SENATE—*Thursday, April 22, 1993*

(Legislative day of Monday, April 19, 1993)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

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

Let us pray:

*Hath a nation changed their gods, which are yet no gods? But my people have changed their glory for that which doth not profit. * * * For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.*—Jeremiah 2:11, 13.

God of truth and love, this quotation from Jeremiah suggests a reason for the condition in America and the world today—the futility of all manmade efforts to solve economics, crime, drugs, and the general disintegration of the family and society. Humans were made in the image of God. The more Godlike they are, the more their humanity is realized; the less Godlike, the less humanness is manifest, and animalism prevails. More and more it becomes clear that self-alienation from God is the bottom problem in our culture. Legislation, education, or any other program cannot solve the problem.

God of our fathers, we need to recover their faith, the faith that conceived America, made her great, and has sustained her through two centuries. Dear God, give us a mind to stop digging broken cisterns that can hold no water and return to the fountain of living water.

We pray in His name who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 22, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, there will be a period for morning business today until 3 p.m. during which time Senators will be permitted to speak.

At 3 p.m. the Senate will begin consideration of S. 171, the EPA Cabinet-level bill, with consideration of that bill to be limited to debate only on today.

The Senate will not be in session tomorrow to accommodate the respective party conferences, and the Senate will not be in session on Monday pursuant to the previous schedule I announced prior to the Easter recess. So we will resume consideration of the EPA Cabinet-level bill on next Tuesday morning. And I hope to announce prior to the end of today a more specific schedule for that day.

EARTH DAY

Mr. MITCHELL. Mr. President, as we have done every April since 1970, today we celebrate Earth Day. Very quickly this special day has become an institution in our lives. I am pleased to again honor our commitment to protecting our planet.

Yesterday, the President announced actions that demonstrate his commitment to the environment. Reversing the position of the previous administration, the President announced that he would sign the biodiversity treaty. This is a historic step forward for this country and for the planet. I applaud his decision.

The continued destruction of habitats is causing extinction of species to increase at an accelerating rate. According to Harvard professor E.O. Wilson, the worldwide extinction rate is now about one species per hour. Scientists predict that by early in the next century, several hundred species per day will become extinct. Signing the biodiversity treaty is a first important step toward halting this trend.

Yesterday the President also announced his intention to fulfill a campaign promise of holding carbon dioxide emissions at 1990 levels by the year 2000. Global warming presents one of the greatest challenges this planet has ever known. The United States contributes a large share of these greenhouse gases.

The President's leadership in this area is welcome. I believe, as others do, that we can limit our emissions increases in a manner that encourages innovative technology and does not have adverse economic effects. Increased efficiency saves money while it preserves the planet.

I also applaud other announcements made by the President to reduce the amount of hazardous waste the Federal Government produces and to increase Federal energy efficiency. I worked many years to enact the Federal Facility Compliance Act to prohibit the Federal Government from exempting itself from environmental compliance.

As a result of the passage of this act, the Federal Government is now subject to the very same laws which it enforces against all other citizens in our society. The President's actions are another step toward increased Federal environmental responsibility.

Later today, the Senate will begin consideration of legislation to elevate the Environmental Protection Agency to Cabinet-level status. It is fitting that we begin this debate on Earth Day. Our major competitors and trading partners all grant their environmental secretaries ministerial status. We alone do not. Former EPA Administrator Bill Reilly has testified that EPA's unusual status creates confusion and uncertainty in international negotiations. All other participants have higher rank than does the American representative. Passage of this important piece of legislation will better enable this country to provide international environmental leadership and to meet the environmental challenges here at home.

On this Earth Day, we can be proud of our accomplishments and look forward to a future of better environmental protection.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

will now be a period for the transaction of morning business not to extend beyond the hour of 3 p.m.

Mr. DORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. The Senator has that right.

The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 809 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY addressed the Chair.

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

Mr. KERRY. Mr. President, I ask unanimous consent that I be granted the time of Senator BRADLEY of New Jersey under the previous order.

The ACTING PRESIDENT pro tempore. The Senator has that right. Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

(The remarks of Mr. KERRY pertaining to the introduction of S. 811 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Mr. President, may I inquire of the Chair as to what the status is as to how long we are in morning business?

The ACTING PRESIDENT pro tempore. We have 30 minutes remaining in morning business.

We have Senator FEINSTEIN, who is reserved 15 minutes, and Senator REID is reserved 10 minutes, and Senator GRAMM is reserved 10 minutes.

Mr. BAUCUS. Mr. President, there is not much time, therefore, that remains to other Senators.

Might I inquire of the Chair if there is an opportunity to extend morning business; is that request in order?

The ACTING PRESIDENT pro tempore. That request could be made.

Mr. BAUCUS. Mr. President, I know the leader intended to call for the next order of business at 3 o'clock.

Mr. President, I ask unanimous consent to extend morning business for another 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HELMS. Reserving the right to object—and, of course, I shall not object—while we are at it, notwithstanding the existing unanimous consent, I ask unanimous consent that I be recognized for not to exceed 10 minutes before morning business is closed.

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

Mr. HELMS. I thank the Senator.

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

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

EARTH DAY 1993

Mr. BAUCUS. Mr. President, I, along with several Senators in this body, was privileged yesterday to hear the President give his Earth Day address, not too far from here down at the Botanic Garden.

I mention that because I was struck with how eloquently he spoke. He spoke about, essentially, the environmental threads that are woven through almost all issues that we face in our country.

He spoke of the care we must exercise so as to not squander our natural resource, or to destroy the environment that is our birthright—and our children's birthright.

Mr. President, I ask unanimous consent to have the full text of the President's remarks that he made yesterday printed in the RECORD.

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

PRESIDENT CLINTON REMARKS AT AN EARTH DAY CEREMONY, APRIL 21, 1993

President CLINTON: Thank you. Thank you very much, ladies and gentlemen, for being here in the wonderful Botanic Garden. I must say there's a lot I have to learn about this town, as you can tell if you follow events from day to day, and I didn't know that the Botanic Garden was a branch of the Congress until I showed up here. That's one more thing I'm not responsible for. I'm glad to be here.

I also think that we should introduce a guest from another country who's here with us—the environmental minister from Australia, Ros Kelly. Would you stand up? We're glad to have you here.

Al Gore introduced Katie McGinty and you were all good enough to clap, and I don't know if you could hear through the clapping that her parents are here, and what you may not know is that the real reason we appointed her is that she's one of ten children and we'd like to carry Pennsylvania in 1996. We think that there's a significant likelihood now because of that.

I want to say a special word of thanks to the vice president for two things. First of all for the wonderful trip that he has just concluded, going to Poland to represent our country on the occasion of the 50th anniversary of the Warsaw uprising and the wonderful remarks he gave in New York on the eve of that departure and the way that he represented the United States in Poland.

And secondly, notwithstanding what he said in the introduction, which was true, one of the reasons I did ask him to join the ticket is that he knew more about the subject of the environment than I did, and I thought I had something to learn from him, and I have learned a great deal, and it has been an immensely rewarding experience and one which I hope will benefit the United States in many ways over the course of the next four years.

That's worth clapping for. I agree with that.

It's a good thing to have this celebration in the springtime, a time when our spirits are renewed and we are reminded by nature of new beginnings and forgotten beauty. This has been an astonishingly beautiful spring in Washington, D.C. and something for which I will always be grateful—my first springtime here that I see every morning as I go out and jog around in it and try to breathe in it, something that's a continuing challenge.

A little more than a week ago, most Americans celebrated holy days of freedom and renewal. Today we still nurture the faith that helps us to understand more clearly that we can do better. This is a time of new beginnings, a time when there is anguish and anxiety all around us but we still must yearn once again to succeed in our common purposes to reach our deepest goals.

