

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

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after January 1, 1994.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1993 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT.—The credit limitation amount for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer (or any predecessor) during calendar year 1993 with respect to employees whose wages (paid or incurred by the employer or any predecessor) during 1993 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(4) COORDINATION WITH NONREVENUE LAWS.—Any reference in this section to a provision not contained in this title shall be treated for purposes of this section as a reference to such provision as in effect on the date of the enactment of this paragraph."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO INDIAN EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C of such Code (relating to rule for targeted jobs credit) is amended by striking "51(a)" and inserting "45(a), 51(a), and".

(2) Subsection (c) of section 196 of such Code (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(7) the Indian employment credit determined under section 45(a)."

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45 may be carried to a taxable year ending before the date of the enactment of section 45."

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1993.

INDIAN EMPLOYMENT AND INVESTMENT ACT OF 1993

The Indian Employment and Investment Act of 1993 is specifically designed to meet the economic development needs of Indian reservations. The bill provides a program of investment and employment incentives that can attract private industry and capital, expand existing industry, and make the private sector a permanent source of economic development on Indian reservations.

The Employment Credit provides for a 10% credit to the employer based on the qualified wages and qualified health insurance costs paid to an Indian. As an added incentive, a significantly higher employment credit of 30% is offered to reservation employers having an Indian workforce of at least 85%. The amendment is limited to those employees who do not receive wages in excess of $30,000. The credit, which focuses on job creation, would be allowed only for the first seven years of an Indian's employment.

The Investment Tax Credit is geared specifically to reservations where Indian unemployment levels exceed the national average by at least 300 percent. The amendment provides 10% for personal property, 15% for new construction property, and 15% for infrastructure investment on or near reservations.

The bill also includes:

(1) "anti-gaming" restrictions, which would prevent both the investment and employment credits from being used with respect to the development and/or operation of gaming establishments on Indian reservations.

(2) a restriction on the employment credit to "new hires" only, thereby emphasizing the bill's intent to create new jobs (or to expand existing businesses) on reservations.

(3) an "anti-churning" amendment to the employer credit provision, to avoid creating an incentive for an employer to discharge current employees and replace them with new or re-hired employees after enactment of the bill.

(4) an allowance of one-half of the investment tax credit for qualifying investments on reservations where employment exceeds 150% but does not exceed the 300% of the national unemployment rate, thereby recognizing serious Indian unemployment rates which do not rise to the 300% level covered by the general rule.

The Indian Employment and Investment Act of 1993 is consistent with the unique legal and political status of Indian tribal governments and the government-to-government relationship between tribal governments and the United States. The Supreme Court has upheld the constitutionality of Indian legislation on the basis of this status and the relationship with the United States, and has rejected the challenge that such legislation is premised upon an unconstitutional racial classification. (*Morton* v. *Mancari*, 417 U.S. 535 (1974)).

The bill would apply to all federally-recognized tribes in the states of: Alabama, Alaska, Arizona, California, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Maine, Massachusetts, Michigan, Minnesota, Rhode Island, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming, North Dakota, Oklahoma, Oregon, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Louisiana.

There are 514 Federally-recognized Indian tribes. The 1990 census counted 2 million Native Americans. However, approximately 1 million Native Americans reside on or near Indian reservations or Alaska native villages. The Indian Employment and Investment Act of 1993 would only apply to businesses locating on an Indian reservation, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska native Claims Settlement Act.●

● Mr. MURKOWSKI. Mr. President, I rise today to join with Senator MCCAIN in introducing the Indian Employment and Investment Act of 1993.

I am pleased to be an original cosponsor of this bill which is designed to help the economic development needs of Indian reservations any land held by incorporated native groups, regional corporations, and village corporations in Alaska.

The Indian Employment and Investment Act will provide employment and investment incentives for the private sector to locate on Indian Reservations and on lands held by Alaska Natives. I believe this is very important.

In addition to business opportunities provided to Alaska's Natives by regional and village corporations, the bill we are introducing today will provide Alaska's Natives with the opportunity to break free from their traditional roles and allow them to work within the private sector on their land.

Specifically, the bill creates an investment tax credit for areas where unemployment levels exceed the national average by at least 300 percent. The bill provides for 10-percent personal property, 15-percent new construction property, and 15-percent infrastructure investment tax credit on such lands. Many Alaska villages will qualify because unemployment in many villages often averages above the approximately 18-percent threshold level.

The bill also provides a 10-percent employment credit to an employer based on the qualified wages and qualified health insurance cost paid to natives. As an added incentive, a significant higher credit of 30 percent is offered in some cases to employers having a work force that is at least 85 percent Indian/native.

Mr. President, we need jobs in rural Alaska, and this measure is one way of helping to stimulate job creation for Native Alaskans.

While many of the regional and village corporations in Alaska have developed and matured into healthy, self-efficient corporations, it is clear that a large number of the natives in Alaska are struggling to make ends meet. By introducing this bill I hope to:

First, revitalize economically and physically distressed native groups, regional corporations and village corporations in Alaska.

Second, promote meaningful employment for Alaska's Natives who are struggling to fulfill their own economic self-determination.

Third, raise Alaska Native incomes which will help promote a healthy standard of living for Alaska's Native community.

Mr. President, there are many problems faced by Alaska's Native community. Poor housing, health care, water, and sewer problems, the list is very long. No, this bill will not solve all of the problems facing Alaska's Native community, however, providing employment and investment incentives for the private sector to locate on native lands is certainly a step in the right direction.

I look forward to working with my colleagues during the 103d Congress on this important legislation.●

Mr. BOREN. Mr. President, in this season of service and investing in people, I join an effort today that would truly empower those who are most in need and impoverished. The dirty secret during tough economic times is that not all groups are equally affected. Some feel the pain and burden more than others. For too long, native Americans have been in that position. Unfortunately Government's answer has been to ignore their unique needs and circumstances. Along with Senator MCCAIN and others, I do not intend for this policy of neglect to continue. I believe the Indian Employment and Investment Act of 1993 is an initiative long overdue and I am proud to be a sponsor.

This bill is an important tax proposal and is promoted by those who have seen the destitution first hand, the tribes themselves. The Navajos, the Cherokees, and other tribes in my State of Oklahoma have called on this Congress and administration to fight the scourge of economic hopelessness. The bill offers commonsense proposals to the continuing senseless poverty. Essential tax credits for businesses that provide employment and invest-

ment on or near Indian reservations are included in this bill. Our goal is to stimulate the development of viable reservation and other tribal economies and more fully integrate them in the national economy.

Of special importance to me and my State is a provision in the bill addressing the unique status of tribes in Oklahoma. In general, the bill would allow the Indian reservation credit, which is an investment tax credit, only when the Indian unemployment rate on a reservation exceeds 300 percent of the national unemployment rate. It is tragic that such conditions even exists. The intent of the 300-percent requirement is to limit the credit to reservations which face the most severe economic circumstances in part as a result of the isolated, insular nature of the circumstances.

One of the strengths of my State is that our native American communities are not confined to reservations but are assimilated throughout the State, often living in rural areas designated as former reservations. Their tribal economies may or may not be partially integrated into the surrounding non-Indian economies, but in nearly all cases these tribes in Oklahoma and other States still suffer intolerably high unemployment rates that demand action. Yet this strength of assimilation can have unintended consequences since bureaucratic proposals do not often take account of this fact. The result is that my State can be shortchanged when proposals assisting native Americans are drafted.

This bill ensures that the needs of Indians in Oklahoma are met. The bill allows one-half of the otherwise available credit on Indian reservations whose unemployment rate is between 150 to 300 percent of the national average. This provision partially extends the benefits of the investment credit to Oklahoma tribes and other tribes similarly situated. A full credit remains available to these tribes whenever the 300-percent threshold is exceeded.

An unfortunate consequence in our legislative process is that good bills are defeated not on its merits but because its fate is tied with more controversial packages. Such was the case for the Indian Employment and Investment Act introduced last year. The Indian tax credits were included in last year's omnibus tax package, H.R. 11. Both the Senate and the House had approved of the credits, but because of its inclusion in the vetoed urban aid bill, the proposal was never enacted into law. It then died an odious political death.

But the need remains and this legislation is long overdue. I will work to include Indian investment and employment tax credit provisions in the economic stimulus and deficit reduction package that will soon be making its way through the Senate. I would also like to make clear that I would like the precise level of benefits in the bill increased. For example, the bill provides an Indian reservation credit ranging from 10 to 15 percent. These percentages reflect a compromise reached last fall to take into account the revenue constraints imposed upon the larger tax bill of which this credit was a part. Since any legislation this year will operate under completely different constraints, I would like to see the Indian reservation credit increased. Our goal should be to provide a credit that is more in line with the percentages used in the original legislation last year, a range of 25 to 33⅓ percent. I intend to work with my colleague Senator MCCAIN and others to achieve this result.

Too often tax law is a thinly veiled attempt to help the rich get richer. if nothing else, this bill is a break from that since it is specifically aimed at those most in need. What is needed are not band-aids but a cure to rid them of unemployment and poverty. This bill does not offer handouts, but economic opportunities. As embattled as native Americans are against unemployment, let us perform a surgical strike against the enemy of joblessness in Indian country. Let us commit ourselves to true economic justice and reform. Let us pledge our energy to help until the work is done and this bill is passed.

By Mr. DORGAN:

S. 212. A bill to modernize the Federal Reserve System and to provide for prompt disclosure of certain decisions of the Federal Open Market Committee; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL RESERVE REFORM ACT OF 1993

• Mr. DORGAN. Mr. President, today I rise to introduce the Federal Reserve Reform Act of 1993, legislation which would increase the accountability of the Federal Reserve to the American people by shedding some light upon the Federal Reserve's policies and procedures. Congressman LEE HAMILTON of Indiana is introducing companion legislation in the U.S. House of Representatives.

One half of this country's economic policy—monetary policy—is made by the Fed. As a result, the Fed has enormous power over the direction of our economy, thus over the lives of every American—farmers, business owners, homeowners, workers, students, investors, and borrowers alike.

But today, the Federal Reserve continues to operate in near secrecy, and does not conform to the normal standards of Government accountability in a democracy. There is no institutional channel for the discussion of economic goals and policies between the President and the Federal Reserve: Federal Reserve decisions are not made public in a timely manner; and data is not readily available on its budget. As a result, there is no formal way for our system to coordinate fiscal and monetary policies or for Americans to find out what the Fed is doing. This is not the best way for a great economic power to make decisions that affect the well-being of all Americans.

It is not my purpose in this legislation to reduce the independence of the Fed or to criticize monetary policy. The bill does not impose congressional or other outside controls on Federal Reserve policy. Nor would it end policy mistakes. What it would do is create a formal channel of communication between the President and the Federal Reserve and provide Congress and the American people with more and better information on the Federal Reserve's policies and procedures.

Specifically:

First, the President's top economic advisers would be required to meet three times a year with the Federal Open Market Committee. This includes the Secretary of the Treasury, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget.

Second, the President would be empowered to appoint a new Chairman of the Federal Reserve near the beginning of his term rather than toward the end. The Fed is crucial to the success of any economic policy and the President should not have to contend with a Chairman who is pulling in an opposite direction.

Third, the Fed would be required to disclose immediately any changes in its targets for the money supply. This would provide all investors, large and small, with equal and timely information about monetary policy decisions. Today only the larger firms, which have the financial ability to hire sophisticated Fed watchers, can get a jump on the future direction of monetary policy. Such firms get an unfair advantage over small businesses and investors who can't afford to employ experts to monitor Fed activities.

Fourth, the Comptroller General would be permitted to conduct more thorough audits of Fed operations, including policy procedures and processes. For many years the Fed was totally exempt from any such audits to uncover misdoing or waste. Today the General Accounting Office [GAO] is prohibited from auditing many of the Fed's operations including actions on monetary policy and transactions made under the direction of the Federal Open Market Committee [FOMC]. This bill will remove many of these restrictions.

Fifth, the Fed would be required to publish its budget in the budget of the U.S. Government. Today the Federal Reserve budget is secret; it reveals nothing about its operations to what it considers the unwashed masses. But no governmental agency should take in and spend billions of dollars without making its budget open to the public.

These modest steps will inject fresh air and light into the making of monetary policy without impairing the independence of the Fed. The legislation gets fiscal and monetary policy on the same track by encouraging the Fed to work more closely with the peoples representatives in Congress and in the executive branch.

I urge my colleagues to support this important initiative by cosponsoring the Federal Reserve Reform Act of 1993. And I ask unanimous consent to include the full text of the bill in the RECORD following this statement.

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

S. 212

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 "Federal Reserve Reform Act of 1993".

SEC. 2. CONSULTATION BETWEEN FEDERAL OPEN MARKET COMMITTEE AND THE SECRETARY OF THE TREASURY, THE DIRECTOR OF THE OMB, AND THE CHAIRMAN OF THE CEA.

Section 2A of the Federal Reserve Act (12 U.S.C. 225a) is amended—

(1) in the first sentence, by striking "The Board of Governors" and inserting "(a) IN GENERAL.—The Board of Governors"; and

(2) by adding at the end the following new subsection:

"(b) CONSULTATION REQUIRED.—The Federal Open Market Committee shall meet and consult with the Secretary of the Treasury, the Director of the Office of Management and Budget, and the chairman of the Council of Economic Advisors—

"(1) during the 30-day period immediately preceding the date on which each report required under the second sentence of subsection (a) is submitted to the Congress by the Board of Governors; and

"(2) during the 30-day period beginning on the date which is 100 days immediately preceding the date by which the President is required to submit the budget under section 1105(a) of title 31, United States Code.".

SEC. 3. APPOINTMENT OF THE CHAIRMAN AND VICE CHAIRMAN.

(a) APPOINTMENT OF THE CHAIRMAN AND VICE CHAIRMAN.—The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended by striking the third sentence and inserting the following: "The President shall appoint, by and with the advice and consent to the Senate, one member of the Board to serve as Chairman. The term of such member as Chairman shall expire on January 31 of the first calendar year beginning after the end of the term of the President who appointed such member as Chairman. If a member appointed as Chairman does not complete the term of such office as established in the preceding sentence, the President shall appoint, by and with the advice and consent of the Senate, another member to complete the unexpired portion of such term. The President shall also appoint, by and with the advice and consent of the Senate, one member of the Board to serve as Vice Chairman for a term of 4 years. The Chairman and the Vice Chairman may each serve after the end of their respective terms until a successor has taken office.".

(b) PERFORMANCE OF DUTIES.—The second paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) (as amended by subsection (a)) is amended by inserting after the seventh sentence the following: "In the event of the absence or unavailability of the Chairman, the Vice Chairman or (in the Vice Chairman's absence) another member of the Board may be designated by the Chairman to perform the duties of the office of the Chairman. If a vacancy occurs in the office of the Chairman, the Vice Chairman shall perform the duties of the Chairman until a successor takes office. If a vacancy occurs in the office of the Vice Chairman while the office of the Chairman is vacant, the member of the Board with the most years of service on the Board shall perform the duties of the Chairman until a successor takes office.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) CURRENT CHAIRMAN TO COMPLETE TERM.—Notwithstanding the amendment made by subsection (a), any member who holds the office of Chairman of the Board of Governors of the Federal Reserve System on the date of enactment of this Act shall continue in such office during the remainder of the term to which such member was appointed.

SEC. 4. DISCLOSURE OF INTERMEDIATE TARGETS.

Section 12A(b) of the Federal Reserve Act (12 U.S.C. 263(b)) is amended by adding at the end the following: "Notwithstanding any other provision of law, each change, of any nature whatsoever, in the intermediate targets for monetary policy, which change is adopted by the Committee, shall be disclosed to the public on the date on which such change is adopted. For purposes of this subsection, the term 'intermediate targets' means any policy objectives regarding monetary aggregates, credit aggregates, prices, interest rates, or bank reserves.".

SEC. 5. AUDIT OF FINANCIAL TRANSACTIONS BY COMPTROLLER GENERAL.

Section 714(b) of title 31, United States Code (relating to audits by the Comptroller General), is amended—

(1) in paragraph (1), by inserting "or" at the end;

(2) by striking paragraphs (2) and (3); and

(3) by amending paragraph (4) to read as follows:

"(2) memoranda, letters, or other written communications between or among members of the Board of Governors of the Federal Reserve System of officers or employees of the Federal Reserve System relating to any transaction described in paragraph (1).".

SEC. 6. BOARD SUBJECT TO BUDGET PROCESS.

Section 1105 of title 31, United States Code (relating to budget contents and submission to Congress), is amended by adding at the end the following new subsection:

"(g) FEDERAL RESERVE BOARD BUDGET TREATMENT.—Not later than October 16 of each year, the estimated receipts and proposed expenditures of the Board of Governors of the Federal Reserve System and all Federal Reserve Banks for the current year and the next 2 succeeding years shall be transmitted by the Board to the President. The President shall transmit to the Congress the information received in accordance with this subsection, without change, together with the budget transmitted to the Congress under subsection (a).".●

By Mr. THURMOND (for himself, Mr. GLENN, Mr. MACK, Mr. HEFLIN, Mr. MCCAIN, Mr. SIMPSON, Mr. SHELBY, Mr. COATS, Mr. D'AMATO, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. DOLE, Mr. DECONCINI, Mr. COHEN, and Mr. SARBANES):

S. 214. A bill to authorize 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; to the Committee on Energy and Natural Resources.