For all of our differences, I think there is an overwhelming determination to change our course, to offer more opportunity, to assume more responsibility, to restore the larger American community and to achieve things that are larger than ourselves and more lasting than the present moment.

We seek to set our course by the star of age-old values, not short-term expediences, to waste less in the present and provide more for the future, to leave a legacy that keeps faith with those who left the earth to us. That is the American spirit. It moves us not only in great gatherings but also when we stand silently, all alone, in the presence only of nature and our creator.

If there is one commitment that defines our people, it is our devotion to the rich and expansive land we have inherited. From the first Americans to the present day, our people have lived in awe of the power, the majesty and the beauty of the forests, the rivers and the streams of America. That love of the land, which flows like a mighty current through this land and through our character, burst into service on the first Earth Day in 1970.

When I traveled the country last year, I saw and spoke of how much had been accomplished by the environmental movement since then and how much still remains to be done. For all that has been done to protect the air and the water, we haven't halted the destruction of wetlands at home and the rain forests abroad.

For all that has been learned, we still struggle to comprehend such dangers to our planet's delicate environment as the shroud of greenhouse gases and the dangerous thinning of the ozone layer.

We haven't done nearly enough to protect our forest communities from the hazards such as lead poisoning which is believed to cause mental retardation, learning disabilities, and impaired growth. Unless we act, and act now, we face a future where our planet will be home to 9 billion people within our lifetime, but its capacity to support and sustain our lives will be very much diminished.

Unless we act we face the extinction of untold numbers of species that might support our livelihood and provide medication to save our very lives.

Unless we act now we face a future in which the sun may scorch us, not warm us, where the change of season may take on a dreadful new meaning, and where our children's children will inherit a planet far less hospitable than the world in which we came of age.

I have faith that we will act, not from fear but from hope and through vision. All across this country there is a deep understanding rooted in our religious heritage and renewed in the spirit of this time, that the bounty of nature is not ours to waste. It is a gift from God that we hold in trust for future generations.

Preserving our heritage, enhancing it and passing it along is a great purpose worthy of a great people.

If we seize the opportunity and shoulder the responsibility, we can enrich the future and ennoble our own lives. Just as we yearned to come together as a people, we yearn to move beyond the false choices the last few years have imposed upon us.

For too long we have been told that we have to choose between the economy and the environment, between our jobs, between our obligations to our own people and our responsibilities to the future, and to the rest of the world, between public action and private economy.

I'm here today in the hope that we can together take a different course of action, to offer a new set of challenges to our people.

Our environmental program is based on three principles.

First, we think we can't have a healthy economy without a healthy environment. We need not choose between breathing clean air and bringing home secure paychecks. The fact is our environmental problems result not from robust growth but from reckless growth.

The fact is that only a prosperous society can have the confidence and the means to protect its environment. The fact is healthy communities and environmentally sound products and services do best in today's economic competition.

That's why our policies must protect our environment, promote economic growth and provide millions of new high skill, high wage jobs.

Second, we want to protect the environment at home and abroad. In an era of global economics, global epidemics, and global environmental hazards, a central challenge or our time is to promote our national interest in the context of its connectedness with the rest of the world.

We share our atmosphere, our planet, our destiny with all the peoples of this world, and the policies I outline today with protect all of us because that is the only way we can protect any of us.

And third, we must move beyond the antagonisms among business, government and individual citizens. The policy I outlined today are part of to reinvent government, to make it your partner and not your overseer, to lead by example and not by bureaucratic fiat. In the fact of great challenges, we need a government that not only guards against the worst in us, but helps to bring out the best in us.

I know we can do this because our administration includes the best team of environmental policymakers who have ever served the United States: the vice president, Interior Secretary Babbitt, EPA Administrator Browner. I hope that the EPA will soon by the grace of Congress be a Cabinet-level department. And Energy Secretary O'Leary, Commerce Secretary Brown, Transportation Secretary Pena, the Agriculture Secretary Mike Espy, our environmental policy director, Katie McGinty, and our science and technology adviser, Jack Gibbons.

All of them share an unshakable commitment to a healthy environment, a growing economy and a responsive government. Our economic plan will create new job opportunities and new business opportunities protecting our natural environment. The reductions in the interest rates which we have seen already will free up tens of billions of dollars for responsible investment in this year alone.

The jobs package I have asked the Congress to pass contains—this has hardly been noticed, but it actually contains green jobs, for waste water treatment to energy efficiency to the restoration of our National parks to investments in new technologies designed to create the means by which we can solve the problems of the future and create more jobs for Americans.

Our long-term strategy invests more in pollution prevention, energy efficiency, and solar energy and renewable energy and environmental restoration and water treatment, all of which can be found in the five-year budget that we have presented to the Congress.

These investments will create tens of thousands of new jobs and they will save tens of thousands more because when we saved energy and resources, we will have more to invest in creating new jobs and providing better living standards.

Today every other advanced nation is more energy efficient than we are. That is one of the reasons why over the last couple of years, for example, the average German factory worker has come to make over 20 percent more than his American counterpart. The German workers, while having higher wages, also have more secure and better health care. That's because that economy uses one half the energy we do to produce the same amount of goods. We can do better and we will.

I believe we can develop the knowhow to out-conserve and out-compete anyone else on earth. All over the world, people are buying products that help them to protect their environment. There's a $200 billion market today for environmental technologies. And by the turn of the decade and the century, it will be 300 billion.

Let me just share one example with you, something we all know and use, something some of us are still trying to learn how to replace—lightbulbs. Longlasting, energy-saving lightbulbs didn't even exist in 1985. Now American companies sell over $500 million worth of these products, with sales expected to reach $2 billion by 1995 and $10 billion by the year 2000, creating thousands of new jobs.

American scientists have taken the lead in developing these technologies, and it's time to help our companies take the lead in bringing our products and services to market. I've asked the Energy Department, the Commerce Department and the EPA to assess current environmental technologies and create a strategic plan to give our companies the trade development, promotional efforts and technical assistance they need to turn these advances into jobs here in America as well as to help promote a better environment.

America can maintain our lead in the world economy by taking the lead to preserve the world environment.

Last year the nations of the world came together at the earth summit in Rio to try to find a way to protect the miraculous diversity of plant and animal life all across the planet. The biodiversity treaty which resulted had some flaws, and we all knew that, but instead of fixing them the United States walked away from the treaty. That left us out of the treaty that is critically important not only to our future but to the future of the world, and not only because of what it will do to preserve species but because of opportunities it offers for cutting-edge companies whose research creates new medicines, new products, and new jobs.

Again, just one recent example makes the point. A tree that was thought to have no value, the Pacific yew, used to be bulldozed and burned. Now we know that that tree contains one of our most promising potential cures for ovarian cancer, breast cancer, and other forms of cancer.

We cannot walk away from challenges like those presented by the biodiversity treaty. We must step up to them.

Our administration has worked with business and environmental groups toward an agreement that protects both American interests and the world environment, and today I am proud to announce the United States intention to sign the biodiversity treaty.

This is an example of what you can do by bringing business and environmentalists together instead of pitting them against each other. We can move forward to protect critical natural resources and critical technologies. I'm also directing the State Department to move ahead with our talks to other countries, which has signed a convention so that the United States can move as quickly as possible toward ratification.

To learn more about where we stand in protecting all our biological resources here at home, I'm asking the Interior Department to create a national biological survey to help us protect endangered species and, just as importantly, to help the agricultural and biotechnical industries of our country identify new sources of food, fiber, and medication.

We also must take the lead in addressing the challenge of global warming that could make our planet and its climate less hospitable and more hostile to human life. Today I reaffirm my personal and announce our nation's commitment to reducing our emissions of greenhouse gasses to their 1990 levels by the year 2000.

I am instructing my administration to produce a cost effective plan by August that can continue the trend of reduced emissions. This must be a clarion call, not for more bureaucracy or regulation or unnecessary costs, but instead, for American ingenuity and creativity, to produce the best and most energy efficient technologies.

After the Cold War, we face the challenge of helping Russia achieve a healthy democracy, a healthy economy and a healthy environment. Our Russian aid package includes $38 million to clean up pollution and promote better uses of energy. As with the full range of our investments in Russia, this is truly an investment not only in promoting our own values but in protecting our national security.

To protect the environment at home and abroad, I'm committed to a government that leads by example, brings people together and brings out the best in everyone. For too long, our government did more to inflame environmental issues than to solve them. Different agencies pursued conflicting policies. National leaders polarized people, and problems wound up in the courts or in the streets instead of being solved.

We seek to bring a new spirit to these difficult issues. Three weeks ago, in Portland, Oregon, we brought together business people, timber workers and environmentalists from throughout the Northwest to discuss how best to preserve jobs and to protect the old growth forests and the species which inhabit them. People sat down in a conference room, not a courtroom, and in the words of Archbishop Thomas Murphy of Seattle, we tried to find common ground for a common good.

At the close of the forest conference, I asked my Cabinet and our entire administration to begin work immediately to craft a balanced, comprehensive long-term policy that is also comprehensible.

Before I ask our companies and our communities and our families to meet any challenge, it seems to me we have to set that standard for the government. The American people are entitled to know where the United States stands on this issue and many other issues, and it is time to bring an end to the time when issues like this wind up in court and there are five different positions from the United States government itself. We can never solve problems in that fashion. We can only undermine the security and stability of people's lives.

That's one reason I'm proud that yesterday the United States Army announced its plan to clean up a large number of sites where, we learned recently, that chemical weapons materials may be buried, in some places from as long ago as World War I. Working with the EPA, the Army will clean up this problem safely and in an environmentally sound manner. This is a legacy of America's efforts to defend our people and the community of free nations. Now we are taking steps to defend our people and our environment, and the environment of the world.

In that same spirit, I plan to sign an executive order requiring federal facilities that manufacture, process, or use toxic chemicals to comply with the federal right-to-know laws and publicly report what they are doing.

I might add that it is time that the United States government begins to live under the laws it makes for other people. With this executive order I ask all federal facilities to set a voluntary goal of reducing their release of toxic pollutants by 50 percent by 1999. This will reduce toxic releases, control costs associated with cleanups and promote clean technologies. And it will help make our government what it should be—a positive example for the rest of the country.

Poor neighborhoods in our cities suffer most often from toxic pollution. Cleaning up the toxic wastes will create new jobs in these neighborhoods for those people, and make them safer places to live, to work, and to do business.

Today, I am also signing an executive order that directs federal agencies to make preliminary changes in their purchasing policies, to use fewer substances harmful to the ozone layer. Here, too, we must put our actions where our values are. Our government is a leading purchaser of goods and services, and it's time to stop not only the waste of taxpayers' money but the waste of our natural resources.

Today I am signing an executive order which commits the federal government to buy thousands more American-made vehicles using clean domestic fuels such as natural gas, ethanol, methanol and electric power.

This will reduce our demand for foreign oil, reduce air pollution, promote promising technologies, promote American companies, create American jobs, and save American tax dollars. To demonstrate my commitment to this issue Energy Secretary O'Leary is creating a task force led by the land commissioner of Texas, Gary Morrow, who's here in the audience today, who headed a successful effort in his own state. I hope we can do as well in America as they have done in Texas.

In that same spirit I plan to sign an executive order committing every agency of the national government to do more than ever to buy and use recycled products. This will provide a market for new technologies, make better use of recycled materials, and encourage the creation of new products that can be offered to the government, to private companies, and to consumers. And again it will create jobs through the recycling process. We must keep finding new ways to be a force for positive change.

For example, the federal government is the largest purchaser of computer equipment in the world, and computers are the fastest-growing area of electricity use. That's why I am also signing an executive order today requiring the federal government to purchase energy-efficient computers.

We're going to expand the market for a technology where America pioneered and still leads the world, and we'll save energy, saving the taxpayers $40 million a year and set an example for our country and for the world.

For as long as I live and work in the White House, I want Americans to see it not only as a symbol of clean government but also a clean environment. That's why I'm announcing an energy and environmental audit of the White House. We're going to identify what it takes to make the White House a model for efficiency and waste reduction. It might mean fewer memos and less paper.

And then we're going to get the job done. I want to make the White House for other federal agencies, for state and local governments, for businesses, and for families in their homes. Before I ask you to do the best you can in your house, I ought to make sure I'm doing the best I can in my house.

I ask that all of us today reaffirm our willingness to assume responsibility for our common environment, and to do it willingly, hopefully and joyously. We are challenged here today not so much to sacrifice as to celebrate and create. I've challenged Americans who are young in years or young in spirit to offer their time and their talent to serve their communities and their country. I've asked them to help in teaching our children, healing the sick, policing our streets.

But equally important are efforts to protect our environment from our largest cities to our smallest towns to our suburbs. Our national service plan will ask thousands of Americans to do their part, from leading recycling drives to preventing lead poisoning.

The challenge to shoulder responsibility and seize opportunity extends to each of us in businesses, communities, and homes. In our own lives, in our own ways, each of us has something to offer to the work of cleaning up America's environment, and each of us surely has something very personal to gain.

On a colder day, in the middle of winter, just three months ago, a poet asked us to celebrate not only the marvelous diversity of our people but the miraculous bounty of our land. Here on the pulse of this new day, Maya Angelou challenged us to look at the rock, the river, the tree—your country. Now it is a season of new hope and new beginnings, and as we look anew at our neighbors, our children, and our own communities as well as the world around us, we must seize the possibilities inherent in this exhilarating moment—to face our challenges, to exercise our responsibilities, and to rejoice in them. Thank you very much.

Mr. BAUCUS. Mr. President, I was impressed by the show of support for the occasion, both from the executive branch and from my colleagues.

From the President and from Vice President GORE, a man who has a deserved reputation as an environmental leader. From Administrator Browner, Secretaries Babbitt and O'Leary. And from many of our colleagues from both Houses of Congress and both sides of the aisle.

THE PATH AHEAD

I hope that Earth Day 1993 will be remembered as the beginning of a renaissance in environmental policy. Perhaps that is predictably optimistic for Earth Day—but I believe a renaissance is not only possible, but necessary.

We have traveled a long way down the environmental path since Earth Day 1970. Our skies are clearer. Our water is cleaner. And we have begun ridding the land of our environmental desecration.

Industry has become a more willing partner in many of these efforts. More companies see the greening of their operations as an investment in their bottom line.

But the path has sometimes been a rocky one. Stalemate and gridlock have stymied progress on some fronts, particularly during the last 12 years. And the time and talents of many have too often been used to delay or divert progress, rather than to achieve it.

We cannot let an adversarial mentality rule the day. Our economy cannot afford it. Our environment cannot afford it.

As we face the new environmental challenges of which the President spoke, our success will be determined by whether we can break old patterns of mistrust and misunderstanding.

By whether we can end the religous wars between the business and environmental communities;

By whether we can forge new partnerships that promote both economic and environmental progress.

The American people already recognize this. According to a national poll conducted earlier this year, there is a growing consensus in the country that a healthy environment leads to a healthy economy.

Last year, 55 percent of the American people felt that way. This year, it has risen to 62 percent. The American people, in many respects, are ahead of us.