WASHINGTON, DC, WORLD WAR II MEMORIAL ACT OF 1993

Mr. THURMOND. Mr. President, as a veteran of World War II, it is a pleasure to rise today to introduce a bill that would establish a memorial to honor members of the Armed Forces who served in World War II and to commemorate the U.S. participation in that conflict.

World War II was one of the most significant wars in our history as a nation. Involving more than 16 million Americans, it was the war which preserved freedom for the Western World. Yet, it was not without a heavy toll. The damage and the human suffering are immeasurable. More than 670,000 Americans were wounded and over 400,000 made the ultimate sacrifice by giving their lives. A tribute to these Americans is richly deserved.

World War II memorials are located all over the world. However, there is no single monument that honors the American veterans of World War II as a group. Our Nation's Capital would be an especially fitting location for such a monument. This legislation would provide for such a location.

Mr. President, section 1 of this bill gives the American Battle Monuments Commission [ABMC] the authority to establish a World War II memorial in Washington, DC, or its environs. It makes sure the establishment of such a memorial is in compliance with the Commemorative Works Act of 1986. It also makes sure the memorial is accessible to the physically handicapped.

Section 2 would establish a World War II Memorial Advisory Board. This presidentially appointed Board would promote the establishment of the memorial and encourage private contributions for the memorial. It would also advise the ABMC on the site and design for the memorial.

Section 3 requires the ABMC to actively seek and accept private contributions for the memorial.

Mr. President, the funding for the project was authorized last Congress with the passage of the World War II 50th Anniversary Commemorative Coins Act. Proceeds from the coin sales and private contributions solicited by the Commission established with this legislation will cover the costs of construction and maintenance of the memorial.

I strongly feel that this memorial should be funded through the sale of

coins and private donations. I believe the ABMC has proven its ability in raising private donations and I encourage the ABMC to do so. There will be no cost to the taxpayer for this memorial.

Mr. President, last year this bill was referred to the Senate Committee on Energy and Natural Resources. Hearings were held and it was favorably reported out of that committee. It then unanimously passed the Senate. I urge my colleagues to join me in support of this worthy measure for our faithful and deserving veterans.

Mr. President, I ask unanimous consent that a copy of the bill appear in the CONGRESSIONAL RECORD following my remarks; that this bill be placed directly on the calendar; and that the attached list of Senators be included as original cosponsors.

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

S. 214

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

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The American Battle Monuments Commission (hereafter in this Act referred to as the "Commission") is authorized to establish 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 the participation of the United States in that war.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) HANDICAPPED ACCESS.—The plan, design, construction, and operation of the memorial pursuant to this section shall provide for accessibility by, and accommodations for, the physically handicapped.

SEC. 2. ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—There is established a World War II Memorial Advisory Board (hereafter in this Act referred to as the "Board"), consisting of 12 members, who shall be appointed by the President from among veterans of World War II, historians of World War II, and representatives of veterans organizations, historical associations, and groups knowledgeable about World War II.

(b) APPOINTMENTS.—Members of the Board shall be appointed not later than 3 months after the date of enactment of this Act and shall serve for the life of the Board. The President shall make appointments to fill such vacancies as may occur on the Board.

(c) RESPONSIBILITIES OF BOARD.—The Board shall—

(1) in the manner specified by the Commission, promote establishment of the memorial and encourage donation of private contributions for the memorial; and

(2) upon the request of the Commission, advise the Commission on the site and design for the memorial.

(d) TERMINATION.—The Board shall cease to exist on the last day of the third month after the month in which the memorial is completed or the month of the expiration of the authority for the memorial under section 10(b) of the Act referred to in section 1(b), whichever first occurs.

SEC. 3. PRIVATE CONTRIBUTIONS.

The Commission shall solicit and accept private contributions for the memorial.

SEC. 4. FUND IN THE TREASURY FOR THE MEMORIAL.

(a) IN GENERAL.—There is created in the Treasury a fund which shall be available to the American Battle Monuments Commission for the expenses of establishing the memorial. The fund shall consist of—

(1) amounts deposited, and interest and proceeds credited, under subsection (b);

(2) obligations obtained under subsection (c); and

(3) the amount of surcharges paid to the Commission for the memorial under the World War II 50th Anniversary Commemorative Coins Act.

(b) DEPOSITS AND CREDITS.—The Chairman of the Commission shall deposit in the fund the amounts accepted as contributions under subsection (a). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(c) OBLIGATIONS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(d) ABOLITION.—Upon the final settlement of the accounts of the fund, the Secretary of the Treasury shall submit to the Congress draft legislation (including technical and conforming provisions) for the abolition of the fund.

SEC. 5. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance in the fund created by section 4, the Chairman of the Commission shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

By Mr. PRESSLER:

S. 215. A bill to amend the Agricultural Act of 1949 to eliminate the loan origination fee for oilseeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

OILSEEDS LOANS FEE ELIMINATION ACT OF 1993

Mr. PRESSLER. Mr. President, one reason I voted against the Omnibus Budget Reconciliation Act of 1990 was the fact that the bill established a 2-percent loan origination fee for all supported oilseeds. The loan origination fee was a bad idea when it was agreed to by the budget conferees. It is still wrong today. Instead of raising the expected revenues, the fee has discouraged farmers from entering the loan program, depressed commodity prices and reduced farmers' income protection. It should be eliminated. I am introducing legislation that will do just that.

One might ask why the fee discourages loan participation. Let me explain. The major commodity affected by the fee is soybeans. Today's loan rate for soybeans is $5.02 per bushel. If a farmer takes out a loan, the Government deducts its 2 percent—10 cents a bushel—before issuing the farmer's check. Although, the marketing loan for soybeans is set for a 9-month term, most farmers do not hold their loan for the full term. Remember, the farmer receives $4.92 per bushel if he takes out a loan, but must repay $5.02 per bushel, plus interest. The following chart reflects what the actual annual percentage rate would be on a soybean loan based on the number of months the loan is outstanding:

Months outstanding	Cost in cents per bushel	Annual percentage rate
1	12.4	30.1
2	14.7	17.9
3	17.1	13.9
4	19.4	11.8
5	21.8	10.6
6	24.1	9.8
7	26.5	9.2
8	28.8	8.8
9	31.2	8.4

Assumptions: CCC interest rate equals 5.625 percent, as of Oct. 10, 1991; principal payback equals $5.02; loan proceeds equals $4.92.

Mr. President, with the effective annual interest rate ranging as high as 30 percent, one can see why many soybean farmers are discouraged from taking out soybean marketing loans.

When this fee idea originated, it was estimated that it would generate approximately $32 million in additional Government revenue. That estimate was based on previous participation rates in the soybean program.

With the loan fee now in place, farmers are participating at a significantly lower rate: As of January 7, 1991, soybean loan placement was 192 million bushels; as of January 7, 1992, soybean loan placement was 136 million bushels, a drop of nearly 30 percent from the previous year, and as of January 5, 1993, soybean loan placement was 154 million bushels, a drop of 20 percent from 1991.

Mr. President, anticipated revenue from the fee has never reached the level used to promote the fee. In fact, if actual loan placement of the 1992 soybean crop reaches current estimates of 250 million bushels, the fee would only generate $25,362,000. Estimates for the 1992 crop are the result of record production, and represent the highest placements since 1987.

Mr. President, the loan origination fee has increased costs for American oilseed producers. I believed the loan origination fee was unfair when it was first put into place for the 1991 crop. The fee is unfair today. More than

10,000 soybean farmers in South Dakota strongly agree, as do soybeans farmers throughout the Nation. I urge my colleagues to join with me in cosponsoring this legislation, and putting an end to this unfairness.

By MR. D'AMATO (for himself and Mr. MOYNIHAN):

S. 216. A bill to provide for the minting of coins to commemorate the World University Games; to the Committee on Banking, Housing, and Urban Affairs.

WORLD UNIVERSITY GAMES COMMEMORATIVE COIN ACT

Mr. D'AMATO. Mr. President, I rise today to urge my colleagues to support the World University Games Commemorative Coin Act of 1993.

This legislation provides for the minting of two World University Games commemorative coins designed by LeRoy Nieman, to defray the cost of the United States hosting this amateur sporting event in 1993. Any additional revenue generate by the sale of the coins will be used to fund amateur athletic programs.

The World University games began in 1923, and are recognized throughout the world as an outstanding international sporting event. In fact, Mr. President, the World University games are twice as large as the winter Olympics and second in size only to the summer Olympics.

Mr. President, this is truly a unique opportunity for the United States. In the 70-year history of the World University games, this competitive event has never before been hosted by the United States. The World University games are expected to draw over 7,000 athletes and officials from more than 120 countries. Hosting the World University games will not only give America an occasion to demonstrate a commitment to the continued growth of amateur sports, but will also afford the United States the opportunity to promote the growing spirit of international cooperation.

Over the years, the World University games have come to symbolize the successful combination of academics and athletics. The games provide an academic scholarship program that sets this athletic event apart form all others, and emphasizes the strong relationship between academics and athletics.

Passing this bill will help assure the games' success by financing this historic event at no cost to the U.S. Treasury. By enacting this legislation, Congress will send a clear demonstration of its support of the hard-working athletes of this country.

The World University games provide the opportunity for competition among the best athletes in the world and the United States is fortunate to be the host of these important games. Mr. President, I urge Congress to lend support to the World University games by swiftly enacting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD following my statement.

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

S. 216

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 "World University Games Commemorative Coin Act of 1993".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE-DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than 200,000 five-dollar coins which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five-dollar coins shall be emblematic of the participation of American athletes in the World University Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 750,000 one-dollar coins which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the participation of American athletes in the World University Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary, after consultation with the Greater Buffalo Athletic Corporation and the Commission of Fine Arts. As required under section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Advisory Committee.

SEC. 5. SALE OF THE COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five-dollar coins and $7 per coin for the one-dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) GOLD COINS.—The five-dollar coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) SILVER COINS.—The one-dollar coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike each such quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this Act may be issued beginning on July 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after June 30, 1994.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Greater Buffalo Athletic Corporation. Such amounts shall be used by the Greater Buffalo Athletic Corporation to support local or community amateur athletic programs, to erect facilities for the use of such athletes, and to underwrite the cost of sponsoring the World University Games.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Greater Buffalo Athletic Corporation as may be related to the expenditures of amounts paid under section 8.

SEC. 10. NUMISMATIC PUBLIC ENTERPRISE FUND.

The coins issued under this Act are subject to the provisions section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

SEC. 11. FINANCIAL ASSURANCES.

It is the sense of the Congress that this coin program should be self-sustaining and should be administered in a manner that results in no net cost to the Numismatic Public Enterprise Fund.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 217. A bill to require the Secretary of Agriculture to make crop quality reduction disaster payments to producers of the 1992 crop of corn, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CORN PRODUCER ASSISTANCE ACT OF 1993

• Mr. RIEGLE. Mr. President, I rise today to introduce legislation that will

assist Michigan corn farmers that have suffered through a tragic growing season last year.

Currently, 25 percent of Michigan's corn crop remains unharvested because of excess moisture. This is a serious problem considering that Michigan's corn crop is valued over $600 million annually. Compounding the harvest problem, Michigan's corn crops have been damaged by early and late frosts, freezing temperatures, excess moisture, and a cool summer.

This has caused the corn that has been harvested to have excess moisture content, mold damage, and low kernel weight. Many of these factors have made the crop almost unmarketable to buyers.

The situation in Michigan is serious. Livestock producers are running short of feed, producers and elevator operators cannot meet contracts, and many in the agriculture community are in financial distress because farmers cannot meet their financial obligations to lending institutions. Current administration policy is forcing farmers to attempt to harvest in these conditions because of financial duress. Harvesting in these conditions could damage equipment, soil condition, or put producers' lives in peril.

The legislation I am introducing today is relatively simple. It requires the Secretary to use his discretionary authority to provide disaster grants to farmers who have crops that are too low in quality because of natural disasters.

On December 3, 1992, I, along with Senator LEVIN and Representatives BOB TRAXLER and DAVE CAMP, asked then Agriculture Secretary Edward Madigan to use his discretionary authority to allow disaster payments to Michigan corn farmers who have harvested or are harvesting corn that is high in quantity but low in quality.

In January of this year, I received a letter dated December 30, 1992, from Secretary Madigan denying our request. Secretary Madigan said "it was determined that the crop quality reduction payment provision in section 2245 [of the 1990 farm bill] would not be implemented." I could not disagree with the former Secretary's decision more vehemently.

That is why in addition to this legislation, I, along with several of my Michigan congressional colleagues, will be using a dual track to get Michigan corn farmers assistance by sending a letter to Secretary Mike Espy today asking him to use his discretionary authority to make crop quality reduction payments to farmers affected by natural disasters. It is my hope that he will act favorably toward this request and assist those Michigan farmers in such a difficult situation.

More importantly, I think it is important to point out that this legislation does not authorize more loans to farmers because the Michigan agriculture community has proven to me that the extent of the disaster is too great to solve with more government loans. Farmers simply cannot burden any more debt than they are currently holding.

Additionally, any farmer who successfully obtains these loans will be required to sign up for crop insurance. This provision will assist farmers to help prepare for the future by purchasing crop insurance when available and avoid these situations that many Michigan corn farmers are suffering with now.

Mr. President, I ask unanimous consent that my letter to Secretary Madigan, his response to our request, and the bill be printed in the RECORD after my remarks.

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

S. 217

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

SECTION 1. CROP QUALITY REDUCTION DISASTER PAYMENTS FOR 1992 CROP OF CORN.

The matter under the heading "COMMODITY CREDIT CORPORATION" under the heading "DEPARTMENT OF AGRICULTURE" of chapter III of title I of Public Law 102-229 (7 U.S.C. 1421 note) is amended by inserting before the period at the end the following: ": *Provided further*, That the Secretary of Agriculture shall make crop quality reduction disaster payments to producers of the 1992 crop of corn under the same terms and conditions as are specified in section 2245 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note)".

DEPARTMENT OF AGRICULTURE,
Washington, DC, December 30, 1992.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR DON: Many thanks for your letter regarding administration of the disaster provisions of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act), as amended.

Section 2245 of the 1990 Act provides discretionary authority for making additional disaster payments to producers who suffer losses resulting from the reduced quality of their crops which was caused by damaging weather or related condition. Much consideration has been given to section 2245 of the 1990 Act. However, because of concerns regarding potential cost and subjective eligibility criteria, it was determined that the crop quality reduction payment provision in section 2245 would not be implemented.

Producers are eligible for assistance in accordance with the 1990 Act with respect to unharvested corn if their loss is in excess of 40 percent (35 percent for producers who had obtained crop insurance coverage) of the farm program payment yield established for the farm. County Agricultural Stabilization and Conservation committees are not authorized to consider quality when assigning yields in these cases.

An identical letter is being sent to your colleagues.

Sincerely,

EDWARD MADIGAN,
Secretary.

CONGRESS OF THE UNITED STATES,
Washington, DC, December 3, 1992.

Hon. EDWARD MADIGAN,
U.S. Secretary of Agriculture, 14th and Independence NW, Washington, DC.

DEAR MR. SECRETARY: This year has been very difficult for many Michigan agriculture producers, but especially devastating for Michigan corn growers. It is with that in mind that we are writing you to urge you to allow disaster assistance payments to Michigan corn farmers who have harvested or are harvesting high quantities of low-quality corn, or if it is not economical to harvest the corn.

As Secretary of Agriculture, you have been given the authority in the 1990 Farm Bill to allow disaster payments for program crop producers who have harvested or are harvesting too-low quality commodities, or where it is not economical to harvest the crop. It is that authority we respectfully ask you to exercise.

Corn is Michigan's largest cash crop, valued at over $600 million a year. Michigan's corn producers have suffered through an early and late frost, freezing temperatures, violent thunderstorms, excess moisture, and a very cool summer. Currently, more than 80 percent of Michigan corn remains unharvested because of excessive field moisture. Of the corn that has been harvested—all of which should have been harvested before October—field testing indicates a 28 to 40 percent moisture content, mold damage, and low kernel weight. Many of these factors make the crop unmarketable to buyers.

As you can see, the situation in Michigan is serious. Livestock producers are running short of feed supplies, producers and elevator operators cannot meet contracts, and many in the agriculture community are in financial distress. Forcing farmers to attempt to harvest in these conditions because of financial duress could damage equipment and the condition of the soil, or even put producers' lives in peril.

We would appreciate your immediate attention to this matter that is extremely important to our state. We hope that the Department will make every effort to assist Michigan's producers as they attempt to recover from these heavy losses.

Sincerely,

DONALD W. RIEGLE, JR.
DAVE CAMP.
CARL LEVIN.
BOB TRAXLER.●

By Mr. DECONCINI:

S. 218. A bill to authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, and for other purposes.

SEDONA RANGER STATION ACT OF 1993

● Mr. DECONCINI. Mr. President, today I am reintroducing legislation that I introduced in the 102d Congress that will enable the Forest Service to better serve the residents of Sedona, AZ, and the users of the nearby Coconino National Forest. I am reintroducing this legislation at the beginning of the 103d Congress so that we can move forward and pass it in a timely manner.

Mr. President, the Forest Service is an organization which is only as effective as its ability to reach and serve the users of our national forests. Unfortunately, the current remote and inconvenient location of the Sedona

Ranger Station places barriers between the Forest Service and the very people it is supposed to serve.