Contrary to the statements of some, the environment and the economy are not a zero-sum game, where progress in one area must come at the expense of the other.

We can have both. More and more, we are finding ways to get both. In business. In government. Among nations.

And that is how it should be, how it really must be. Because unless we have both a healthy economy and a healthy environment, we will have neither. And our children and grandchildren will pay the price.

ENVIRONMENTAL TECHNOLOGY

But having said that, how do we do it? One promising direction is in environmental technology. Not just a new black box at the end of a pipe.

No the environmental technologies of today—and tomorrow—include new products that run cleaner. And new ways to make products that waste less. In short, it means a new way of thinking.

There are growing markets around the world for these products and processes. That means jobs and profits. And it means a more efficient operation for companies, and that improves companies' bottom lines.

So how do we encourage the development of cutting-edge environmental technology?

The first step is for government to put its own house in order. The Federal Government spends about $4 billion a year on environmental technology.

But the work is not coordinated and priorities are not set. We have to fix and we have to change that.

The second step is to create a regulatory climate that stimulates the development of cutting-edge environmental technology by the private sector. Not just for the conventional problems—air pollution, water pollution, and waste disposal—but also for the grave new threats that menace our children's very future, namely the cumulative effects of minute concentrations of toxic pollutants, the loss of biodiversity, and global climate change. He addressed that as well.

These are serious additional problems we must address, and in a way that increases our chances of success.

How? By harnessing our ingenuity. By encouraging the private sector to find creative, efficient, and cost-effective ways to achieve these goals.

Our goals must be high. But our approach to achieving them must be creative.

CONCLUSION

The Government cannot do it alone. Business cannot do it alone. And the environmental community cannot do it alone. But we can do it together.

No longer is there any question that we are indeed all in this together. Twenty-three years ago today, that point was made—not by an environmentalist, nor by a Senator, but by J. Paul Austin, the chairman of the Coca-Cola Co.

In describing the steps that Coca-Cola was taking to reduce polluting emissions and packaging waste, Mr. Austin explained:

> Pollution is the sole common danger that confronts us all, spares no institution or individual, is recognized by every segment of our society, and can unite us all in a common goal.
>
> There is no political spectrum here. No color line. * * * No public-private sector conflict. No urban-rural clash. No "haves" and "have nots." We share this fragile issue braided together.

In every year since the first Earth Day, we have become more aware of just how closely our fates are interwined—with other peoples, with our environment.

Mr. President, in the coming year, I hope we will begin to see that these links are not a burden, but an opportunity to better our economy and our environment. And I hope that, working together we can begin to seize these opportunities. For the benefit of each of us. For the benefit of all of us.

The PRESIDING OFFICER (Mr. LIEBERMAN). Under the previous order, the Chair recognizes the Senator from California [Mrs. FEINSTEIN] for up to 15 minutes.

THE BALKAN CRISIS

Mrs. FEINSTEIN. Mr. President, I, like millions of Americans, have been watching events unfold in Yugoslavia, a country in an area that history has marked by conflict and invasion, and a country that is once again in the throes of a terrible cataclysm.

George Santayana, a gifted American writer of the late 19th and early 20th centuries, once reminded us that "those who cannot remember the past are condemned to repeat it."

Today, this morning, the U.S. Holocaust Museum is being dedicated, here, in Washington, DC. Its graphic detail and painful images work together to combine a strong memorial with a haunting reminder of the gruesome horror of the ethnic cleansing of the 1930's which succeeded in the annihilation of 6 million people—simply because they were of another faith.

And, as Anthony Lewis asked in the New York Times on April 19, "Fifty years after the Nazis, will a European state led by a murderous demagogue be allowed to slaughter and expel another people because of their religion?"

That is clearly the central question before the free world today. And today that question remains unanswered. The time has come to answer.

I think the answer lies in the past, because from the ashes of the kilns used to burn bodies at Auschwitz and from the landfills saturated with mutilated bodies at Dachau rose a cry four decades ago—never again.

However, again a horrifying nightmare is occurring on European soil. Similar to Hitler's rise, Serbian leaders have created a nationalistic fervor that seeks to create an ethnically homogenous "Greater Serbia."

For the past 2 years, the former Yugoslavia has experienced violent ethnic conflict and turmoil: 130,000 innocent people have died; 20,000 to 60,000 women have been raped; 2 million people have become refugees.

The television pictures are unforgettable: small children with smashed faces and broken bodies; anguished mothers wailing from the terror of savage rapes; bodies lining streets where they were mowed down or shot in cold blood as they rushed out of burning homes; starving masses huddled together or crammed into trucks trying to flee.

We have watched, while the annihilation of a people goes on and on and on. And we have done little to stop it.

Thus far, the international community has placed economic sanctions on Serbia and rendered vague threats of future action. Yet, the brutal campaign of ethnic cleaning continues, and every week reveals a new city targeted and more people slaughtered. The U.N. peacekeeping efforts have reached their limits.

The world remains immobilized—NATO does nothing, Europe simply watches, the Russians say little.

Only one voice so far has jogged the world's conscience. As Margaret Thatcher courageously said members of the European Community are acting "like accomplices to massacre" and "all that is required for evil to triumph is that good men do nothing."

Some have called this emotional.

I say it is right on.

Mrs. Thatcher calls on the world to help—and the response is silence.

I cannot help but reflect on the war against Saddam Hussein. Western and Middle Eastern leaders came together in an unprecedented alliance to stop Saddam Hussein's army from invading Kuwait. We had to stop this unbridled aggression, we were told, to stop Hussein, another Hitler, we were told—and the Western World responded.

Of course, there is no oil in Yugoslavia, but there are people being slaughtered—starved—rape—and—tortured. And the free world watches.

Martin Niemoeller, who spent 8 years of his life in a Nazi concentration camp, wrote many years ago:

> In Germany they first came for the Communists and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I did not speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up.

I really believe that America, my country, your country, stands for freedom and our great redeeming quality, is that Americans will come together to help right injustice, and that we will fight to protect freedom. If that is true, then we cannot continue to stand by and remonstrate that there is no easy solution. We must take action to stop the slaughter.

It is time that the United States increase its pressure on the international community, particularly Europe, to achieve a more forceful and aggressive response to the ruthless aggression of the Serbs and Croats.

As we have already seen, promises made by the Bosnian Serbs often go unfulfilled. In August 1992, all parties to the conflict agreed to 13 principles, including suspension of military flights over Bosnia and Herzegovina.

However, more than 500 Serbian aircraft violated that agreement by flying over Bosnia and bombing Moslem enclaves. Only when the North Atlantic Treaty Organization recently began to enforce the no-fly zone did the tide of air flights discontinue.

The moral of the story is that without aggressive enforcement, many of the policies aimed at ending the tragedy are meaningless.

If we fail to act, then the ambitious goals of a new world order and collective security will be nothing more than fig leaves on a dying tree.

The time has come to consider limited air strikes against Serbian supply lines and artillery positions if they continue to defy international resolutions and refuse to agree to a peace accord. The international community should also reevaluate the arms embargo policy which favors the Bosnian Serbs.

And the time has come to say to Europe—you must lead. And the time has come to say to the Russians—if you want our aid then you must use your influence with the Serbs and Croats to end the massacre.

I agree with Lord Owen, the European Community's chief mediator, that effective air strikes can be performed without the use of ground forces. It is time for an ultimatum. It is time to end the shelling by taking aim at the gun and mortar emplacements.

After the fall of the Soviet empire, Western democracies have debated the utility and future role of NATO.

NATO, as you know, Mr. President, was originally established to strengthen the security of Europe by deterring Soviet aggression. While that danger has disintegrated, the Balkan crisis could well develop into a genuine threat to the security of these very European democracies. It is time for NATO to show that it has a valid usefulness in a post Soviet Europe.

As Winston Churchill, Jr., wrote in this morning's New York Times:

> It is time for the West—with the European Community for once in the lead, as this is our special responsibility—to decisively halt the massacre of Moslems. All that is required is moral courage and political will.

I could not agree more.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina, [Mr. HELMS] is recognized for up to 10 minutes.

JAPANESE TAX FRAUD IN BRITAIN

Mr. HELMS. Mr. President, yesterday's Financial Times of London reported that British prosecutors have charged executives of Nissan UK, the former importer of Nissan automobiles into Britain, of tax fraud of, as they put it, "truly massive proportions."

According to the British prosecutors, "false invoices" were used "to increase freight costs charged in the company's accounts and so reduce profits on which the corporation tax had to be paid." The prosecutors also found "a money laundering network" involving Swiss banks in countries as far away as Panama.

Mr. President, according to the British prosecutors, the scheme cost the British Government—now get this—97 million pounds sterling in lost tax revenue. This is equivalent to approximately $150 million at current exchange rates.

This is not the first time that questions have been raised about tax underpayments by Japanese firms operating in Britain. A little more than a year ago, on March 22, 1992, to be exact, the Sunday Times of London reported that British tax authorities had discovered a pattern of Japanese companies operating in Britain reporting lower profits and, therefore, paying less taxes than comparable American firms also operating in Britain. That particular Sunday Times article reported that Sony officials in Britain were "manipulating internal accounts," actions that closely resemble the behavior of the accused Nissan executives.

So let me emphasize, Mr. President, that this problem is not limited to Britain. Three years ago, I raised the issue of tax underpayments by foreign firms operating in the United States. After a year of investigation, the chairman of the House Ways and Means Oversight Committee, a great guy named Jake Pickle, concluded that foreign firms operating in this country, the United States, owed the U.S. Government and the U.S. taxpayers just about $30 billion in back taxes.

Then in June of 1992, and as you recall, 1992 was an election year, then Presidential candidate Bill Clinton estimated that, if elected, he could and would raise $45 billion over 4 years by making foreign firms operating in the United States pay their fair share of U.S. taxes. This was listed as the second largest potential revenue raiser in Clinton's campaign budget proposal. But when he was inaugurated and took over the Oval Office, what happened? President Clinton, the guy who made all these promises last year, changed his tune on this issue.

On February 17, he released plans for an economic package that estimated raising precisely $1.8 billion from these sources over the same period of time that I mentioned earlier. Just for a point of emphasis, last year when he was running for office and making all those promises, he said, "I'm going to raise 45 billion bucks from these guys who are cheating the American taxpayers. I'm going to raise 45 billion over 4 years."

What do you know? After he becomes President, he says, "Well, I'm going to raise perhaps $1.8 billion over a period of 4 years."

I have two more observations that may be of interest, Mr. President. First, the Clinton administration seems to be setting a new record for populating itself with foreign agents whose former clients have an interest in not paying additional American taxes. Second, a day rarely goes by without some sort of trial balloon of proposed new Clinton taxes on the American people. So with the influx of all of these foreign agents into the Clinton administration and the media silent about the fact, these foreign-owned corporations are able to hide behind the shutters of the White House and continue to avoid paying what they owe.

As a result, the burden of taxation is shifting away from foreign-owned firms operating in the United States, who are already avoiding paying their fair share of U.S. taxes. And based on the tax proposals the Clinton administration is floating, instead, the burden is being shouldered by the ever-faithful American taxpayer.

Therefore, Mr. President, I have written to the distinguished chairman of the Senate Finance Committee, Senator MOYNIHAN, and the ranking Republican on the committee, Senator PACKWOOD, urging that the Finance Committee have full and complete hearings on the issue of tax underpayments by foreign firms operating in the United States.

Without question, I believe that taxes should not be raised on the American people at all, and certainly not before foreign firms operating in the United States pay what they owe.

Mr. President, I ask unanimous consent that the text of my letter to Senators MOYNIHAN and PACKWOOD be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, April 21, 1993.

Hon. DANIEL P. MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR PAT: Last April I sent Lloyd a letter stating my concerns about a multitude of tax avoidance schemes practiced by foreign corporations operating in the United States. I pointed out, as does an article in today's Financial Times, that this problem is not limited to the United States. I also pointed out (1) that Ways and Means had held extensive hearings on this issue and (2) that Oversight Chairman Pickle estimated that the U.S. Treasury loses $30 billion annually through these schemes; nevertheless Finance has yet to hold hearings on the issue.

On July 21, 1992, Finance did hold a hearing on "Comparative Tax Systems," but media reports were nominal, at best. I don't mean to be critical, but the work done thus far by the Senate Finance Committee is substantially behind Ways and Means' two year investigation of the issue.

Last year, candidate Clinton estimated that the U.S. Treasury would be able to collect up to $45 billion over four years from the U.S. subsidiaries of foreign firms which currently avoid paying their fair share of United States taxes. Since his election, however, President Clinton has scaled down his estimated collection to $1.8 billion over the same four-year period. The scale of this tax avoidance by United States subsidiaries of foreign corporations concerns me greatly.

Pat, I'm against any new taxes on the American people. And unfortunately, every time I pick up the newspaper, I see another one of the Administration's trial balloons outlining proposals to scoop the pocket of the American taxpayer yet again. The American people do not deserve to be saddled with further debt until these foreign companies ante up what they owe the United States.

Further, I am obliged to acknowledge my difficulty in having confidence in the administration taking action on this issue inasmuch as so many of the administration's top officials were formerly employed by the very same foreign corporations to which I refer. The drop in the estimate of collectibles from $45 billion to $2.8 billion signals a weakening of will already. There is always the possibility, of course, that this change was not influenced by those people who represented foreign entities prior to joining the administration.

It is clear, though, that these foreign corporations will fight to avoid paying off their debts, even if it requires cashing in on any leverage available within the administration. Unfortunately, the American people do not have similar leverage with top officials in any administration, Democrat or Republican.

So, Pat, please let me renew my request that Finance hold detailed hearings specifically on the issue of tax under payments by foreign corporations operating in the U.S. I suspect that the administration will find it difficult to convince the Senate to impose new taxes unless and until these foreign corporations make good on their debt.

Sincerely,

JESSE HELMS.

Mr. HELMS. Furthermore, I ask unanimous consent that two news articles from the Financial Times of London dated April 21, 1993, and February 18, 1993, respectively, as well as a London Sunday Times article of March 22, 1992, be printed in the RECORD.

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

[From the Financial Times, Apr. 21, 1993]

COURT TOLD OF £97M FRAUD AT NISSAN UK

(By John Mason)

Three directors of Nissan UK, the former British importers for the Japanese motor manufacturers, cheated the tax authorities out of almost £97m corporation tax in a fraud of "truly massive proportions" that lasted 17 years, a London court was told yesterday.

The fraud centered around the use of false invoices to increase freight costs charged in the company's accounts and so reduce profits on which corporation tax had to be paid, Mr. Peter Rook QC, prosecuting.

To conceal the fraud, an international money-laundering network was set-up involving bogus shipping agents in Holland and Norway and ending at two Swiss banks—Credit Suisse and BFG, he said.

Mr. Rook was opening the prosecution of Mr. Michael Hunt, assistant managing director of Nissan UK charged with four counts of conspiring to cheat the Inland Revenue and making use of false documents. Mr. Hunt denies all the charges.