Currently, visitors to the Sedona area are met with a frustrating experience in attempting to locate the Sedona Ranger Station. Situated off a residential road and surrounded by a school, a resort and a neighborhood of single family homes, the ranger station has simply outgrown its immediate surroundings. It is a virtual island engulfed by the city of Sedona, concealing it from the millions who visit the area each year.

The current Sedona Ranger Station is situated on 21 acres, 6.5 acres of which are useable. The remaining acreage is comprised primarily of steep hillsides. Additionally, the current location of the station is such that its responsibilities often conflict with the neighbors' expectations of a residential and resort community. During the fire season, the neighborhood is subjected to late night activities, noise, and lights. Normal daytime activities produce congestion and noise not typically encountered in a residential community. Moreover, the increased traffic poses a serious safety hazard for students of the nearby school.

Because the office is actually a renovated Forest Service house, floor loading exceeds code limitations. Employee work space is cramped, the reception area and conference rooms are half of what is needed, and parking is inadequate. Accessibility for persons with the physical disabilities is sorely deficient.

Because the problems with the current Sedona Ranger Station cannot be easily corrected, I am introducing legislation which I believe offers a sensible, cost efficient solution. If enacted, my bill would allow the Department of Agriculture to convey the land on which the current ranger station is located for no less than the fair market value. Funds from the sale would then be made available to the Coconino National Forest for the construction of a new facility for the Sedona Ranger Station. Relocating the station will be good for the Forest Service, the community of Sedona, and the millions who visit this magnificent area each year.

I hope that my colleagues will join me in passing this legislation.

Mr. President, I ask unanimous consent that the full text of the bill as well as letters in support of relocating the Sedona Ranger Station be printed in the RECORD.

Mr. President, I yield the floor.

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

S. 218

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

SECTION 1. SEDONA RANGER STATION LAND CONVEYANCE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of Agriculture (referred to in this section as the "Secretary") may convey, by quitclaim deed, all right, title, and interest of the United States in and to the approximately 21.09375-acre tract of lands (including improvements on the lands) that has the following legal description:

GILA AND SALT RIVER MERIDIAN

COCONINO COUNTY, ARIZONA

Township 17 North, Range 6 East, Section 7

NW¼ NW¼ NW¼ SW¼ SE¼, S½ NW¼ NW¼ SW¼ SE¼, SW¼ NW¼ SW¼ SE¼, NW¼ SW¼ SW¼ SE¼, SW¼ SW¼ SW¼ SE¼, SE¼ SW¼ SW¼ SE¼, W½ SW¼ SE¼ SW¼ SE¼, S½ NE¼ SW¼ SE¼ SW¼ SE¼, SE¼ SW¼ SE¼ SW¼ SE¼, SW¼ SE¼ SE¼ SW¼ SE¼, E½ SE¼ SE¼ SW¼ SE¼, E½ W½ NE¼ SE¼ SW¼ SE¼, E½ NE¼ SE¼ SW¼ SE¼, E½ W½ SE¼ NE¼ SW¼ SE¼, E½ SE¼ NE¼ SW¼ SE¼, SE¼ NE¼ NE¼ SW¼ SE¼, E½ SW¼ NE¼ NE¼ SW¼ SE¼, S½ NW¼ SE¼ SE¼ SW¼ SE¼, NE¼ NW¼ SE¼ SE¼ SW¼ SE¼.

(b) CONDITIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), any conveyance pursuant to subsection (a) shall be conditioned on the Secretary's entering into one or more agreements that are sufficient to ensure, to the satisfaction of the Secretary, that, collectively, all persons with whom the agreements are to be made will construct, on a site to be determined by the Secretary, improvements for administrative purposes for the Coconino National Forest in Arizona (referred to in this section as the "administrative improvements") that are equal in value to the lands and improvements authorized to be conveyed by subsection (a).

(2) METHODS OF EXCHANGE.—

(A) SERIES OF TRANSACTIONS.—The lands and improvements may be conveyed by a series of transactions.

(B) PAYMENT.—At the discretion of the Secretary, each person to whom conveyances are to be made under this section may deposit sums in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed to the person. The sums deposited with the Secretary shall remain available until expended by the Secretary for the purpose of constructing the administrative improvements.

(3) UNEQUAL VALUE.—

(A) PAYMENT.—If the value of any lands and improvements authorized to be conveyed by subsection (a) to a person exceeds the value of the administrative improvements that the person agrees to have constructed in exchange for the conveyance, the person shall make a payment to the United States in an amount equal to the difference in value.

(B) AVAILABILITY OF FUNDS.—The amount described in subparagraph (A) shall remain available to the Secretary until expended for the purpose of acquiring other lands needed for national forest purposes in the Coconino National Forest in Arizona.

(c) PROCEDURE FOR OFFERS.—

(1) PUBLIC OFFERS.—The Secretary shall solicit public offers for the lands and improvements authorized to be conveyed under subsection (a).

(2) OPENING.—All offers shall be publicly opened at the time and place stated in the solicitation notice issued pursuant to paragraph (1) and in accordance with the administrative requirements of the Secretary.

(3) CONSIDERATION OF VALUES.—The Secretary shall consider the respective values of the lands and improvements authorized to be conveyed under subsection (a) and the administrative improvements before entering into an agreement or land exchange with any person whose offer conforming to the solicitation notice issued pursuant to paragraph (1) is determined by the Secretary to be most advantageous to the Federal Government.

(4) REJECTION OF OFFERS.—Notwithstanding any other provision of this section, the Secretary may reject any offer if the Secretary determines that the rejection is in the public interest.

COCONINO COUNTY
BOARD OF SUPERVISORS,
Flagstaff, AZ, January 7, 1991.

Mr. ROBERT B. GILLIES,
District Ranger, Sedona Ranger District, Coconino National Forest, Sedona, AZ.

DEAR MR. GILLIES: In July 1989 I wrote to support a proposed move of the Sedona Ranger station from its present location to a more visitor-accessible site. I continue to support the proposed move for a variety of reasons. The existing location is concealed and surrounded by residences and therefore difficult for visitors to the area to find. Traffic to and from the station is disruptive to residents and presents a danger to children at the nearby elementary school. It is imperative that the ranger station be highly visible and easily accessible in order to be a source of information about Sedona and the Oak Creek red rock area.

I continue to support the "Chapel" site as the most favorable. It is near a well-known local landmark and is readily accessible from several major tourist routes. A well-designed facility would allow visitors a spectacular view of scenery while informing them of the many local attractions.

The "Chapel" site presents a more efficient use of federal dollars. It will provide more tourists with reasons to remain in the Sedona area and thus benefit the local tourist-based economy. It offers room for expansion as the facility grows without adverse impact on residents already established in the area.

Please feel free to use these comments in any proposal you make to your funding sources. Sedona and Coconino County will benefit from the proposed relocation as well as the Sedona Ranger District Office.

Sincerely,

J. DENNIS WELLS,
Supervisor, District 3.

YAVAPAI COUNTY
BOARD OF SUPERVISORS,
Cottonwood, AZ, January 4, 1991.

Mr. ROBERT B. GILLIES,
District Ranger, Sedona Ranger District, Coconino National Forest, Sedona, AZ.

DEAR BOB: As you requested I am sending a follow-up letter regarding the re-location of the Sedona Ranger Station.

I still concur that your existing site is inconvenient and difficult to find. The new proposed site would be easy to locate and access. This would not only benefit the forest service personnel, but would be an asset to the community, particularly people unfamiliar with the area.

Thank you for requesting my input and I hope this is scheduled for completion soon.

Sincerely,

CARLTON CAMP,
Supervisor.●

By Mr. SARBANES (for himself, Mr. SASSER, Mr. RIEGLE, and Mr. DORGAN):

S. 219. A bill to provide for a Federal Open Market Advisory Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MONETARY POLICY REFORM ACT OF 1993

• Mr. SARBANES. Mr. President, today I am introducing the Monetary Policy Reform Act of 1993, along with my colleagues, Senators JIM SASSER, chairman of the Senate Budget Committee, DON RIEGLE, chairman of the Senate Banking Committee, and BYRON DORGAN, who sponsored this legislation last year as a Member of the House of Representatives. A companion bill is being introduced in the House of Representatives today by Congressmen LEE H. HAMILTON, a former chairman of the Joint Economic Committee, and DAVID OBEY, who will be chairman of the Joint Economic Committee during this Congress.

The purpose of the Monetary Policy Reform Act is to dissolve the Federal Open Market Committee and make the Board of Governors of the Federal Reserve System solely responsible for the conduct of monetary policy, including the open market operations that determine interest rates.

The need for this bill is rooted both in the recent conduct of monetary policy and the 70-year history of the Federal Reserve System.

Early in 1991, while the Nation's economy was deep in its ninth postwar recession, reports surfaced about a disturbing split among policymakers at the Federal Reserve. Important changes in monetary policy proposed by Federal Reserve Board Chairman Alan Greenspan to stimulate economic recovery were being resisted by the presidents of some of the regional Federal Reserve banks. In a democratic government, it is not unusual for policymakers to disagree. But this was not a split among Government policymakers; a small handful of individuals representing private interests was impeding efforts by responsible public officials to conduct monetary policy in the best interests of the Nation's economy.

Partly as a result of this conflict, monetary policy during the recession and the anemic recovery that followed it has come under more than the usual criticism. Slow money growth since 1988 has been frequently cited as one reason why the economy was too weak to shrug off the shock of the gulf war. When oil prices rose during the fall of 1990 and consumer confidence plunged, the Fed's restrictive path, it is argued, served to deepen and lengthen the recession that had begun only a short time earlier. Since then, the Federal Reserve has done too little too late in its efforts to stimulate economic recovery, according to numerous witnesses who have testified before the Joint Economic Committee, including two Nobel Prize winners, Prof. Paul Samuelson of MIT and James Tobin of Yale, and a former Chairman of the Council of Economic Advisers, Prof. Paul McCracken of the University of Michigan.

Today, the apparent revival of economic activity may diminish concerns over past policy. But it should not diminish concern about a system in which private individuals have an important role in making Government economic policy.

With fiscal policy immobilized in the struggle to reduce the Federal budget deficit, much of the responsibility for the conduct of economic policy has developed to the Federal Reserve. But despite its power, the Fed does not conform to normal standards of Government accountability and is unique among Government institutions here and abroad in the pivotal role played by private individuals in making Government decisions.

BACKGROUND ON DECISIONMAKING AT THE FEDERAL RESERVE

The Federal Reserve System consists of the Board of Governors in Washington and the 12 regional Federal Reserve banks. The Board of Governors has seven members, who are appointed by the President and confirmed by the Senate to 14-year terms. The Governors of the Federal Reserve are thus duly appointed public officials who are responsible to the President and Congress, and through them to the American people, for their conduct in office.

The Federal Reserve bank presidents, in contrast, owe their jobs to the boards of directors of the regional banks—boards dominated by local commercial banks. Neither the President nor Congress has any role in selecting the presidents of the Federal Reserve banks. Some of the bank presidents are career Federal Reserve employees, others have backgrounds in banking, business, and academia; none are duly appointed public officials. Nonetheless, they participate in monetary policy decisions through their membership on the Federal Reserve's Open Market Committee [FOMC], where they cast 5 of the 12 votes that determine monetary policy and interest rates.

Althoug most Government agencies—including the Fed—make extensive use of private citizens as advisers, in no other agency are major policy decisions made by individuals who are not publicly accountable.

LEGISLATIVE HISTORY

1913 FEDERAL RESERVE ACT

The legislative history of the Federal Reserve Act and later amendments suggests that the bank presidents are members of the FOMC not because they serve any useful economic function there, but because of political compromises.

The role of the bank presidents in the conduct of monetary policy has always been a controversial issue. Neither Woodrow Wilson, who was President at the time the Fed was created, nor Franklin Delano Roosevelt, who was President when the banking laws were rewritten during the 1930's, found any justification for having private interests represented on Government bodies.

In 1913, as Congress was drafting the Federal Reserve Act, Representative Carter Glass, who was then chairman of the House Banking Committee, proposed to give the Nation's banks significant representation on the Federal Reserve Board. Senator Owen, chairman of the Senate Banking Committee, strongly opposed this and held instead that the Government should appoint all the members of the proposed Board. Glass' compromise position was to have four members chosen by the Government and three by the banks. Owen and Glass met with President Wilson on this issue. According to Owen (see CONGRESSIONAL RECORD, Vol. 50):

> After a discussion of two hours, approximately, the President coincided with my contention that the Government should control every member of the Board on the ground that it was the function of the government to supervise this system, and no individual, however respectable should be on the Board representing private interests.

According to Glass' 1927 book, "Adventures in Constructive Finance," when a group of bankers went to the White House to protest Wilson's decision, the President turned to the bankers and said:

> Will one of you gentlemen tell me in what civilized country of the Earth there are important government boards of control on which private interests are represented?

After what Glass tells us was a painful silence, President Wilson inquired:

> Which of you gentlemen thinks that railroads should select members of the Interstate Commerce Commission?

As a compromise, Wilson Suggested that as compensation to the banks for not being on the Board, the bill should include a Federal Advisory Council, which would let representatives of the banks meet with the Federal Reserve Board periodically on a purely advisory capacity. Since Glass decided there could have been no convincing reply to either of Wilson's questions, he thereafter gave Wilson's approach his very cordial support. Wilson's views were reflected in the report of the Senate Banking Committee on the 1913 act, which argued:

> The function of the Federal Reserve Board in supervising the banking system is a governmental function in which private persons or private interests have no right to representation, except through the Government itself.

DEVELOPMENT OF THE FEDERAL OPEN MARKET COMMITTEE

One of the most serious omissions from the Federal Reserve Act of 1913 was that it did not provide for a Federal Reserve organ to guide open market operations. Instead, such decisions were left up to the individual Federal Reserve banks.

During the early years, the banks, which received no appropriations from Congress for operating expenses, frequently made open market purchases of Treasury bills and other financial instruments in order to gain earning assets to fund salaries and other bank expenses. Since each bank did this separately and at its own convenience, open market operations occasionally had a disruptive influence on Treasury markets.

In 1922, under pressure from the Treasury, the Governors—as the bank presidents were called before 1935—of the banks of New York, Boston, Chicago, Cleveland, and Philadelphia formed what came to be called the Open Market Investment Committee, to work out an orderly method of buying and selling Government securities. The individual Federal Reserve Banks, however, were not compelled to obey this committee; each bank decided on its own whether to follow the approved policy. The Federal Reserve Board in these early days had no statutory role in open market operations.

THE BANKING ACT OF 1933

The Banking Act of 1933 gave the Open Market Committee statutory recognition and expanded it to include one representative of each Federal Reserve district. But it did little to correct the impotence of the Federal Reserve Board. The Board could not initiate open market operations; it could only approve or disapprove decisions of the Open Market Committee.

When President Roosevelt appointed Marriner Eccles to head the Federal Reserve Board in 1934, Eccles proposed to give the Board increased control over monetary policy by making it, rather than the FOMC, responsible for open market operations.

The House version of the Banking Act of 1935 followed this plan by limiting membership in the Open Market Committee to Federal Reserve Board members. To mollify the Federal Reserve banks, the bill included a provision under which the Board would consult periodically with five representatives of the banks. After consultation, however, the Board would be free to follow its own judgment on monetary policy. Some Members of Congress, particularly Senate Banking Committee Chairman Carter Glass—who joined the Senate in 1919 after a brief term as Treasury Secretary—resisted this plan and insisted that the power be shared with the Federal Reserve banks. The final version of the act compromised on this issue by creating an FOMC which included as voting members the seven members of the Board of Governors and a rotating group of five Federal Reserve bank presidents. As part of the compromise, the FOMC's policy on open market operations was made binding on the Federal Reserve banks. Authority and responsibility for monetary policy was thus centralized in the FOMC, though not in the Federal Reserve Board.

MONETARY POLICY IN OTHER COUNTRIES

This arrangement of giving private individuals a substantial voice in the conduct of monetary policy finds little support in the practice of central banking abroad.

A study recently prepared for the Joint Economic Committee on central bank-government relations in the major industrialized countries found that central bank officials who make monetary policy decisions elsewhere are all duly appointed public officials who are accountable only to the people and not to special interests. In most instances, the policymakers are appointed by the Prime Minister, with input from other Ministers, usually Treasury, or from the Parliament.

Where central bank officials that are not directly appointed by the government have a role, as in Italy, it is usually advisory; ultimately responsibility still rests with government appointees. Even in Germany, which reputedly has the most independent of all central banks, the 11 Land Bank presidents who participate in monetary policy decisions are all appointed by the upper house of the German Parliament. In no instance abroad do private individuals have a binding vote as they do here.

THE MONETARY POLICY REFORM ACT OF 1993

The Monetary Policy Reform Act of 1993, which I am introducing today, would fulfill the original intentions of Presidents Wilson and Roosevelt by making the Board of Governors solely responsible for the conduct of monetary policy.

The bill would do two things. First, the FOMC as presently constituted would be dissolved and its responsibilities would be taken over by the Board of Governors. Second, a Federal Open Market Advisory Council would be created, composed of the presidents of the 12 Federal Reserve banks. Through this Federal Open Market Advisory Council, the bank presidents would have an important consultative role on monetary policy, but would not have a vote. The Fed would still have the benefit of the bank presidents' advice, but monetary policy decisions would be the responsibility of properly appointed public officials.

Power without accountability does not fit the American system of democracy. In no other Government agency do private individuals make government policy. The Monetary Policy Reform Act of 1993 will now apply this same principle of democracy to the Federal Reserve.

Mr. President, I hereby ask unanimous consent that the text of the bill be printed in the RECORD after my remarks.

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

S. 219

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 "Monetary Policy Reform Act of 1993".

SEC. 2. MEMBERSHIP OF THE FEDERAL OPEN MARKET ADVISORY COMMITTEE.

Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended to read as follows:

"(a) ESTABLISHMENT OF ADVISORY COMMITTEE.—

"(1) IN GENERAL.—There is established a Federal Open Market Advisory Committee (hereafter in this section referred to as the 'Advisory Committee'), which shall consist of the presidents of the Federal Reserve banks.

"(2) CHAIRPERSON.—The president of the Federal Reserve Bank of New York shall serve as the chairperson of the Advisory Committee.

"(3) MEETINGS.—The meetings of the Advisory Committee shall be held in Washington, District of Columbia, not less than 4 times a year upon the call of the Board of Governors of the Federal Reserve System.

"(4) DUTIES.—The Advisory Committee shall advise the Board on the conduct of open-market operations.

SEC. 3. CONFORMING AMENDMENTS.

"(a) IN GENERAL.—Section 12A of the Federal Reserve Act (12 U.S.C. 263) is amended-

(1) in subsection (b)—

(A) by striking "Committee" each place it appears and inserting "Board"; and

(B) by inserting "REGULATIONS.—" before "NO FEDERAL RESERVE"; and

(2) in subsection (c), by inserting "ACCOMMODATION OF COMMERCE AND BUSINESS.—" before "The time".

(b) UNITED STATES OBLIGATIONS.—Section 14(b)(2) of the Federal Reserve Act (12 U.S.C. 355(2)) is amended by striking "Federal Open Market Committee" and inserting "Board of Governors of the Federal Reserve System".

(c) OTHER REFERENCES IN FEDERAL LAW.—Except as otherwise provided in this section, any reference in Federal law to the Federal Open Market Committee shall be construed to be a reference to the Federal Open Market Advisory Committee.●

Mr. DORGAN. Mr. President, today I'm joining Senators SARBANES, SASSER, and RIEGLE in introducing the Monetary Policy Reform Act of 1993 that would place the responsibility for this country's most important monetary policy decisions exclusively with the Federal Reserve's Board of Governors. This legislation will take back the Nation's monetary policy from private bankers who are accountable only to their bank shareholders, and restore it to people who are accountable to the general public, as the framers of the original Federal Reserve Act intended.

Currently, monetary policy in this country is made primarily by the Fed Reserve's Federal Open Market Committee [FOMC]. The FOMC consists of the 7 members of the Board of Governors and the 12 regional bank presidents who vote on critical monetary policy decisions that affect the Nation's economy. As a result, the FOMC has enormous power over the direction that our economy is heading.

The Board of Governors are appointed by the President and confirmed by the Senate. By contrast, the regional bank presidents—who serve the private interests of their banks—are not appointed by the President or confirmed by Congress. Yet, they are entitled to five votes that vitally affect our national economy—the jobs, businesses, investments, and economic security of every American. Consequently, these private individuals wield enormous power, but they can't be held accountable the way other Government officials can.

This legislation is intended to increase the Fed's accountability to the American people by limiting its voting seats to those officials who have been appointed and confirmed by the President and the Senate, respectively.

Specifically, the Monetary Policy Reform Act of 1993 would dissolve the FOMC and replace it with a Federal Open Market Advisory Committee [FOMAC]. As members of the newly created FOMAC, the bank presidents would continue to advise and consult with the Board of Governors about the course of monetary policy. But voting rights would be left exclusively to the duly appointed Board of Governors who can ultimately be held accountable by the President and Congress.

It shouldn't be a surprise that most other nations limit the power to make monetary policy to accountable government officials. One survey of central bank systems in foreign countries indicates that private individuals may hold advisory positions, but they can't vote on specific items of monetary policy.

The lawmakers who wrote the original Federal Reserve Act of 1913 labored to ensure that the Fed would be an accountable Government institution. While the act was being considered, President Wilson emphasized the necessity of keeping the conduct of monetary policy in the public domain. Today we are attempting to resurrect this worthy democratic goal by eliminating the votes of the bank presidents who are neither appointed by the President nor confirmed by the Senate, but exercise enormous power over the course of this Nation's economic future.

I urge my colleagues to support this important initiative to help make the Fed a more meaningful player in our democratic system by cosponsoring the Monetary Policy Reform Act of 1993.

By Mr. THURMOND:

S.J. Res. 21. A joint resolution to designate the week beginning September 19, 1993, as "National Historically Black Colleges and Universities Week"; to the Committee on the Judiciary.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. THURMOND. Mr. President, I am pleased to rise today to introduce a joint resolution which authorizes and requests the President to designate the week of September 19, 1993, through September 25, 1993, as "National Historically Black Colleges Week."

This year represents the 10th year that it has been my privilege to sponsor legislation honoring the historically black colleges of our country.

Eight of the 104 historically black colleges, namely Allen University, Benedict College, Claflin College, South Carolina State College, Morris College, Voorhees College, Denmark Technical College, and Clinton Junior College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with the opportunity to obtain a college education.

Mr. President, hundreds of thousands of young Americans have received quality educations at these 104 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically black colleges offer to our citizens a variety of curriculums and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Recent statistics show that historically black colleges and universities have graduated 60 percent of the black pharmacists in the Nation, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers, and 80 percent of the black members of the judiciary.

Mr. President, through passage of this joint resolution, Congress can reaffirm its support for historically black colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy passage of this joint resolution, and I ask unanimous consent that a copy of the joint resolution appear in the CONGRESSIONAL RECORD following my remarks.

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

S.J. RES. 21

Whereas there are 104 historically black colleges and universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 19, 1993, is designated as "National Historically Black Colleges and Universities Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe each such week with appropriate ceremonies, activities and programs, thereby demonstrating support for historically black colleges and universities in the United States.

By Mr. SPECTER (for himself, Mr. WOFFORD, Mr. LAUTENBERG, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 22. A joint resolution designating March 25, 1993 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

GREEK INDEPENDENCE DAY

Mr. SPECTER. Mr. President, today I introduce a joint resolution to designate March 25, 1993, as Greek Independence Day: A Celebration of Greek and American Democracy.

One hundred and seventy-two years ago the Greeks began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. Thomas Jefferson proclaimed that, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness." It is fitting, then, that we should recognize the anniversary of the beginning of their effort to return to that democratic tradition.

The democratic form of government is only one of the most obvious of the many benefits we gained from the Greek people. The ancient Greeks contributed a great deal to the modern world, particularly to the United States of America, in the areas of art, philosophy, science, and law. Today, Greek-Americans continue to enrich our culture and to make valuable contributions to American society, business, and government.

It is my hope that strong support for this joint resolution in Congress will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Similar legislation has been signed into law each of the past several years, with overwhelming support in both the House of Representatives and the Senate. Accordingly, I urge my colleagues to join us in supporting this important resolution.

By Mr. BURNS:

S.J. Res. 23. Joint resolution to designate the week of February 1 through February 7, 1993, as "Travel Agent Ap-

preciation Week"; to the Committee on the Judiciary.

S.J. Res. 24. Joint resolution to designate the week of February 7 through February 13, 1993, as "Travel Agent Appreciation Week"; to the Committee on the Judiciary.

TRAVEL AGENT APPRECIATION WEEK

Mr. BURNS. Mr. President, travel agencies generate hundreds of thousands of dollars in Montana and they are an important part of our business and social community. They help the business community communicate with offices nationwide and worldwide. Agents help the business community sell their products globally as worldwide opportunities for goods and services continue to expand.

Travel agents also help our student travelers. They assist them in arranging study abroad, visiting college campuses for interviews and scholarship funds, returning home for the holidays, or interview for their first jobs.

They help our grandparents visit their first grandchild in other States; they help our grandchildren visit Disney World or Disneyland. They help harried parents get away alone for the weekend. They help families plan reunions. In short, the services they perform touch every segment of our community.

The fine work they do helps all of our Members' States as well. They encourage would-be adventurers to visit museums, shops, restaurants, and tourist sites in all of America's cities and towns. Their computerized network of travel information also allows them instant expertise for any destination in my home State or yours.

Travel agents act as consumer advocates for the traveling public. They have petitioned airlines for lower, simpler fares, or better frequent traveler programs. They have solicited hotels for safer rooms, more nonsmoking facilities, and a wider array of services. Tour operators now provide more comfortable buses because travel agents have passed along the needs of their clients.

Each of us here today has used a travel agent. And when we did, we assumed that they would know everything we care to know about our business or pleasure destination. And since they did, we are here today to say thank you to agents for being our eyes and ears to the world. And so I ask each of you to proudly join with me in declaring February 1 through 7, 1993, as Travel Agent Appreciation Week.

I ask unanimous consent that the joint resolutions be printed in the RECORD following my remarks.

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

S.J. RES. 23

Whereas travel and tourism has become one of the fastest growing industries in the United States, generating more than $350,000,000,000 in 1992;

Whereas over 40,000 travel agencies in the United States perform many vital services that save American consumers and business valuable time and money;

Whereas both business and leisure travelers have come to rely on the travel agent for accurate, professional advice;

Whereas travel agents are an integral part of the travel and tourism industry;

Whereas travel agents generated over $51,000,000,000 in revenue for the airline industry in 1992 alone;

Whereas travel agents are located in all 50 States, and are an important source of jobs from entry level to middle management in almost every town throughout the country; and

Whereas it is fitting to set aside a time to honor and recognize these highly trained travel professionals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 1 through February 7, 1993 is designated as "Travel Agent Appreciation Week", and the President is authorized to issue a proclamation calling upon the people of the United States to observe this week with appropriate ceremonies and activities.

S.J. RES. 24

Whereas travel and tourism has become one of the fastest growing industries in the United States, generating more than $350,000,000,000 in 1992;

Whereas over 40,000 travel agencies in the United States perform many vital services that save American consumers and business valuable time and money;

Whereas both business and leisure travelers have come to rely on the travel agent for accurate, professional advice;

Whereas travel agents are an integral part of the travel and tourism industry;

Whereas travel agents generated over $51,000,000,000 in revenue for the airline industry in 1992 alone;

Whereas travel agents are located in all 50 States, and are an important source of jobs from entry level to middle management in almost every town throughout the country; and

Whereas it is fitting to set aside a time to honor and recognize these highly trained travel professionals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 7 through February 13, 1994, is designated as "Travel Agent Appreciation Week", and the President is authorized to issue a proclamation calling upon the people of the United States to observe this week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 2

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

At the request of Mr. FORD, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2, supra.

S. 4

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 4, a bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes.

At the request of Mr. HOLLINGS, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 4, supra.

S. 11

At the request of Mr. BIDEN, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 25

At the request of Mr. MITCHELL, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Texas [Mr. KRUEGER] were added as cosponsors of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 27

At the request of Mr. SARBANES, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Nevada [Mr. REID], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SHELBY], the Senator from Florida [Mr. MACK], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 73

At the request of Mr. METZENBAUM, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 73, a bill to provide for the rehiring by the Federal Aviation Administration of certain former air traffic controllers.

S. 80

At the request of Mr. GRAMM, the name of the Senator from Texas [Mr. KRUEGER] was added as a cosponsor of S. 80, a bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village

Creek Corridor Unit, the Big Sandy Corridor Unit, and the Canyonlands Unit.

S. 81

At the request of Mr. NICKLES, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 81, a bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes.

S. 159

At the request of Mr. DOLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 159, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 171

At the request of Mr. GLENN, the names of the Senator from Montana [Mr. BAUCUS] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

SENATE JOINT RESOLUTION 7

At the request of Mr. GRAMM, the names of the Senator from Utah [Mr. BENNETT] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 7, a joint resolution to provide for a Balanced Budget Constitutional Amendment.

SENATE JOINT RESOLUTION 10

At the request of Mr. HOLLINGS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 10, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE RESOLUTION 11

At the request of Mr. DECONCINI, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Resolution 11, a resolution relating to Bosnia-Hercegovina's right to self-defense.

SENATE RESOLUTION 12

At the request of Mr. PRESSLER, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Resolution 12, a resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations.

SENATE RESOLUTION 25—TO AMEND THE STANDING RULES OF THE SENATE TO PROVIDE A NON-DEBATABLE MOTION TO PROCEED

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 25

Resolved, That rule VIII of the Standing Rules of the Senate is amended by striking the "." at the end of paragraph 2 and inserting the following: "; except those motions to proceed made by the Majority Leader, or his designee, on which there shall be a time limitation for debate of two hours equally divided between the majority and the minority leaders, or their designees: *Provided*, That any motion to proceed, by the Majority Leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.".

SENATE RESOLUTION 26—TO AMEND THE STANDING RULES OF THE SENATE TO REQUIRE A THREE-FIFTHS VOTE TO OVERTURN THE CHAIR POST-CLOTURE

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 26

Resolved, That rule XXII of the Standing Rules of the Senate is amended by striking the "." at the end of paragraph 3 of section 2 and inserting in lieu thereof the following: ", such appeals shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting.".

SENATE RESOLUTION 27—TO AMEND THE STANDING RULES OF THE SENATE TO PROVIDE FOR THE GERMANENESS OF COMMITTEE AMENDMENTS POST-CLOTURE

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 27

Resolved, That rule XXII of the Standing Rules of the Senate is amended by adding at the end of paragraph 3 of section 2 the following: "In the case of a measure that has been reported by a committee that contains recommended committee amendments, such amendments shall be considered germane.".

SENATE RESOLUTION 28—TO AMEND THE STANDING RULES OF THE SENATE TO PROVIDE THAT QUORUM CALLS ARE CHARGED AGAINST AN INDIVIDUAL'S TIME UNDER CLOTURE

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 28

Resolved, That rule XXII of the Standing Rules of the Senate is amended by striking the "." after speaks in paragraph 3 of section 2 and inserting in lieu thereof the following: ", with the time consumed by quorum calls being charged to the Senator who requested the call of the quorum.".

SENATE RESOLUTION 29—TO AMEND THE STANDING RULES OF THE SENATE TO PROVIDE ONE MOTION TO GO TO CONFERENCE WITH THE HOUSE

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 29

Resolved, That rule XV of the Standing Rules of the Senate is amended by adding the following: "6. That whenever the Senate has in its possession a measure that has been passed by both Houses it shall be in order, once the measure has been placed before the Senate, to make one non-divisible motion that contains the following: to insist on the Senate amendment(s), or disagree to the House amendment(s); to request a conference with the House on the disagreeing votes of the two Houses, or agree to the request of the House for the same; and that the Presiding Officer be authorized to appoint the Senate conferees."

SENATE RESOLUTION 30—TO AMEND THE STANDING RULES OF THE SENATE TO DISPENSE WITH THE READING OF CONFERENCE REPORTS

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 30

Resolved, That rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." in paragraph 1. and inserting in lieu thereof the following: "notwithstanding a request for the reading of the conference report, and shall be determined without debate.".

SENATE RESOLUTION 31—TO AMEND THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 31

Resolved, That Rule XV of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph: "6. (a) At any time following the second day of consideration of a measure, regardless of the pendency, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not relevant to the subject matter of the measure or to the subject matter of an amendment proposed by the committee which reported the measure,

shall thereafter be in order. The motion shall be privileged and shall be decided after two hours of debate, without any intervening action, to be equally divided and controlled by the Majority and the Minority leaders or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators voting, a quorum being present, no amendment not already agreed to (except amendments proposed by the committee which reported the measure) which is not relevant to the subject matter of the measure, or the subject matter of an amendment proposed by the committee which reported the measure, shall be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a measure, points of order with respect to questions of relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of relevancy of an amendment, or whenever the Presiding Officer submits the question of relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment relevant shall be three-fifths of the Senators voting, a quorum being present. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered relevant.

SENATE RESOLUTION 32—TO AMEND THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 32

Resolved, That rule VIII of the Standing Rules of the Senate is amended by striking the "." at the end of paragraph 2 and inserting the following: "; except those motions to proceed made by the Majority Leader, or his designee, on which there shall be a time limitation for debate of two hours equally divided between the Majority and the Minority Leaders, or their designees. Provided that any motion to proceed, by the Majority Leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.".

That rule XXIII of the Standing Rules of the Senate is amended by striking the "." at the end of paragraph 3 of section 2 and inserting in lieu thereof the following: ", such appeals shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting.".

That rule XXII of the Standing Rules of the Senate is amended by adding at the end of paragraph 3 of section 2 the following: "In the case of a measure that has been reported by a committee that contains recommended committee amendments, such amendments shall be considered germane.".

That rule XXII of the Standing Rules of the Senate is amended by striking the "." after "speaks" in paragraph 3 of section 2 and inserting in lieu thereof the following: ", with the time consumed by quorum calls being charged to the senator who requested the call of the quorum.".