Mr. Hunt was at the centre of the conspiracy, the court heard, along with Mr. Octav Botnar, the Nissan UK chairman and chief executive, and Mr. Frank Shannon, the company's former finance director. Mr. Botnar was the "prime mover", but Mr. Hunt, as his "number two", was party to the fraud from start to finish, Mr. Rook said.

A warrant for Mr. Botnar's arrest was issued last year but this could not be served since he was now in Switzerland. Earlier this year, Mr. Shannon had pleaded guilty to one count of cheating the revenue of £17m corporation tax.

In 1971, Nissan UK won the British franchise to import cars manufactured by the Nissan Motor Company in Japan. From 1975 it arranged its own freight charges. The purpose of this was to enable the tax fraud to take place, Mr. Rook said.

In the years that followed a total of £219m was extracted from Nissan UK by a process of fabricating invoices which increased the genuine freight charges by between 40 percent and 60 percent on each occasion. The sham shipping agents, who were prepared to take part in the falsification of documents, were Autocontex Holland of Rotterdam and Scansiris A.S. of Norway.

To cover their tracks, the conspirators set up an international laundering operation. During the Inland Revenue's investigations, evidence was found in Holland, Germany, Bermuda, Austria, Norway and Panama.

"The trail leads to two Swiss banks where the conspirators would divide the spoils of the fraud", Mr. Rook said.

The trial continues today and is expected to last at least three months.

[From the Financial Times, Feb. 18, 1993]

RETREAT ON TAXING FOREIGN COMPANIES

(By George Graham)

President Bill Clinton has had to execute an embarrassing climbdown in his claim that foreign-owned companies could be made to pay billions of dollars more in US taxes.

In his campaign manifesto, Mr. Clinton said that making foreign companies pay their fair share of taxes by stricter enforcement of the transfer pricing rules that govern transactions between subsidiaries and their parents would bring in $45bn in four years from 1993 to 1996—the second largest source of savings identified in the document.

This number was less extravagant than the estimate of $30bn a year that commonly circulates in congressional subcommittees, but it was still widely ridiculed.

Last night's economic package, more modestly, estimates only $1.8bn over the same 1993-96 period, or a total of $3.8bn over a longer six-year period from an initiative to enhance penalties on transfer pricing abuses. Even this estimate appears to involve a good deal of guesswork; this line contains far the roundest numbers in the entire Treasury document detailing the new tax increases.

A Treasury official said the tighter enforcement would involve penalties that may be levied when a company is found to have cheated on transfer pricing arrangements. Companies must have contemporaneous documents justifying their pricing structure, instead of being able to construct *post hoc* justifications.

At the same time, Treasury plans to increase compliance with transfer pricing rules by spending $38m on more tax inspectors and doubling the frequency with which foreign companies are audited, and an official said the additional revenue from this enforcement drive, while as yet uncalculated, would be large.

A second measure in the Clinton package will also affect some foreign companies: earnings stripping rules, designed to prevent companies from converting taxable dividends into tax deductible debt repayments by lending money to their subsidiaries for capital, will be tightened to cover bank loans guaranteed by the parent company. The administration estimates this could bring in $579m over the 1993-98 period.

More significant revenue, however, could come from measures aimed at US multinationals with foreign subsidiaries. By reforming the foreign tax credit for oil multinationals, including royalties in the passive basket of the foreign tax credit, and stopping deferral for excessive accumulated foreign earnings, the Treasury hopes to reap $4.3bn in the 1993-98 period.

[From the London Sunday Times, Mar. 22, 1992]

INLAND REVENUE PROBES TAX AVOIDANCE AT SONY

(By John Cassidy)

Tax inspectors are investigating allegations that Sony, the Japanese electronics giant, may have avoided paying millions of pounds in tax by generating profits in Japan rather than in Britain and America.

Inland Revenue officials have interviewed former Sony executives who say they reduced the company's tax bills in Britain by manipulating internal accounts.

The allegations are strongly denied by Sony, the biggest Japanese manufacturer in Britain and the first to set up in this country.

Two former executives told The Sunday Times they inflated prices paid to a German division of Sony for products imported into Britain. This cut the profits—and tax liability—of Sony Europa, a British branch of the company, they say.

One, a former sales and marketing manager, said: "It was hard to believe. I was a professional salesman, yet I set a goal of zero profits." Sony said if such price manipulation occurred, it was against its policies and in defiance of company rules.

Sony Europa, in Staines, Middlesex, is one of 625 subsidiaries of the Japanese electronics giant which include CBS, the American record label, famous for artists such as Bruce Springsteen and Michael Jackson. In America, Internal Revenue Service investigators have interviewed former Sony employees who also claim the prices of imported products were inflated to increase profits to the Japanese parent.

The British Inland Revenue investigation follows an Insight inquiry which found that many Japanese multinationals legally pay only a fraction of the tax of other firms operating in this country.

Sony UK paid nothing at all in corporation tax throughout the 1980s. In the last financial year (1990-1), it paid only 1.4% of its £875m turnover to the British exchequer in profits tax, compared with 5.3% paid by Kodak, a foreign-owned multinational that has a similar turnover.

Yet last year, Sony Corporation achieved its highest ever worldwide sales and consolidated profits. It will be in surplus again this year, despite a fourth-quarter downturn in Japan.

There is no suggestion that Sony UK, which has received grants and pledges of £20m from British taxpayers, has acted illegally or improperly. It says its tax bills were wiped out by government allowances and relief carried forward.

But Insight's findings which show that the Treasury would benefit by at least £200m a year if leading Japanese firms paid proportionately as much tax as British and other foreign multinationals—have prompted MPs to call for an urgent inquiry.

Tory backbencher John Watts, a member of the select committee on Treasury affairs, has written to Norman Lamont, the chan-

cellor, asking for a full investigation by the Revenue.

"There are potentially hundreds of millions of pounds going begging here. If firms benefit from publicly funded grants they must pay their fair share of taxes," he said.

After analysing Insight's findings, Professor John Kay of the London Business School, an expert on international taxation, said: "The striking thing is that Japanese companies clearly pay little or no tax in the UK while other foreign companies do."

The Japanese embassy in London angrily denied the allegations. "If Japanese firms lose credibility over here they will face a very difficult situation, so they would not do such manipulation," it said.

Tax avoidance by so-called "transfer price manipulation" is prohibited in America. In 1990 a congressional committee calculated that during the 1980s the practice had been used by 36 multinational companies, two thirds of them Japanese, and had cost the US treasury £100 billion.

But in Britain, such manipulation is not against the law. The Inland Revenue's only remedy is to demand additional tax payments if it suspects that this has occurred.

Insight examined the profits declared and taxes paid by the biggest Japanese companies in Britain during tow financial years, 1988–9 and 1990–1. It found British firms and foreign (non-Japanese) multinationals paid five times as much tax per pound of turnover (the measure used by the Revenue to test for tax avoidance on profits) as their Japanese counterparts.

While there is no suggestion of illegal tax evasion, it is striking that Japanese firms paid proportionately far more tax—roughly three times as much per pound of turnover—to the Tokyo government than they did to the British exchequer, even though tax rates in the two countries are comparable.

For example, Hitachi Consumer Products, the UK arm of the Japanese electronics giant, declared tiny profits and paid nothing in British corporation tax last year. By contrast, Hitachi's parent paid £379m in profits tax—2.3% of its turnover—in Japan. Hitachi said last night its British made consumer products were a "very low-margin business".

In total, the Inland Revenue collected less than £40m in profits tax from the 10 biggest Japanese firms in Britain, including Toshiba UK, Mitsubishi Electric and Hitachi consumer products, in 1988–9 and 1990–1. That represented only 0.6% of their combined UK turnover.

During the same period, the 10 largest British firms, including ICI, British Aerospace and Unilever, paid more than £14 billion in profits tax—equal to 3% of their combined turnover. Leading foreign-owned multinationals, including Ford, IBM and Vauxhall, also paid tax equal to 3% of turnover.

Some American states, notably California, now assess tax on a multinational's worldwide profits, rather than on profits in that state alone. Some experts believe that Britain should adopt the same approach.

Professor Kay said: "All we have is a 29th-century tax law that sometimes collects tax and often doesn't. The only way to deal satisfactorily with transfer pricing is to take a company's worldwide profits, and tax it according to the British share of its turnover."

All companies based in Britain are required to pay between a quarter and a third of their profits in tax, regardless of which country their owners come from. Thus, foreign-owned firms should not enjoy special advantages over their British rivals.

But not only do British companies pay more tax in this country than their Japanese counterparts, they also pay proportionately more tax on their operations in Japan. For example, Nippon Wellcome, part of the British Wellcome Foundation, paid 14.5% of its £112m turnover in corporation tax to the Tokyo government last year.

Tax revenue from company profits accounted for £21 billion last year, the exchequer's fourth-biggest source of revenue after income tax, National Insurance contributions and Vat.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, on another subject, as of the close of business on Tuesday, April 20, the Federal debt stood at $4,254,483,393,350.16, meaning that on a per capita basis, every man, woman, and child in America owes $16,563.50 as his or her share of that debt.

I thank the Chair, and I yield back the remainder of my time.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. GLENN. Mr. President, I ask unanimous consent that we proceed as in morning business.

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

The Senator from Ohio is recognized.

EARTH DAY

Mr. GLENN. Mr. President, today is the 22d anniversary of Earth Day. I am very pleased that the Senate will be taking action today, or starting action, to elevate the EPA to Cabinet-level status. With this action, we will take a step to improve and safeguard the future—not only my future or that of my colleagues but, more importantly, our children's and their children's future. What kind of world will they live in? What standard of living will they enjoy, and what will be their quality of life? Can we answer those questions, and can we do anything about it today? In short, what kind of Earth legacy will we who are, after all, temporary trustees of this planet bequeath to future generations?

Mr. President, I am also very pleased that President Clinton took actions yesterday to make the Federal Government a more environmentally conscious steward. The President announced that he will issue three executive orders. The first will substantially boost the numbers of alternative fuel vehicles in the Federal fleet. Increasing the use of alternative fuel vehicles will help reduce reliance on foreign oil, it will decrease harmful air emissions, and it will spur introduction of these vehicles into the consumer market. I supported these goals in the Energy Policy Act of last year, and I offered amendments to provide incentives to agencies to accelerate the use of these vehicles in the Federal fleet.

The second executive order requires agencies to buy "energy star" computers. Those are computers whose screen shuts down after a period of nonuse—that is, if they meet quality and price standards. As hearings before my Committee on Governmental Affairs have pointed out, computers are a major source of energy consumption in Federal facilities. We can achieve substantial energy savings by using highly efficient office equipment. This effort builds on my provisions included in last year's Energy Policy Act to aggressively identify and procure energy-efficient products.

The third Executive order addresses Federal use of ozone-depleting chemicals by requiring agencies to phase out use of class I and II CFC's by 1995 and to establish agency plans for procuring ozone-friendly goods.

It is my understanding that the President is also considering issuing two additional Executive orders. The first will address the release of toxic chemicals by Federal facilities, by requiring Federal facilities to comply with title III of the Superfund Amendments Reauthorization Act. That is commonly called the toxic releases inventory. This order may further require agencies to reduce toxic releases by 50 percent by 1999 and to prepare pollution prevention plans.

My colleague, Senator KERRY, recently sent a letter to the President cosigned by more than 30 Senators, including myself, urging that the administration take this action.

The final Executive order, which I understand is being considered, addresses Federal procurement of recycled products. This order may include the following directives: One, guidelines for procuring recycled products in Federal facilities. Two, the creation of model Federal facilities which exhibit closed loop recycling. Three, the establishment of solid waste reduction goals.

I want to specifically recognize the special efforts of the Vice President and the staff of the White House Office of Environmental Policy, both of whom have taken a major leadership role in this vital area. It is in large part through their hard work and diligence that these actions are being undertaken.

So I applaud the administration for moving in this direction, and I intend to work with them on a bill that I am introducing today. This bill would create a program to demonstrate the use of products made from recycled, reclaimed, or reused materials in the construction or retrofitting of Federal buildings. The bill also would require

us to consider further actions on how to minimize the generation of solid waste in the construction of Federal buildings and facilities.

I also add, from my position as chairman of the Governmental Affairs Committee, I plan to continue my efforts to clean up and make safer our Nation's nuclear weapon production complex, to tackle the problems of solid waste management and disposal, and also address the issue of the Federal Government's environmental liability.

In these remarks, I am gratified that this administration is taking significant steps to get our own house in order. I think it is high time that we set an example on how to be more environmentally sensitive and to adopt policies which will help create markets for emerging environmental technologies. By being clean and green, as the saying goes, we can create jobs, we can make businesses more competitive, and we can provide a better world for our children.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the introduction of S. 817 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Vermont [Mr. JEFFORDS] is recognized.

THE EPA CABINET BILL

Mr. JEFFORDS. Mr. President, I compliment our colleague, the previous speaker, for the work he has done on the bill that is going to be coming before us. I know the tremendous amount of work he has done. One would think this would be a pretty simple thing to do. Everyone wants to make it a little better and in some cases a little worse. So we sympathize with his efforts, and hopefully how we will be able to proceed.

Mr. President, I rise today in hopes that in this Congress, we can elevate EPA to Cabinet status. It is time to guarantee the environment a place at the President's table. As we begin this endeavor again, I want to reflect a little on where we have been and where we are going.

Let me begin with a quote:

> We crowd together as never before; our pursuits are more sedentary, our habits more luxurious; houses grow apace, land is more valuable, the green fields more remote; our children are reared among bricks and paving-stones; the public health can only be maintained by special sanitary appliances and precautions.

The year of this quote is 1875, but it could easily have been 1993. Many of the controversial environmental issues of today merely repeat the debates of yesterday.

Let me give a few examples.

Our scientists propose the new concept of using animals as environmental sentinels. Yet, the Romans inspected animal livers before deciding where to build a town. If signs of disease were found, the town was built elsewhere.

We passed Superfund, a law now under major attack, in response to the new problem of homes built on or near contaminated areas. Yet, in 1875, the president of a municipal engineering society denounced, and I quote, "the common practice of excavating for sale the gravel from building sites, which were afterwards filled in with any rubbish, generally the town refuse, containing putrescible matter, upon or adjoining which houses are afterwards built."

He states, "Such houses form the sick homes of family after family, who are unaware of the condition of the soil upon which the attractive cottage stands."

Last Congress, we discussed the new concept of certifying homes as lead free in real estate transactions. Yet, an 1880 engineering text states:

> Every person intending to take a house should require a certificate as to the fulfillment of [sanitary conditions], and should regard such a certificate as essential to his accepting a lease or agreement for a house. * * * It should hold as important for a house to be wholesome before it is let or sold as for food to be wholesome * * *.

Can you tell what is a wetland by the plants? One engineer in 1875 noted, as he surveyed along a river, what he described as the following curious fact:

> The state of dryness of the ground could always be told by the growing plants.

Earlier this afternoon, one colleague spoke about the economics of reducing wastes and how industries could become more competitive in doing so.