That rule XV of the Standing Rules of the Senate is amended by adding the following: "6. That whenever the Senate has in its possession a measure that has been passed by both Houses it shall be in order, once the measure has been placed before the Senate, to make one non-divisible motion that contains the following: to insist on the Senate amendment(s), or disagree to the House amendment(s); to request a conference with the House on the disagreeing votes of the two Houses, or agree to the request of the House for the same; and that the Presiding Officer be authorized to appoint the Senate conferees."

That rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." in paragraph 1. and inserting in lieu thereof the following: "notwithstanding a request for the reading of the conference report, and shall be determined without debate."

That rule XV of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"6. (a) At any time following the second day of consideration of a measure, regardless of its pendency, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not relevant to the subject matter of the measure or to the subject matter of an amendment proposed by the committee which reported the measure, shall thereafter be in order. The motion shall be privileged and shall be decided after two hours of debate, without any intervening action, to be equally divided and controlled by the Majority and the Minority leaders or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators voting, a quorum being present, no amendment not already agreed to (except amendments proposed by the committee which reported the measure) which is not relevant to the subject matter of the measure, or the subject matter of an amendment proposed by the committee which reported the measure, shall be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a measure, points of order with respect to questions of relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of relevancy of an amendment, or whenever the Presiding Officer submits the question of relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment relevant shall be three-fifths of the Senators voting, a quorum being present. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered relevant.

SENATE RESOLUTION 33—TO AMEND SENATE RESOLUTION 338 (WHICH ESTABLISHES THE SELECT COMMITTEE ON ETHICS) TO CHANGE THE MEMBERSHIP OF THE SELECT COMMITTEE FROM MEMBERS OF THE SENATE TO PRIVATE CITIZENS

Mr. HELMS submitted the following resolution; which was placed on the calendar.

S. RES. 33

Resolved, That (a) subsection (a) of the first section of Senate Resolution 338, agreed to July 23, 1964 (88th Congress, 2d session), is amended to read as follows: "(a)(1) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to in this resolution as the 'Select Committee') consisting of 6 members all of whom shall be private citizens. Three members of the Select Committee shall be selected by the Majority Leader and 3 shall be selected by the Minority Leader. Each member of the Select Committee shall serve 6 years except that the Majority Leader and the Minority Leader when making their initial appointments shall each designate 1 member to serve only 2 years and 1 member to serve only 4 years. At least 2 members of the Select Committee shall be retired Federal judges, and at least 2 members of the Select Committee shall be former members of the Senate. Members of the Select Committee may be reappointed.

"(2) The Select Committee shall select a chairman and a vice chairman from among its members.

"(3) Members of the Select Committee shall serve without compensation but shall be entitled to travel and per diem expenses in accordance with the rules and regulations of the Senate.".

(b) Subsection (e) of the first section of Senate Resolution 338 (as referred to in subsection (a)) is repealed.

SENATE RESOLUTION 34—TO AMEND SENATE RESOLUTION 338 (WHICH ESTABLISHES THE SELECT COMMITTEE ON ETHICS) TO CHANGE THE MEMBERSHIP OF THE SELECT COMMITTEE FROM MEMBERS OF THE SENATE TO PRIVATE CITIZENS

Mr. HELMS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 34

Resolved, That (a) subsection (a) of the first section of Senate Resolution 338, agreed to July 23, 1964 (88th Congress, 2d session), is amended to read as follows: "(a)(1) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to in this resolution as the 'Select Committee') consisting of 6 members all of whom shall be private citizens. Three members of the Select Committee shall be selected by the Majority Leader and 3 shall be selected by the Minority Leader. Each member of the Select Committee shall serve 6 years except that the Majority Leader and the Minority Leader when making their initial appointments shall each designate 1 member to serve only 2 years and 1 member to serve only 4 years. At least 2 members of the Select Committee

shall be retired Federal judges, and at least 2 members of the Select Committee shall be former members of the Senate. Members of the Select Committee may be reappointed.

"(2) The Select Committee shall select a chairman and a vice chairman from among its members.

"(3) Members of the Select Committee shall serve without compensation but shall be entitled to travel and per diem expenses in accordance with the rules and regulations of the Senate.".

(b) Subsection (e) of the first section of Senate Resolution 338 (as referred to in subsection (a)) is repealed.

SENATE RESOLUTION 35—EXPRESSING THE SENSE OF THE SENATE CONCERNING SYSTEMATIC RAPE IN THE CONFLICT IN THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

Mr. LAUTENBERG (for himself, Mr. DOLE, Ms. MURRAY, Mr. DURENBERGER, Mr. KENNEDY, Mr. LEAHY, Mr. D'AMATO, Mr. PRESSLER, Mr. REID, Mr. CAMPBELL, Mr. PELL, Ms. MIKULSKI, Mr. RIEGLE, Mr. AKAKA, Mr. BRADLEY, and Mr. SASSER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 35

Whereas the State Department Country Reports on Human Rights Practices for 1992 states that "massive systematic rape, committed by Bosnian Serb military units and prison guards was used as an extension of 'ethnic cleansing' to terrify the population";

Whereas a December report by a European Community investigative team estimates that 20,000 women have been raped since the onset of hostilities;

Whereas women are protected against "any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault" under Article 27 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, and are protected against "outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault," under Article 4 of Protocol II Additional to the Geneva Convention, 1977;

Whereas "inhumane acts" are considered "crimes against humanity" under the London Agreement that established the guidelines for the Nuremberg Trials, and "torture or inhumane treatment" and "willfully causing great suffering or serious injury to body or health" and considered "grave breaches" of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949, under Article 147 of that Convention;

Whereas rape is a deplorable and illegal act of violence in the United States and in every country in Europe;

Whereas systematic rape in the conflict in Bosnia-Herzegovina has been denounced under United Nations Security Council Resolution 798 (1992) and by the Council of Ministers of the European Community in its declaration of December 11, 1992;

Whereas former Secretary of State Lawrence Eagleburger denounced atrocities in this conflict and named individuals that should stand trail in an international court for "crimes against humanity";

Whereas on August 11, 1992, the Senate approved Senate Resolution 330, expressing the sense of the Senate that the United Nations Security Council should convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, to charge, and to prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes; and

Whereas the United Nations Commission of Experts has been appointed to collect information and evidence for the eventual establishment of an international tribunal to prosecute war crimes under international law that are committed in this conflict: Now, therefore, be it

Resolved, That (a) the Senate considers—

(1) rape, whether individual or mass rape, to be an unacceptable means of warfare; and

(2) rape and forced pregnancy to be "crimes against humanity" under international law, regardless of the ethnicity or religion of the victims or the perpetrators, and considers that such offenses should be so recognized in any international tribunal to try perpetrators of crimes against humanity and war crimes.

(b) The Senate strongly condemns the systematic and widespread rape of women and girls in Bosnia-Herzegovina.

(c) The Senate commends—

(A) former Secretary of State Eagleburger for denouncing "crimes against humanity" in the conflict in Bosnia-Herzegovina and for calling for an international crimes tribunal to prosecute such crimes; and

(B) the adoption of United National Security Council Resolution 798 (1992) and the declaration of December 11, 1992, of the Council of Ministers of the European Community, both of which denounced the systematic rape of Moslem women in this conflict.

(d) It is the sense of the Senate that—

(1) the President of the United States should—

(A) publicly condemn systematic rape in this conflict,

(B) state that rape, whether individual or mass rape, and forced, pregnancy, as tactics of war, are crimes against humanity and war crimes, and

(C) vigorously support the establishment by the United Nations of an international tribunal to prosecute crimes against humanity and war crimes;

(2) the President of the United States should publicly declare that the United States will offer no safe haven to war criminals;

(3) all countries and organizations participating in humanitarian relief efforts in the former Socialist Federal Republic of Yugoslavia should allocate resources for the treatment of rape victims, including the training of relief workers in the medical and psychological effects of rape;

(4) all parties to the conflict of Bosnia-Herzegovina should immediately take steps to protect the rights of women and girls as recognized in the Geneva Conventions and, specifically, to protect them from rape, forced pregnancy, and the infliction of other indignities; and

(5) the President of the United States should urge the United Nations to provide adequate funding for the United Nations Commission of Experts and an international tribunal for the full investigation and prosecution of rape.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States and the Secretary General of the United Nations.

Mr. LAUTENBERG. Mr. President, today I am submitting a resolution condemning the systematic rape of women in Bosnia-Herzegovina and demanding that rape, as a crime against humanity under international law, should be punished under an international war crimes tribunal. I am joined by Senators DOLE, MURRAY, DURENBERGER, KENNEDY, LEAHY, D'AMATO, PRESSLER, REID, CAMPBELL, FEINSTEIN, MIKULSKI, and PELL.

State Department, European Community, and human rights reports of widespread incidents of rape in the conflict in Bosnia-Herzegovina are horrifying. They demand our immediate attention and call us to action.

According to a wide range of investigators, while some abuses have been committed by all sides in the conflict, the vast majority of these crimes have been committed by Serb soldiers against Bosnian Moslem women and girls as young as 6 years old.

In many cases, after raping, after degrading these women, Serb soldiers brutally murdered them. Other Moslem women reportedly stand on the verge of giving birth to the children of their Serb rapists, and will bring these children into a society that sees them as permanent outcasts. Still countless other Moslem women and girls face a future tortured by their memories of violence.

Shockingly, these cases are not isolated or sporadic. Thousands of women and girls—perhaps as many as 20,000 to 50,000—have been raped in the conflict in the former Yugoslavia. They also cannot be brushed aside as some of the incidental effects of total warfare. Rape in Bosnia-Herzegovina, particularly the rape of Bosnian Moslem women by Serb soldiers, has been used as a tool of warfare and must be recognized as a systematic crime against humanity.

An interim report on rape commissioned by the European Community concluded that "rape cannot be seen as incidental to the main purposes of the (Serb) aggression but as serving a strategic purpose in itself." The recently released State Department Report on Human rights for 1992 also said that "massive systematic rape, committed by Bosnian-Serb military units and prison guards, was used as an extension of 'ethnic cleansing' to terrify the population."

Last summer, I joined as a member of the majority leader's Senate delegation to the former Yugoslavia, and heard the stories of several women whom I met in a U.N. refugee camp. They told me in graphic terms how a 12-year-old girl was taken from their bus and publicly raped. Those memories haunt me. And now we know this is happening systematically, with the encouragement, sometimes under the orders of, Serb military leaders.

Mr. President, systematic rape in the conflict in Bosnia-Herzegovina has

been denounced under United Nations Security Council Resolution 798. It also has been denounced by the Council of Ministers of the European Community. The U.S. Senate has supported the establishment of a U.N. tribunal to investigate allegations of war crimes and crimes against humanity and to accumulate evidence, to charge, and to prepare the basis for trying individuals who have committed such crimes. It should now join the chorus of voices and condemn the systemic rape of Bosnian Moslem women and explicitly call for prosecution of rape in an international war crimes tribunal.

The perpetrators of rape in the former Yugoslavia should be tried in an appropriate international war crimes tribunal established by the United Nations.

A five-member Commission of experts has been appointed by U.N. Secretary General Boutros-Boutros Ghali to collect information and evidence that could be used for an international tribunal to prosecute war criminals. This is an important step toward prosecuting those guilty of crimes against humanity, including rape. The U.N. Commission should vigorously collect the necessary evidence from a variety of individuals and organizations to enable a war crimes tribunal to prosecute perpetrators of rape.

Mr. President, a report by a team commissioned by the European Community to investigate rape in the former Yugoslavia has recommended emergency help for rape victims. It has urged community governments to help train counselors and increase financial assistance to enable the Croatian and Bosnian governments to cope with the problem. The report states that "without skilled and appropriate counseling, long-term psychological disturbance with risk, of suicide will be the chief result." To that end, the resolution urges the international community to provide assistance.

In Bosnia-Herzegovina, the unthinkable has become commonplace. Rape and other violence are inflicted on innocent people just because they are not Serbs and because they are Muslims. We cannot quietly witness these unspeakable acts. If we do, then we will surely lose our humanity.

If we stand by while a bunch of thugs, murderers, and bullies use rape as a means to perpetuate their plans of genocide, then we have learned nothing from history. We must condemn these acts in the strongest possible terms and put our government on record that this deliberate use of rape as a tool of war is deplorable and unacceptable.

Mr. President, this resolution puts the Senate squarely on record condemning the use of rape as a tool of war. It states the sentiment of the Senate that rape should be prosecuted as a war crime. It calls on the President to condemn publicly systematic rape in the conflict, to vigorously support the establishment by the United Nations of an international tribunal to prosecute crimes against humanity—including rape—and to declare publicly that the United States will not offer safe haven to war criminals from this conflict. It calls upon all countries participating in the humanitarian relief effort in the former Yugoslavia to allocate resources for the treatment of rape victims, including the training of relief workers in the medical and psychological effects of rape.

A similar resolution has been introduced in the House of Representatives by Representatives MILLER and PELOSI. That resolution has 103 cosponsors.

Mr. President, rape is certainly not the only crime that Bosnian Serb soldiers have committed in their aggression against Bosnian Moslems. Other crimes against humanity must be prosecuted as well. Rape, however, is a brutal, hateful crime that is often ignored despite its terrifying effects as a tool of ethnic cleansing.

I hope the Senate Foreign Relations Committee will report this resolution without delay. I urge the Senate to quickly pass this resolution condemning the systematic rape of women in Bosnia-Herzegovina and demanding that rape, as a crime against humanity, be punished under an international war crimes tribunal.

The PRESIDENT pro tempore. Does the Senator ask for immediate consideration of this resolution.

Mr. LAUTENBERG. I ask for its referral, Mr. President, to the appropriate committee.

The PRESIDENT pro tempore. The resolution will be appropriately referred.

Mr. PELL. Mr. President, I would like to join my colleagues, Senator LAUTENBERG, Senator DOLE, and others, in introducing this resolution condemning the systematic rape of women in Bosnia-Herzegovina. The reports of widespread use of rape and forced pregnancy as instruments of war in Bosnia-Herzegovina, which have been documented and proven by independent observers, are truly horrifying.

Last summer, I sent two members of the Foreign Relations Committee staff to report on ethnic cleansing in Bosnia-Herzegovina. It was the first U.S. Government report on the issue, and it found that rape, beatings, and killing occurred in the detention camps. The report also discovered evidence that paramilitary groups from Serbia and Montenegro entered certain camps, often drunk and by night, for the purpose of torturing, killing, and raping. This report was used by the U.S. State Department as part of the submission to the U.N. Human Rights Commission in September.

But it was not until 3 months later that the true scope of the horror was revealed. The recently released annual State Department Human Rights Report found that massive systematic rape, committed by Bosnian Serb military units and prison guards was used as an extension of ethnic cleansing to terrify the population. A December report by the European Community estimates that 20,000 women have been raped since hostilities began last spring, and some estimates put the number as high as 30,000.

It is utterly appalling to think that even after the preliminary reports about rape in the Bosnia conflict last summer, thousands more women and girls were subjected to this unspeakable horror. It is likely that these crimes are continuing—even though the U.N. Security Council and the European Community have denounced systematic rape in Bosnia-Herzegovina.

We often come to the Senate floor to express our concern—or even outrage about one matter or another; so much so that our outrage often becomes routine. But Mr. President, I cannot begin to express the level of outrage I have about the situation in Bosnia. The crimes committed there, including the rape of thousands and thousands of women reveal the darkest side of human behavior, and cannot be excused.

We must not sit idly by while immoral deviants commit these despicable insults to humanity. A half-century ago, after the Holocaust, the world made a decision to prevent such an occurrence from happening ever again. But it did. The State Department Human Rights Report says that the policy of driving out innocent civilians of a different ethnic or religious group from their homes, so-called ethnic cleansing was practiced by Serbian forces in Bosnia on a scale that dwarfs anything seen in Europe since Nazi times. Surely we must follow through on our collective pledge to punish the perpetrators and hold them accountable for their crimes against humanity.

This resolution will facilitate the establishment of an international tribunal to prosecute war crimes under international law. Not only do these criminals have to be stopped, but they have to be punished. We have already failed in our responsibility to humanity by letting these horrors occur. It would be unconscionable for us to fail to bring the criminals to justice.

SENATE RESOLUTION 36—TO MAKE MAJORITY PARTY APPOINTMENTS TO A SENATE COMMITTEE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 36

Resolved, That the following shall constitute the majority party's membership on the Ethics Committee for the One Hundred and Third Congress, or until their successors are chosen:

69-059 O—97 Vol. 139 (Pt. 1) 41

Select Committee on Ethics: Mr. Bryan, Chairman; Ms. Mikulski; and Mr. Daschle.

SENATE RESOLUTION 37—AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was placed on the calendar:

S. RES. 37

Resolved, That rule VIII of the Standing Rules of the Senate is amended by striking the "." at the end of paragraph 2 and inserting the following: "; except those motions to proceed made by the majority leader, or his designeee, on which there shall be a time limitation for debate of two hours equally divided between the majority and the minority leaders, or their designees: *Provided*, That any motion to proceed, by the majority leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.".

That rule XXII of the Standing Rules of the Senate is amended by striking the "." at the end of paragraph 3 of section 2 and inserting in lieu thereof the following: ", such appeals shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting."

That rule XXII of the Standing Rules of the Senate is amended by adding at the end of paragraph 3 of section 2 the following: "In the case of a measure that has been reported by a committee that contains recommended committee amendments, such amendments shall be considered germane."

That rule XXII of the Standing Rules of the Senate is amended by striking the "." after speaks in paragraph 3 of section 2 and inserting in lieu thereof the following: ", with the time consumed by quorum calls being charged to the Senator who requested the call of the quorum.".

That rule XV of the Standing Rules of the Senate is amended by adding the following:

"6. That whenever the Senate has in its possession a measure that has been passed by both Houses it shall be in order, once the measure has been placed before the Senate, to make one nondivisible motion that contains the following: to insist on the Senate amendment(s), or disagree to the House amendment(s); to request a conference with the house on the disagreeing votes of the two Houses, or agree to the request of the House for the same; and that the Presiding Officer be authorized to appoint the Senate conferees."

That rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." in paragraph 1. and inserting in lieu thereof the following: "notwithstanding a request for the reading of the conference report, and shall be determined without debate.".

That rule XV of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraphs:

"6. (a) At any time following the second day of consideration of a measure, regardless of its pendency, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not relevant to the subject matter of the measure or to the subject matter of an amendment proposed by the committee which reported the measure, shall thereafter be in order. The motion shall be privileged and shall be decided after two hours of debate, without any intervening action, to be equally divided and controlled by the majority and the minority leaders or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators voting, a quorum being present, no amendment not already agreed to (except amendments proposed by the committee which reported the measure) which is not relevant to the subject matter of the measure, or the subject matter of an amendment proposed by the committee which reported the measure, shall be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a measure, points of order with respect to questions of relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of relevancy of an amendment, or whenever the Presiding Officer submits the question of relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment relevant shall be three-fifths of the Senators voting, a quorum being present. No amendment proposing sense of the Senate or sense-of-the-Congress language that does not directly relate to the measure or matter before the Senate shall be considered relevant."

SENATE RESOLUTION 38—TO MAKE MINORITY PARTY APPOINTMENTS TO A SENATE COMMITTEE

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 38

Resolved, That the following shall constitute minority membership of the Select Committee on Ethics for the One Hundred Third Congress or until their successors are named: Mitch McConnell (Vice Chairman), Ted Stevens (vice, Trent Lott), and Bob Smith (vice, Slade Gorton).

NOTICES OF MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet to organize on Thursday, January 28, 1993, at 9:30 a.m., in SR–301. At this meeting the committee plans to adopt its rules of procedure and to select members for the Joint Committee on Printing and the Joint Committee of Congress on the Library.

The committee will also consider legislative items currently pending on its agenda, including an original resolution authorizing expenditures by the Committee on Rules and Administration for the 103d Congress.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on 224–0278.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday February 3, and Thursday, February 4, 1993, at 9:30 a.m. on each day, to receive testimony from committee chairmen and ranking members on their committee funding resolutions for 1993 and 1994.

For further information concerning these hearings, please contact Carole Blessington of the Rules Committee staff on 224–0278.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet on Tuesday, January 26, 1993, at 2:30 p.m. in executive session, to meet with the Subcommittee on Defense and Security Cooperation of the North Atlantic Assembly.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, January 26, 1993, to hold a hearing on Oversight of the Insurance Industry: Blue Cross/Blue Shield-National Capital Area.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on Tuesday, January 26, 1993, beginning at 10 a.m., in 485 Russell Senate Office Building, to adopt the committee's operating resolution, jurisdiction and rules of the select committee, and the committee's biennial budget.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, January 26, 1993, at 9 a.m., for an executive session considering the NIH Reauthorization Act and the Family and Medical Leave Act.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transpor-

tation, be authorized to meet during the session of the Senate on January 26, 1993, at 10 a.m. on the nomination of John Gibbons to be Director of the Office of Science and Technology Policy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 26 at 10 a.m. to hold a business meeting.

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

ADDITIONAL STATEMENTS

COSPONSORSHIP OF VIOLENCE AGAINST WOMEN ACT

• Mr. ROCKEFELLER. Mr. President, today I rise to speak about one of the most tragic and growing health threats in our country today: violence against women. National statistics are shocking and demand our concern and action. Every 15 seconds, a woman is beaten by her husband or boyfriend and every 6 minutes, a woman is forcibly raped.

In just 8 months during 1992, 16 West Virginian women died as a result of brutal acts by their current or former husbands or boyfriends. This astonishing figure does not include those women who survived acts of violence and stayed in their homes, or sought refuge in one of West Virginia's 12 domestic violence shelters, last year. Also last year, over 11,000 adults and 3,000 children sought support from local shelters or through the emergency hotline. Over 3,800 adults and children fled their homes and stayed in shelters to avoid domestic violence in 1992.

This horrifying problem not only affects women, but out Nation's children as well. Children living in homes where violence occurs often experience both physical and psychological abuse and trauma. They, too, need our immediate help.

Each incident is a tragedy for the individuals involved. Without our intervention, domestic violence will not disappear. Women in our country deserve protection to end their continuing nightmare.

West Virginians are struggling to respond to the problem of domestic violence. Under the leadership of the West Virginia Coalition Against Domestic Violence, hundreds of volunteers are working in shelters across the State to provide women, who have no other place to turn, the protection, comfort and support that they so desperately need. Such community-based efforts are vital, but we should provide more Federal support and encouragement by swift action on the Violence Against Women Act.

I am proud to be an original cosponsor of the Violence Against Women Act introduced last Thursday by Senator BIDEN, Chairman of the Senate Judiciary Committee. I share his commitment to see the bill enacted into law swiftly. This legislation is a comprehensive effort to address the tragic issue of domestic violence. It seeks to make streets and homes safer for women by investing in law enforcement initiatives targeted to prevent domestic violence. It will make our criminal justice system more responsive to victims of crime. The act would extend equal protection under the law to women by establishing a civil rights remedy for victims.

As we focus our attention on our Nation's health care, we must consider the impact of domestic violence on women and children. We cannot turn our heads, ignore the problem, and quietly hope it goes away. Rather, we must confront the issue with a firm commitment to promote awareness, prevention, and support for victims.

I strongly support the Violence Against Women Act and hope that it will be enacted by this Congress and swiftly signed into law by our new President. Women and children who are the innocent victims of domestic violence deserve the powerful protection and assistance in the Violence Against Women Act.•

TRIBUTE TO ANN BANCROFT AND THE MEMBERS OF THE AMERICAN WOMEN'S TRANS-ANTARCTIC EXPEDITION

• Mr. DURENBERGER. Mr. President, I have often lauded the pioneer spirit of Minnesotans, and Ann Bancroft is one of those Minnesotans who has achieved a number of pioneering firsts.

As a girl growing up in Mendota Heights, she led the fight to get a girl's sports program off the ground at Sibley High School. As an adult, she showed uncommon determination when she became the first woman to reach the North Pole by sled dog as part of Will Steger's team in 1986.

This year, Ann Bancroft became the first woman to have walked both of the Earth's poles. Along with Anne Dal Vera, Sue Giller, and Sunniva Sorby, Ms. Bancroft led the four-member American Women's Trans-Antarctic Expedition hoping to become the first group of women to cross Antarctica without the help of sled dogs or motorized vehicles.

On January 14, the team stopped at the South Pole, 910 miles short of their goal at McMurdo Naval Base on the Ross Sea. By the time they reached the pole they had skied 660 miles, traveling uphill most of the time, against the wind, pulling sleds each packed with 200 pounds of supplies.

Questions have been raised because the Bancroft team stopped short of the Ross Sea. But being a pioneer means more than being the first. It means recognizing the danger signs and knowing when to hold back. It means knowing that tomorrow may hold the key to success.

And, above all, being a pioneer means knowing how to put it all in perspective. As Theodore Roosevelt wrote, this mean of pioneers owes nothing to those who haven't dared to reach for the impossible:

> It is not the critic who counts, not the one who points out how the strong man stumbled or how the doer of deeds might have done them better.
>
> The credit belongs to the one who is actually in the arena, whose face is marred with sweat and dust and blood; who strives valiantly; who errs and comes short again and again; who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause;
>
> Who, if he wins, knows the triumphs of high achievement; and who, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

Mr. President, the Bancroft team launched a professional expedition informed by determination and tempered by common sense. Had there been a way to complete the remaining 910 miles of their trek without tremendous suffering, this team would have found the way. On behalf of all Minnesotans I salute Ann Bancroft and the members of the American Women's Trans-Antarctic Expedition.•

WHEELCHAIR SCAVENGER HUNT

• Mr. MCCAIN. Mr. President, on Thursday, February 4, a 1-hour wheelchair scavenger hunt will occur at the Arizona Center. This event is designed to help the public gain a better understanding of the difficulties that wheelchair users face.

I applaud the participants of this unique event and hope that many will benefit from this learning, and enlightening experience.

Mr. President, too often people take for granted the difficulties that disabled Americans face as they move from place to place. Greater public awareness of these difficulties will benefit all.

Two years ago, I hired a young man who used a wheelchair in my Washington, DC, office. Firsthand, I saw the difficulties he faced navigating around in my Senate office. Consequently, I took steps to ensure that my office was 100 percent wheelchair-user friendly. I further called on the entire U.S. Senate to do the same and set a new standard of wheelchair accessibility.

Lastly, Mr. President, let me thank Rehab Systems-Phoenix, which includes Meridian Point Rehabilitation Hospital in Scottsdale and Valley of the Sun Rehabilitation Hospital in Glendale, and the Arizona Wheelchair

Sports Association for their hard work in putting together this fine program. Their work does not go unappreciated.●

TRIBUTE TO AMBASSADOR SMITH HEMPSTONE

● Mr. DURENBERGER. Mr. President, when George Bush appointed Smith Hempstone to be American Ambassador to Kenya, many observers feared the worst. After three decades in the newspaper business, his conservative views were well known to readers of the Washington Star and later the Washington Times. Those seeking a reform minded representative in that country saw in Ambassador Hempstone more of the same.

But if his critics thought Smith Hempstone would uphold the status quo, the Ambassador had other plans. He aggressively sought real reform of the autocratic governments that have ruled Kenya since it gained independence from Britain in 1963.

American policy toward Kenya has always been to encourage democratic reforms, but until the Ambassador's appointment we never seemed to seriously challenge the status quo or the 1982 constitutional amendment that made President Daniel Arap Moi's Kenyan African National Union the country's only legal party.

I first met Smith Hempstone when I was in east Africa in December 1991, to participate in the Africa-wide National Prayer Breakfast gathering. Since then, we have spoken a number of times about events in Kenya generally as well as specific concerns of mine regarding particular opposition leaders with connections to Minnesota.

I can tell you that Smith Hempstone is not your stereotypical Ambassador. He is not a practitioner of stately diplomacy that seeks its ends quietly and politely. He has brought to his post a unique style that, coupled with his unabashed views, have made him a constant irritation to President Moi.

Ambassador Hempstone is credited by many with giving life to the opposition movement that would eventually open the way for a multiparty system. Despite occasional admonitions from back home, and many outbursts against him in Kenya, the Ambassador has persevered.

Mr. President, democracy's interests in Kenya are well served by Smith Hempstone. There is a long way to go before Kenya becomes a fully functioning democracy, but we can now say the odds are in its favor. I applaud Ambassador Hempstone, and I admire his spirit.

Mr. President, I ask that the Washington Post article from January 10, 1993, be included in the RECORD at the conclusion of my remarks.

The article follows:

HEMPSTONE UNTURNED: THE UN-DIPLOMAT BEHIND KENYA'S VOTE

(By Raymond Bonner)

NAIROBI.—"At long last Kenyans can breathe a sigh of relief," said the Kenya Times recently. "Ambassador Smith Hempstone of the United States of America is going back to where he came from."

It was a striking public display of antipathy toward an American envoy, predictable perhaps from a newspaper in, say, Iraq, but not from the organ of the ruling party of Kenya, whose government has long been one of America's friends. Then again, Kenya's foreign minister, Ndolo Ayah, once publicly called Hempstone a "racist" and accused him of acting like a "slave-owner."

What has generated these harsh and undiplomatic outbursts is Hempstone's outspoken and unrelenting advocacy of democracy in Kenya. Thanks in no small part to Hempstone, Kenya held its first multi-party elections in 26 years in late December.

When Hempstone arrived here three years ago, no one could have imagined all this. It was assumed that he would give sustenance to Kenya's President Daniel Arap Moi, who had ruled unchallenged since 1978. That's what American diplomats had been doing for years, and there was little reason to think that Hempstone, an arch-conservative newspaperman appointed by President Bush, would not follow diplomatic convention.

But there is little conventional about Smith Hempstone. With his wide girth, flushed countenance, white beard, heavy drinking and chain-smoking, he bears a marked resemblance to Ernest Hemingway, a comparison he courts. He often acts more like the swashbuckling novelist than a diplomat. During the Persian Gulf War, when American embassies around the world took extra security precautions. Hempstone packed his own .38-caliber pistol, secreted in an oddly feminine leather purse.

Before becoming an ambassador, Hempstone had spent three decades as a journalist. He was the editorial page editor at the Washington Star, and later executive editor of the Washington Times. Hempstone used his journalistic perches to champion the othodoxies of American conservativism. He believed the Vietnam War was a noble cause, that Angolan rebel Jonas Savimbi was a true democrat and that the Reagan administration's covert support of the Nicaraguan contras was an admirable enterprise.

Thus when Hempstone was dispatched to Kenya in 1988, liberals on Capitol Hill anticipated the worst. "I feared we were going to get someone who wasn't really going to do much," recalls Sen. Paul Simon (D-Ill.)., chairman of the foreign relations subcommittee on Africa.

What Washington got was an outspoken maverick. Hempstone is perhaps best-known for two widely publicized diplomatic cables. One on the drought in East Africa reportedly helped Bush focus on the plight of Somalia. The other urged Bush not to intervene there, describing the country (with a memorable lack of tact) as "a tar baby" from which the United States would not be able to free itself—advice which the president obviously ignored.

But Hempstone's real contribution has been as an advocate of change in Kenya. In an address to the Rotary Club in Nairobi in May 1990, Hempstone said that U.S. economic assistance would go to nations that "nourish democratic institutions, defend human rights and practice multi-party politics." An obvious message perhaps, buy Kenyan officials weren't used to hearing anything quite like it from an American diplomat.

Since independence from Britain in 1963, Kenya has had only two presidents. The country's first elected head of state, Jomo Kenyatta, died in office in 1978 and was succeeded by Moi, his vice-president and a former primary school teacher. In 1982, Moi rammed through parliament a constitutional amendment that made the Kenyan African National Union—KANU—the country's only legal party. Because Kenya had bases on the Indian Ocean and was considered important strategically, Washington remained mute in the face of human rights abuses and widescale corruption by the Moi regime. The West poured in billions of dollars in aid that helped sustain Moi's government and enrich his entourage.

Hempstone's comments gave life to an opposition movement, which at the time was not more than a few individuals. "That was really the turning point," says Gitobu Imanyara, a lawyer and early leader of the opposition movement. "Now Kenyans felt they could oppose the government and they would have the support of a major world power."

Moi remained intransigent. He branded the opposition "anarchists" and 'traitors," and threatened to crush them "like rats." He declared that a multi-party system was a "luxury" Africans couldn't afford. He said repeatedly that it would lead to "tribalism"—the "ism" that African dictators use to justify their rule now that communism is dead.

Hempstone remained just as determined. Every time a dissident was arrested or a newspaper shut down, he issued a denunciation, and he went out of his way to be seen with leaders of the opposition, even inviting them to parties at his residence.

Hempstone didn't always have the support of Washington. In fact, his high-decibel approach toward promoting democracy made the traditional diplomats quite nervous. When the deputy assistant secretary of state for Africa, Herman Cohen, visited Kenya, in August 1990, he pointedly did not meet any of the lawyers or church leaders who were leading the opposition. And Cohen sent another reassuring measure to the government, and undercut his ambassador, when he did not take Hempstone along for his meeting with Moi. It's not that Cohen is less committed to democracy than Hempstone, he just prefers to practice traditional "quiet diplomacy."

Deference to his superiors was never Hempstone's strong suit. In June 1990, Secretary of State James A. Baker III sent a message to all ambassadors: no on-the-record interviews without prior approval from the Office of Press Relations.

"If the president's envoys are to be gagged," Hempstone responded, "they will soon become about as useful as the legendary teats on the proverbial bull." The department's edict, he complained, treated ambassadors like children, expecting them to "raise their hands and ask Mommy's permission." He urged Baker "to rescind this obnoxious ukase." Baker didn't.

Hempstone's enemies in Kenya and Washington often used his "drinking problem" as the pretext to express their displeasure with his aggressive and high-profile activities. "You can't take another drink out there; there's no half way," a senior State Department office once sternly admonished the ambassador. Hempstone continued to drink, to give interviews and to speak out against the Kenyan government's authoritarian ways.

Ultimately, the international community followed Hempstone's lead. In November

1991, at a meeting in Paris, 12 governments stated that they would not give any more aid until there were economic and political reforms. Moi got the message. Within a matter of weeks, he legalized political parties, and Kenya became one of the most open political societies in Africa. But before it could be considered a democracy, there had to be an election. Moi resisted calling one, hoping that Hempstone would be recalled—which Moi's government requested on several occasions. But Hempstone stayed on, and in late October Moi finally called an election. Hempstone did not relent. "The spirit of fair play and tolerance that is at the heart of the democratic process seems largely—if not entirely—absent," he said a few weeks before the voting, in a speech to the American Business Association in Nairobi. He noted that "the opposition has been hampered in its efforts to hold meetings or open branch offices in many parts of the country * * *.The registration process has been terminated before one million young people without identification cards have had a chance to register * * *.Teachers, civil servants, the armed forces and the police have been admonished to vote for KANU."

As Hempstone pushed for democracy in Kenya, it was not always easy to discern if he was motivated by a genuine commitment to democracy or by a fondness for public attention. His manner was often brusque, to the point of being bumptious and crude. Maybe it doesn't matter.

The election for Kenya was a milestone, despite the fact that Moi basically controlled the process and defeated seven other candidates. The inability of the opposition leaders to put aside their personal ambitions in order to come up with a single candidate to challenge Moi almost assured his victory even without the fraud. But for all of its flaws, the election put Kenya on a democratic course. It will now we extremely difficult for Moi, or any leader, to again impose one-party rule.

Hempstone, like all political appointees, submitted a pro forma resignation after Bill Clinton won the presidency. But if Clinton were to leave him in Nairobi just for a while longer, it would send a message to the one-party regimes in Africa—Zaire and Malawi in particular—that have long counted on being coddled by Washington.

Raymond Bonner is a journalist who has lived in Nairobi for the past four years.●

TRIBUTE TO BEREA

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the town of Berea in Madison County.

Berea is a small town located about 50 miles southeast of Lexington, lying on the ridge where the Bluegrass meets the foothills of the Cumberland Mountains. Even though it is a small community, Berea is making a name for itself not only in Kentucky, but also in the United States.

Just recently, U.S. News & World Report ranked Berea College third best in the South. What makes the school unique is its commitment to serve students with financial need and by not charging tuition. In fact, Berea turns away students who have too much money. Because of the school's unique mission, it attracts strong financial support, resulting in the largest endowment of any college or university in Kentucky.

The craft industry is also very visible in Berea. The town has been officially designated the "Folk Arts and Crafts Capital of Kentucky." Churchill Weavers is the oldest production hand weaver in the United States. It supplies throws, clothing, and other woven goods to fashionable department stores all over the country, with its biggest market in southern California. Berea's craft businesses continue to grow, with three new shops having opened in the last month. In addition, 15 antique shops opened in the last 3 years.

Berea is also home to 10 major industrial facilities. Manufacturers have been flocking to Berea's industrial park, providing at least 2,000 new jobs in the past 5 years. Companies come to the area because of its easy access to Interstate 75, and the quality of life in a small college town.

I applaud Berea's efforts to maintain its smalltown historical charm, but at the same time its move forward, making it one of Kentucky's finest towns.

Mr. President, I ask that this tribute and a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

[From the Louisville (KY) Courier-Journal, Oct. 19, 1992]

BEREA: AN IDYLLIC PLACE OF IDEALS AND ARTS IS TOWN'S IMAGE

(By Kirsten Haukebo)

Berea College professors like to joke that the college should print bumper stickers and T-shirts that say, "Berea: A Stench in the Nostrils of All Good Kentuckians."

That line was uttered by a supporter of Kentucky's Day Law, which effectively barred black students from the college for the first half of this century. The law, adopted in 1904, was a severe blow to a school that had maintained an integrated student body—often half black and half white—since the Civil War.

The law (named for its sponsor, Rep. Carl Day of Breathitt County) was one in a long string of harsh reminders that Bereans were different; idealistic and courageous—or a menace to society, depending on your viewpoint.

Berea College's ideals haven't changed, although it never recovered the racial balance it achieved during its first two decades. African Americans now account for 14 percent of students.

Another goal was to serve poor whites, particularly southern Appalachians. Eighty percent of students come from the mountains, and all students must show financial need. Berea is unique in that it turns away qualified applicants who have too much money. Students must work at least 10 hours a week, often in traditional crafts, to help pay their expenses.

Over the years, the town of Berea has tended to attract people who agree with the college's mission, said Lila Bellando, co-owner of Churchill Weavers, Berea's oldest crafts business independent of the college.

Tolerance of different races, lack of concern for status symbols and an earthy, environmentalist outlook are some of the characteristics of Bereans, Bellando said.

"I think there are real intrinsic values that attract people. It's what attracted so many craftspeople. If you go back to the root of the thing, it was the college. Students came here and didn't have any money in their pocket. You brought a cow or a coverlet to pay your expenses. From the beginning, the values were a little different here, and I think it has carried through over the years."

The college's crafts program grew out of "Homespun Fairs" that were held on the campus in the late 1800s. Back then, parents sold handmade items to help pay their children's expenses at Berea. Today, student-made furniture, brooms, woven items and ceramics are sold on the campus and in stores in Louisville and Lexington.

Berea College crafts are so widely known that some visitors mistakenly think of the college as a "crafts school." (In fact, Berea is highly rated academically. Last month, U.S. News and World Report ranked the college third best in the South.)

Churchill Weavers is the grandmama of Berea's independent crafts industry. Founded in 1922, it is the oldest production hand weavers in the United States, and it supplies throws, clothing and other woven goods to upscale department stores such as Saks Fifth Avenue. Its biggest market is Southern California.

The proliferation of crafts businesses and the high quality of their wares earned Berea the official designation from the state legislature as the "Folk Arts and Crafts Capital of Kentucky."

Berea's crafts have been a tourism bonanza for the town, said Dr. Clifford Kerby, Berea's mayor for the past 14 years (and a physician who nevertheless smokes cigarettes and races cars).

"It's like Gatlinburg, but no rubber lizards," he said. "The crafts are made right here in Berea."

Many of the shops are in studios where visitors can see a potter at her wheel or smell the freshly cut wood being fashioned into a chair. Despite the national recession, Berea's crafts businesses continue to thrive. Three new shops opened in the historic Old Town district last month. Crafts-related tourism helped spawn the 15 antiques shops that have opened in Berea in the past three years. Although there are no figures on tourist spending in Berea, Madison County as a whole ranked sixth in the state in 1991.

Visitors notice right away that the college is still the town's dominant feature. The main hotel, Boone Tavern, a slightly faded, white-columned landmark on the square, is owned by the college and run by students. College buildings line the main street; the college owns half of the land in Berea.

Truth is, there might not be a Berea if it weren't for the college.

Berea College governed the town for the first 25 years of its existence. It ran the town fire department until 1965, operated the local newspaper until 1984 and still runs the city water and electric utilities. Despite rapid industrial growth in recent years, Berea College remains by far the biggest employer.

In 1854, Kentucky's famous anti-slavery orator Cassius Clay donated the first plot of land for the Berea community, which was founded by preacher John G. Fee. Clay had been impressed with Fee's sermons against slavery and offered Fee 10 acres if he would take up permanent residence. First, Fee founded a church for non-slaveholders. A one-room school—the forerunner to the college—was built in 1855.

Fee set aside lots for blacks next to those for whites so that Berea's neighborhoods would not be segregated.

For the first few years, armed pro-slavery mobs threatened and harassed the Bereans. Richmond, in the northern flatlands of the county, was a slave-holding area, and there was plenty of pro-slavery sentiment in the rest of the Bluegrass as well.

In 1859, a mob nearly twice the size of tiny Berea—then home to only 34 people—drove the residents out of state. The school was re-established after the Civil War.

Berea's government has been remarkably stable for a town that began amid such turmoil. Kerby is only the third mayor since Berea began electing mayors in 1905.

"It's like a lot of small towns. You work things out on the street corner instead of City Hall," said Melissa Gross, the town's tourism director.

The college, too, has had relatively few changes in administration. Current president John Stephenson is just the seventh in 123 years.

Stephenson, who has been president since 1984, has continued a tradition of serving a small number of foreign students. Black South Africans, Liberians and Chinese are among those who have been educated in Berea. Stephenson has shown a special interest in exiled Tibetans. This year, there are eight Tibetan students at Berea—more than at any other U.S. college. Stephenson, a college dean and Tibetan spiritual leader the Dalai Lama handpicked the Tibetans from schools in India. The Tibetans are unwilling to return to a country occupied by the Chinese.

Kaisang Phuntsok, a sophomore, said that Berea "wasn't the America we had in mind"—no skyscrapers or hustle-bustle. But the Tibetans have settled in well to the quiet, friendly atmosphere of the town.

The college is paying for all of the Tibetans' expenses, including airfare. With the largest endowment ($312 million) of any college or university in Kentucky, it can afford to do so.

(The school's unique mission attracts strong financial support, and the fund has been managed aggressively. Earnings on the endowment are relied upon more heavily for operating expenses than at other colleges, because Berea charges no tuition.)

Beyond the college, crafts industry and tourism, there is a nearly invisible, but fast-growing section of Berea hidden among rolling hills on the town's edge. One manufacturer after another has flocked to Berea's industrial park. At least 2,000 jobs have been added in the past five years.

"The town is so beautiful and well laid-out that its hard to realize we have about 10 major industrial facilities here," said Kerby.

Tokico, which makes shock absorbers; KI USA, an auto-parts maker; and Alcan Ingot and Recycling are among the new industrial recruits. (A recycling company is an especially good fit with Berea. Predictably, the town has mandatory recycling.)

Berea is in the enviable position of having turned away new industries because they were too noisy or dirty. A steel-pressing mill was rejected three or four years ago, Kerby said, as was a sawmill.

"We're very selective on what we bring into town because we like our town the way it is, although we like jobs too," he said.

There are far more factory jobs than workers in Berea, so the plants pull employees from nearby counties. A recent study showed that nearly half of the workers at Berea factories live outside of Madison County.

Berea doesn't offer incentives to industries, other than a five-year property-tax abatement. Companies are lured by easy access to Interstate 75, a new sewer plant and the quality of life in a small college town, Kerby said.

The college's dominance has caused surprisingly little friction over the years. The biggest problem, according to Kerby, is jaywalking students.

With 15,000 vehicle trips per day on Chestnut Street and some 5,000 pedestrians crossing the street, it's no wonder there's tension, said Stephenson. A few students have been injured by cars—one fatally. No pedestrian injuries have been reported this year or last.

Stephenson also is concerned about infrequent, but disturbing, racial incidents that still occur in Berea.

"There are still people in the neighborhood who do not believe interracial living is right. Sometimes when they are going through campus in their cars, they will shout racial epithets," he said. Once, a gun was pointed out the window of a car.

Incidents like that, Stephenson said, "remind all of us that we need to stand up for what we believe as Bereans."

Population: (1990): Berea, 9,126; Madison County, 57,608.

Per capita income (1988): $10,932, or $1,898 below the state average.

Jobs in county (1988): Manufacturing, 4,495; Wholesale/retail trade, 5,574; Services, 3,480, State/local government, 3,868; Contract construction, 47E.

Big employers: Berea College, 580 employees; Dresser industries (Industrial Instruments), 382; Hyster Company (Industrial truck lifts) 325.

Education: Berea Independent, 935 students; Madison County Schools, 8,573; Berea College, 1,683 students.

Media: Newspapers—The Berea Citizen, weekly; The Berea Register (an edition of The Richmond Register) weekly. Radio—WKXC-AM/FM (country).

Transportation: Highways—Interstate 75 and U.S. 25 serve Berea. Rail—CSX Transportation. Air—Madison County Airport, six miles north of Berea, and Lackey Airport, five miles north of Berea. Nearest commercial air service is Bluegrass Airport in Lexington, 48 miles northwest of Berea. Trucks—28 companies serve the town.

Topography: Berea lies on a ridge where the Bluegrass meets the foothills of the Cumberland Mountains.

FAMOUS FACTS AND FIGURES

College founder John G. Fee named Berea after a Greek town described in the Bible (Acts 17:11) as a place where citizens "were more noble than those of Thessalonica, in that they received the word with all readiness of mind and searched the scriptures daily. . . ."

A Berea College graduate created what is now known as Black History Month. Carter G. Woodson finished Berea in 1903, just one year before the Kentucky Legislature passed the Day Law, which barred blacks from the college. Woodson later became a distinguished history professor at the University of Chicago and started what was then called Negro History Week.

Juanita Kreps, another graduate, was Secretary of Commerce in President Jimmy Carter's administration.

Berea College students must learn to swim before they graduate, a tradition that dates back to 1929 when the college built a swimming pool. Because of the college's emphasis on lifetime skills rather than competitive sports, it was decided that all freshmen should either pass a swimming test or take lessons.●

LAMAR ALEXANDER, DEPARTING U.S. SECRETARY OF EDUCATION

● Mr. DURENBERGER. Mr. President, no aspect of public life is more important to the future of this country than education. And, over much of the Bush Presidency, one individual has done more than any other to reshape and renew the Federal Government's commitment to quality teaching and learning all over America. That individual is Lamar Alexander, departing Secretary of the U.S. Department of Education.

I first came to know Lamar Alexander in one of his previous lives—as Governor of Tennessee during a period when the relationships between States, cities and counties, and the Federal Government was one of my top priorities as chair of the Senate Subcommittee on Intergovernmental Relations.

During that time, of course, Secretary Alexander became known as one of the first—and best—of the education Governors. His commitment to improving the quality of education in his own State helped stimulate similar reform initiatives in a number of States all during the 1980's.

That commitment to State-based education reform became a central focus of Secretary Alexander's 3 years in the U.S. Department of Education. And, in particular, his role in designing and implementing President's Bush's America 2000 initiative and the New American Schools Development Corporation will be lasting legacies to his time in that important office.

Because of Minnesota's national leadership on State-based education reform, Lamar Alexander made a number of trips to Minnesota during his time in office. Of greatest personal pride to me personally was the visit that he and President Bush made to Minnesota in the spring of 1990 when they unveiled the legislation implementing the President's America 2000 initiative at St. Paul's Saturn School.

And, I also appreciate very much the support that Secretary Alexander gave here in the Congress to two of Minnesota's contributions to education reform—the right of parents to choose the schools their children attend, and the right of parents and teachers to start new, innovative public schools.

For many years, Mr. President, Secretary Alexander and his family have taken a well-deserved summer vacation fishing and relaxing with friends in northern Minnesota. I trust that those vacations will continue and that there may even be a bit more time for relaxing and reflecting on what has now been three decades of public service by this remarkable individual.

But, somehow, I don't think a preoccupation with fishing and relaxing will define Lamar Alexander's future. I suspect we will see many more of his contributions—in education and in

many other aspect of public life—in the year to come. All Americans—and especially our kids—have much more to gain if we do.●

INCREASE IN THE MAXIMUM DEFICIT AMOUNT

● Mr. DOMENICI. Mr. President, in his inaugural address, President Clinton asked us to demand more responsibility from all. He also told us that: "We know we have to face hard truths and take strong steps." Today, we have an opportunity to do just that. Today, President Clinton can set the tone and display his resolve in combating our burgeoning Federal deficit. And, I believe I can safely say, Republicans stand ready to work with President Clinton in reducing deficit spending and putting our Nation on a sound fiscal footing.

Today, President Clinton must notify the Congress today whether he will weaken the discipline in Gramm-Rudman. By preliminary estimates, if he chooses to take the teeth out of Gramm-Rudman and adjust the deficit targets upward, he will increase the deficit by $72.2 billion.

The President will clearly be within his rights in the law on this decision. The 1990 Budget Enforcement Act required President Bush to adjust these targets for deposit insurance, economic, and technical changes for 1991 through 1993. The Bush administration always supported fixed deficit targets and supported the return to fixed deficit targets as contemplated in the law for 1994 and 1995.

The law continues to require President Clinton to make adjustments for deposit insurance, but it gives the new President the option as to whether he wants to stick to fixed deficit targets or allow them to continue to float for economic and technical adjustments.

The law also provides a $6.4 billion dividend in additional spending authority for the Appropriations Committee. If the President adjusts the deficit targets, he must also adjust the spending caps upward for budget authority by an estimated $3.5 billion in 1994 and $2.9 billion in 1995. The outlays associated with this adjustment amount to a total of $3.6 billion for the 2 years.

While I understand the problems with Gramm-Rudman's fixed deficit targets, if nothing else, they serve as an action forcing mechanism. It will force us to work together and confront the deficit and our debt problems this year.

I think the President makes a mistake if he chooses to adjust these deficit targets upward. The American people realize the dangers of a $350 billion deficit and a debt accelerating toward $5 trillion. The budget deficit represents the most serious long-term economic problem facing this country.

While I will not agree with the President if he chooses to make this adjustment, it will not affect my strong desire to work with this administration to meet the President's pledge to cut the deficit in half, down to $141 billion in 1996.

Mr. President, I ask that a letter by the Republican leader and me to President Clinton, along with a table showing maximum deficit amounts be printed in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, January 21, 1993.

President BILL CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Section 254 of the Budget Enforcement Act requires that you notify Congress today of your intention to modify the Gramm-Rudman-Hollings maximum deficit amount (MDAs) for 1994 and 1995 in your upcoming budget submission. We urge you to stick with the current deficit targets.

Your eloquent inauguration speech talked about hope for the future, action on the nation's problems, shared sacrifice, and the need "to break the bad habit of expecting something for nothing." Last year, you promised to cut the deficit in half over four years. Together with Bob Michel, John Kasich, and a number of our Republican colleagues in the House and the Senate, we are willing to work with you to fulfill that goal. Today, in your first full day as President of the United States, you have an opportunity to demonstrate your commitment to reducing the deficit over the next four years.

Sticking with the current Gramm-Rudman targets may be tough medicine, but, we believe that it is the right medicine. Your decision will send a signal about your willingness to tell the American people what they need to know, not what they want to hear. Failure to do so will increase the deficit by at least $26 billion in 1994 and $47 billion in 1995.

Cutting the deficit will not be easy. It will require sacrifice. Today, relaxing the Gramm-Rudman-Hollings deficit targets may look like the easy way out, but failure to make the tough choices now will make it even harder for us to control the deficit in the future.

We sincerely hope that working together, we can do what is right for our children and our grandchildren.

Respectfully,

BOB DOLE,
Republican Leader.
PETE DOMENICI,
Ranking Member,
Senate Budget Committee.

MAXIMUM DEFICIT AMOUNTS [MDA]

[In billions of dollars]

	1994	1995
Oct. 23, 1992 MDA's	307.8	302.5
Mandatory adjustment for deposit insurance	+27.1	+0.1
New MDA's	334.9	302.6
Optional adjustment for economic and technicals	+22.4	+42.8
Optional adjustment for discretionary caps	+1.4	+2.2
Subtotal optional adjustments	+25.5	+46.7
Adjusted MDA's	360.4	349.4

Note.—Based on OMB estimates. The actual adjustments will depend on the assumptions in President Clinton's fiscal year 1994 budget submission. The maximum deficit amount calculations do not include the receipts and disbursements of off-budget programs, such as Social Security.●

EDWARD J. DERWINSKI, FORMER SECRETARY OF THE DEPARTMENT OF VETERANS AFFAIRS

● Mr. DURENBERGER. Mr. President, former Secretary of Veterans Affairs Edward Derwinski became the first Cabinet officer for the Department of Veterans Affairs and, in following this precedent, presided over many other new beginnings within the Department.

The Council on Native American Veterans, the Court of Veterans Appeals, the National Center for PTSD, the Rehabilitation Research Center, the National Medical Ethics Center are a few of the innovations launched during his term of office.

More veterans received more benefits due to Mr. Derwinski's leadership: Service-connection was acknowledged in the case of non-Hodgkin's lymphoma, soft-tissue sarcoma, mustard gas effects, peripheral neuropathy. The agent orange controversy was defused and set on a course to final resolution. Alcohol/drug dependence programs were expanded, as were educational benefits to include vocational and technical training.

An internal view to upgrading the VA medical care system was initiated in the Commission on Future Structure of Veterans Health Care. Secretary Derwinski also strongly supported the accreditation by the Commission on Healthcare Organizations for smoke-free veterans' hospitals.

He faced a war in 1990 and made sure the VA's emergency medical system was in place; he instigated a tracking system of this war's related health problems by installing a war veteran's registry. He waged another war on Hurricane Andrew and awarded Pearl Harbor survivors medals for their service.

When he left office in September 1992, there were 113 national cemeteries, 196 vets centers and 15 geriatric centers. For all his years of public service, we salute him.●

INSPIRATIONAL VOLUNTEER EFFORTS OF DADE COUNTY SENIORS

● Mr. GRAHAM. Mr. President, today I would like to congratulate a group of outstanding citizens in my State of Florida. These men and women have given a great gift to their communities—they have given of themselves.

Their volunteer efforts are an inspiration to all. On Wednesday, January 27, 1993, the Liberty City Christian Association will be honoring these citizens for their unselfish dedication to making their State and community a better place in which to live.

The honorees are activists, ministers, educators, parents, grandparents, and great-grandparents whose tireless services are truly appreciated. Today, I am pleased to recognize Mamie E.P. Chester, Essie Cobbs, Ruth C. Crockett, John B. Dickey, Daisy Hardie, Melvin

Jackson, Pearlie Kinsey, Maggie McBirney, Iola Pugh and Sulian Pugh, Dorothy Quintana, Ruby Thomas, and Evelyn Wilkins.

Florida and Dade County are fortunate to have these inspiring senior citizens. I congratulate them today and wish for them many more productive and healthy years.●

SALUTING PUBLICATION OF CHILD SAFETY BOOK

● Mr. DURENBERGER. Mr. President, I would like to talk to you about safety.

The families of Minnesota and this Nation are acutely aware of how important it is for children to feel safe. If a child is confronted with scary adults or surroundings, he or she ought to be able to do something about it. A feeling of security must be part of the development of a child's self-image, the bedrock of success as girls and boys grow and learn at home, in school and in their neighborhoods.

Moms, dads, and kids can do something to make this world safer. I stand here today, Mr. President, to congratulate Kate Soucheray, a Minnesota mother of three and former elementary school teacher, on the publication of "I Am Safe: A Child's Book of Personal Safety." Ms. Soucheray and her oldest child, Maggie, collaborated to write and illustrate this important book that drives home the message that a child's response to danger can be a powerful deterrent. Page after page, kids are encouraged through clear instructions, activities, quizzes, and pictures they might have drawn themselves to speak up, say "no", when someone makes trouble for them.

Mr. President, Ms. Soucheray took the initiative to learn about the hard realities a child must face. She consulted with experts. As a schooled adult and a loving parent, she understands child sexual abuse, kidnaping, and the fear from simply getting lost at the mall. She lets kids know they can handle such scary things, if only they know how.

Through the eyes of her children, and the children she has touched during years in the classroom, Kate Soucheray has made a great contribution. Mr. President, I salute her, and I thank her.●

THE PASSING OF PROF. JAY MURPHY, DISTINGUISHED ALABAMAN

● Mr. SHELBY. Mr. President, on December 16, the State of Alabama, the University of Alabama, and the Nation lost an individual of singular intelligence, dedication, and integrity. Prof. Jay Murphy was a distinguished labor law professor at the University of Alabama Law School and a leading national labor arbitrator. Professor Murphy was one of my instructors at the University of Alabama Law School. His teaching deeply enriched my legal education and I can truly say that I am a better person for having known him.

Professor Murphy was born in Illinois in 1911. In 1943 and 1944 he earned his J.D. and LL.M. degrees from George Washington University. He joined the faculty at the University of Alabama in 1947 and remained on the faculty for the next 34 years. He was a valued member of the university and Tuscaloosa communities throughout his life. His time in Tuscaloosa left a lasting impression on the university and the community as a whole.

What distinguished Professor Murphy from other individuals was his unwavering integrity, his commitment to deeply held principles, and his intellectual liveliness. Professor Murphy was a committed civil rights activist long before the cause was considered acceptable in Alabama. Widely published in the area of civil rights law, no one could ever argue that Jay Murphy was not absolutely committed to the principles that he espoused. He was absolutely unwilling to cede a matter of principle for the sake of convenience, no matter how unpopular that principle might have been with the general public.

As a labor arbitrator, he was known for his sense of fairness. This commitment to fairness led to an intense demand for his services up until the time of his death. When he died at the age of 81 in December, he was in the middle of arbitrating a case involving a company in Tennessee.

Finally, Professor Murphy's life was characterized by an intense commitment to learning and intellectual growth. He was a widely read individual who had a keen interest in many subjects beyond the field of law. Like all great minds, Jay Murphy did not recognize formal boundaries within academic disciplines. Rather, his varied interests in philosophy, astronomy, and biology reflected the belief that all academic pursuits ultimately drive toward the same spiritual end.

I found Professor Murphy to be one of the most engaging people that I ever encountered, both as a student and as a resident of the Tuscaloosa community. I was saddened to hear of his passing. However, I find comfort in the thought that he lived a full and productive life that enriched the many people who came in contact with him. We are all a little less in his passing, but are all a little better for having had him on this Earth.●

TRIBUTE TO STANLEY E. HUBBARD

● Mr. DURENBERGER. Mr. President, I have always taken great pride in acknowledging the accomplishments of Minnesota's entrepreneurs, and Stanley E. Hubbard stands among the greatest of the State's business pioneers.

Stanley opened the first television station to broadcast in Minnesota; he was the first in the Midwest to broadcast color television signals; and his station became the first NBC–TV affiliate in the United States.

Stanley Hubbard was one of a kind. He operated as if he never heard the phrase, "But we've never done it that way before." He was a risk-taker, and he gave a lot of young people the opportunity to learn the broadcasting business.

He was dedicated to the news, as dedicated as any hard-core beat reporter or photographer in getting the story. He had a lot of the qualities of a dreamer—he wasn't afraid of new technologies and he used them in ways that his contemporaries hadn't thought of.

He will be missed by his friends in the business and in the community, but "the Old Man's" legacy lives on through his son, Stanley S. Hubbard, and his grandchildren, many of whom play a role in Hubbard broadcasting. Stanley S. Hubbard continues to carry on the Hubbard tradition of pioneering in telecommunications, and commitment to the community.

I extend to all of the Hubbard family my sympathies at their loss. It is a loss that I feel personally, as well as on behalf of the people of Minnesota.●

A BIGGER TAX BILL?

● Mr. MACK. Mr. President, just as candidate Clinton promised, this is a time to give tax relief to middle class working men and women. It is definitely not time to pile additional taxes on them. Does President Clinton think differently?

On NBC's "Meet the Press" Sunday, Treasury Secretary Bentsen said, "We have to do things to cut back on consumption and encourage investment for the creation of jobs in this country." In order to do this, he told us, "What you're going to see * * * is some consumption tax is going to take place."

In other words, the new Treasury Secretary is telling us that in order to get Americans to invest more in jobs and businesses, the Federal Government must first send them a bigger tax bill. This makes no sense. Everybody knows that if you tax something, you get less of it. Sure, if you tax consumption more, you will get less consumption, too. But does this automatically mean you will get more investment? No.

If we increase consumption taxes—on energy or anything else—the revenue will go to the Government. And it will do what it always does—spend it. Even if the Government spends the consumption tax revenue on investment, think what this means. We will have more Government spending, and less private spending. We will have more Government investment, and less private investment. We will have more Government jobs and fewer private sector jobs.

This is the wrong solution to the wrong problem. Our problem is a lack of private investment, not Government investment. We should be trying to develop ways of empowering Americans to invest in new jobs and businesses in the private sector—just as Clinton said repeatedly during the campaign—not empowering Government bureaucrats with more tax dollars.

I am taking candidate Bill Clinton at his word. I have introduced legislation that would enact five policies Clinton said he wanted to accomplish that would empower people and boost jobs: Enact a line-item veto, lower the capital gains tax, create enterprise zones, raise the Social Security earnings test, and establish workfare.

The Treasury Secretary has it all wrong. If he wants to boost private investment, do not hike taxes on consumption. Lower taxes on investment. Our taxes on investment are already among the highest in the world. We need to lower the cost of doing business, not raise the cost of the products businesses sell by imposing new consumption taxes.

Let us also hope the new administration figures out that you get more investment by lowering taxes, not by increasing them. Mr. Clinton, read your book: No new taxes on the middle class.

The economy cannot withstand a Clinton economic plan based on more taxes, more Government and more spending.●

SPRING MOUNTAINS NATIONAL RECREATION AREA ACT

● Mr. REID. Mr. President, I rise today in support of the Spring Mountains National Recreation Area Act, introduced by my colleague Senator BRYAN.

A national recreation area is characterized as an area having outstanding combinations of outdoor recreational opportunities, esthetic attractions, and proximity to potential users. It may also have cultural, historical, archeological, pastoral, wilderness, scientific, wildlife, and other values contributing to public enjoyment.

A Spring Mountains National Recreation Area would have all of these attributes. The Spring Mountains are unique unto themselves and should have special designation and emphasis as a national resource. Since entering the Senate in 1986, I have fought for the protection and proper resource management of the wild lands surrounding southern Nevada. This measure would complement two important pieces of legislation that I, supported by my colleague, Senator BRYAN, have championed. The Nevada Wilderness Act of 1989 and the Red Rock National Conservation Area Act. As a result of these acts the pristine lands surrounding the Spring Mountains will be afforded the management and care they deserve.

The growing population of Clark County, is presently 820,000 and is expected to increase to 1 million by the year 2000. At this time there is no other area within one-half day's drive that provides climatic relief and forest recreation. The Spring Mountains offer a forest environment within 35 miles of Las Vegas, with a temperature difference of 30 degrees in the summer. The next closest type of this kind of environment for southern Nevadans is 5 hours away.

Along with the increase in population, Las Vegas attracts 14 million tourists each year, many of whom visit the Spring Mountains. These visitors are discovering that southern Nevada has a lot more to offer than just gaming.

This national recreation area would consist of approximately 316,000 acres of the Toiyabe National Forest, rising from the high desert floor to the subalpine environment at the top of majestic Mount Charleston. In just 15 miles, a person can experience all six vegetative life zones. A trip to the top of Mount Charleston is similar to a journey from Mexico to Alaska in terms of elevation.

Recreational opportunities abound in the Spring Mountains including, camping, hunting, picnicking, hiking, and riding trails, off-road vehicle trails, rock climbing, and winter sports. These are just a few of the outdoor experiences available in the Spring Mountains.

In addition, the bristlecone pines of Mount Charleston, approximately 18,800 acres of these ancient trees, are the oldest living organisms in the world. This is the largest continuous stand in the intermountain region. The stunning beauty of Kyle and Lee Canyons with their rugged cliffs and steep walls have a striking resemblance to Yosemite Valley.

In essence, the Spring Mountains are truly an oasis in the desert, a jewel in the crown of Nevada's natural throne. I urge my colleagues to support this measure so that many generations to come will enjoy this unique natural wonder.●

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–424. A communication from the Associate Director (National Security and International Affairs), Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on negotiations concerning offsets in military exports; to the Committee on Banking, Housing and Urban Affairs.

EC–425. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the 1991 report on the Federal National Mortgage Association; to the Committee on Banking, Housing and Urban Affairs.

EC–426. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the national emergency with respect to Libya; to the Committee on Banking, Housing and Urban Affairs.

EC–427. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on pipeline safety for calendar year 1991; to the Committee on Commerce, Science and Transportation.

EC–428. A communication from the President of the United States, transmitting, pursuant to law, the 1992 annual report on Alaska's Mineral Resources; to the Committee on Energy and Natural Resources.

EC–429. A communication from the President of the United States, transmitting, pursuant to law, three study reports prepared by the Department of Agriculture's Forest Service; to the Committee on Energy and Natural Resources.

EC–430. A communication from the President of the United States, transmitting, a draft of proposed legislation entitled "Montana Public Lands Wilderness Act"; to the Committee on Energy and Natural Resources.

EC–431. A communication from the President of the United States, transmitting, a draft of proposed legislation entitled "Colorado Public Lands Wilderness Act"; to the Committee on Energy and Natural Resources.

EC–432. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on Ocean Pollution, Monitoring, and Research for fiscal year 1990; to the Committee on Environment and Public Works.

EC–433. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, the annual report on the operation of the International Coffee Agreement; to the Committee on Finance.

EC–434. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, a draft of proposed legislation entitled "Iraq Claims Act of 1993"; to the Committee on Foreign Relations.

EC–435. A communication from the Secretary of Education, transmitting, pursuant to law, the final regulations—Family Educational Rights and Privacy; to the Committee on Labor and Human Resources.

EC–436. A communication from the President of the United States, transmitting, pursuant to law, the twenty-first annual report on Federal Advisory Committees for fiscal year 1992; to the Committee on Governmental Affairs.

EC–437. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–438. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–439. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–440. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–441. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–442. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–443. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semi-annual report of the Office of the Inspector General and the Secretary's Management Report, both for the period of April 1, 1992 through September 30, 1992; to the Committee on Governmental Affairs.

EC–444. A communication from the Staff Director of the United States Commission on Civil Rights, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–445. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–446. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–447. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–448. A communication from the Director of the United States Trade and Development Agency, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–449. A communication from the Acting Secretary of Veterans' Affairs, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–450. A communication from the Acting Secretary of Treasury, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–451. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–452. A communication from the Acting Assistant Secretary (Indian Affairs), Department of the Interior, transmitting, pursuant to law, notice of the plan for the use of the Soboba Band of Mission Indians of the Soboba Indian Reservation; to the Select Committee on Indian Affairs.

EC–453. A communication from the Secretary of Education, transmitting, pursuant to law, the final regulations—Student Assistance General Provisions; to the Committee on Labor and Human Resources.

EC–454. A communication from the Secretary of Education, transmitting, pursuant to law, the final regulations—Guaranteed Student Loan and PLUS Programs; to the Committee on Labor and Human Resources.

ORDERS FOR TOMORROW

Mr. FORD. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 1 p.m., Wednesday, January 27; that following the prayer, the Journal of proceedings be deemed approved to date; and following the time for the two leaders, there be a period for morning business, not to extend beyond 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

RECESS UNTIL 1 P.M. TOMORROW

Mr. FORD. Madam President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate at 5:56 p.m. recessed until Wednesday, January 27, 1993, at 1 p.m.

NOMINATION

Executive nomination received by the Secretary of the Senate January 25, 1993, under authority of the order of the Senate of January 5, 1993:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN HOWARD GIBBONS, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE D. ALLAN BROMLEY, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 26, 1993:

DEPARTMENT OF STATE

MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS WITH RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

CLIFTON R. WHARTON, JR., OF NEW YORK, TO BE DEPUTY SECRETARY OF STATE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on January 26, 1993, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF JUSTICE

ZOE BAIRD, OF CONNECTICUT, TO BE ATTORNEY GENERAL, WHICH WAS SENT TO THE SENATE ON JANUARY 20, 1993.