Allow me to quote from the 1868 report of the Commission on Rivers Pollution:

> * * * of the many polluting liquids which now poison the rivers there is not one which cannot be either kept out of the streams altogether, or so far purified before admission as to deprive it of its noxious character, and this not only without unduly interfering with manufacturing operations, but even in some instances with a distinct profit to the manufacturer; * * *

Is funding environmental mandates a new issue? One 1870's individual made the following observation:

> The [taxpayer] will willingly tax himself for beer, spirits, tobacco, and other health-destroying agents—he will even pay his doctor—but he will not, willingly be taxed for preventive sanitary measures.

Unfunded mandates is an old issue. Undoubtedly, there are many questionable mandates. Unfortunately, too often the term "unfunded mandates" is used to attack mandates, not solve the funding problem. Those who use this issue are often the same individuals who argue for continued subsidies for environmentally harmful activities. Removing these subsidies could raise millions for environmental protection. I confess a bit of discouragement that the commitment to grazing fee reform and a national deposit law by the administration seems to have decreased.

Appropriating more money, however, is not the entire solution to the unfunded mandate problem. We must address the roots of pollution, not merely pay to clean it up, for even if we do not enact another environmental bill for the next 20 years, the costs of pollution control are going to escalate.

Why? For one, many forms of protection just plain cost more today than yesterday. My office compared the costs to build a 1761 English drinking water system with today's costs. In 1761, the system to serve 6,000 people cost £3,030. Depending upon whether precious metal prices or inflation is used to convert this to 1992 dollars, £3,030 is equivalent to $43,000 to $115,000.

A contractor gave me an estimate to build the system today of $600,000. On average, that is a tenfold increase in constant dollar costs.

Pollution also works against us. As our population grows, so too do the levels of treatment required to protect the environment. Since the natural assimilative capacities of our rivers and air are fixed, the greater the population, the greater the levels of treatment must be just to maintain the status quo.

For example, reducing automobile emissions 10 percent only reduces air pollution until there are 10 percent more cars. Pick the environmental media and a similar argument can be made.

This is why pollution prevention is so important. You do not have to pay for treatment if you did not make the waste.

But, even with pollution prevention, however, costs will rise. The increase each year may be small, but it will occur. It is the natural result of our growth.

On this Earth Day, I would like to use the Mississippi River system to illustrate this point. Many of our colleagues wrote to the President about this very subject.

A large water fight between upstream and downstream States is underway as a result of what I will call the levee problem. In a figurative sense, Mr. President, we are still victims of and participants in the levee problem. Unfunded mandates is the levee problem.

Before the westward expansion, the rivers of this country ran free. But, as we began to settle these areas, we drained the wetlands and built levees to protect the lands from flooding. We plowed the soil which increased the drainage. Acre by acre, runoff increased while the size of the river channels was reduced.

One 1850's engineer, Charles Ellet, foresaw the negative implications of

these incremental actions. He saw that, as development proceeded across the plains, downstream States would endure ever-greater floods. These floods would become more costly as development along the rivers, permitted by the levees, increased. The downstream States would have to build higher levees, which would merely move the floods upstream. This, in turn, would cause the upstream property owners to first build and then raise their levees. Levees would be built progressively upstream, and eventually the better part of these river systems would be leveed.

A funny thing about levees, though. Raising the height of a levee entails much more than simply adding a few inches of soil to the top. Additional soil must also be added to the sides to make the levee stable. As a result, the costs of raising the levees would become increasingly costly until the levees would become unaffordable to local governments. At this point in history, levees were paid for by taxing the land and the products from the lands that were protected. Government subsidies were rare, and no one had ever thought of a waterways fuel tax at that time.

Mr. Ellet predicted that it was a matter of time before the Government would have to build large reservoirs in the upper parts of the river basins to replace all the storage capacity cut off by levees and lost by draining swamps. Keep in mind this is 1852; construction of the Garrison Dam in North Dakota would not begin for about a century.

So, where once we expended great energy to rid ourselves of stored water, now we fight over what little stored water remains.

Mr. Ellet laid much of the responsibility for the levee problem and its future revelations on the shortsightedness of Congress. In the name of development, Congress encouraged building the levees.

Allow me now to quote this engineer:

The drainage of the swamps is progressing with a step as steady and as fatal * * *. Let it not be supposed that these events, though all steadily progressing, are too remote to demand present concern. Those changes which may be witnessed by persons now living, should be considered, for all the purposes of wise legislation, as things immediate. It is not assuming more than the actual progress of this country will justify, or more than is fully warranted by the history of the last thirty years, to conclude that at the close of the current century, or fifty years hence, the population within the present boundaries of this country will reach 100,000,000 of persons. * * * It is our duty to look forward to these things * * *. We must look at these things and appreciate the progress of society, and its probable effects, before attempting to devise plans to retard or resist the approaching event. The expedient that will be adequate to mitigate the present suffering will have no appreciable influence on the floods that are yet to come. That population will spread over the entire region drained by the Mississippi; and that the levees will be extended in defiance of the natural difficulties and the probabilities of crevasses, until both shores are completely guarded, must be received as certain and inevitable results. That the water which is to be excluded from these reservoirs must be accommodated by the channel, is also apparent. It is not merely the present floods, therefore, but the effect of these progressing changes in the natural order of things, which it is our province to consider and our duty to provide for.

The unfunded mandate problem is essentially the levee problem of our day. The question we must answer is: "Will we address this problem at its roots, or will we merely keep incrementally raising the height of the levees?"

I am encouraged by the earlier remarks of the chairman on the Environment Committee on the beginning of a new approach to environmental protection. Both Congress and EPA must look beyond extending the next levee and at the entire system. Our failure to look at the long-term implications of our policies will continue to be expressed in a variety of forms. It is takings, it is wetlands, it is endangered species. These are all symptoms of the environmental levee problem.

Take wetlands, for instance. As we drained millions of acres of wetlands in the incremental course of progress, much like the water behind Garrison Dam, the remaining wetlands became increasingly valuable. We now fight over the remaining wetlands.

Those who own the wetlands think it is unfair that they should be denied the right that many, many others have exercised before them. They end up paying the cost of our preceding actions. The issue becomes one of takings.

I do not believe the wetland owner should bear the costs of preservation alone. We all share responsibility for the past development. Therefore, we must all collectively compensate and encourage others for the preservation of the remaining wetlands. We should remove the incentives for destroying green space, and in their place, create incentives for green space preservation. Preserving green space is the equivalent of pollution prevention. I hope to reintroduce my bill on this subject soon.

So what does this have to do with the EPA. My point is that we have been looking at the environment in the same way for over a century. The result is that our costs get higher and higher without solving the underlying causes of the problem.

We need to take a fresh look at how we are protecting the environment, and what better time to start with a clean slate than when we elevate EPA to Cabinet status.

We cannot keep chasing pollution from medium to medium. We are merely shifting the floodwaters around while the levees we place between us and the environment are becoming increasingly expensive. And, we fight about the result as unfunded mandates while the floods become ever more devastating.

Mr. President, I will close now, by repeating the words of Mr. Ellet.

It is not merely the present floods, therefore, but the effect of these progressing changes in the natural order of things, which it is our province to consider and our duty to provide for.

Let us stop building levees.

Mr. President, I yield the floor.

THE GRIDLOCK IN THE SENATE OVER THE ECONOMIC STIMULUS PACKAGE

Mrs. MURRAY. Mr. President, I have always believed in the saying, "what you see is what you get." I campaigned on a platform that what you see with Patty Murray is what you get.

Rather than get the economic stimulus package they saw, the American people got a gridlocked Senate, held hostage by a minority of Senators. What the people of America, and the State of Washington, will get from this gridlock is continued unemployment and the same old status quo.

The American people saw the opponents of the stimulus package mock them. They saw the Republicans laugh at the President's programs. Well, this is very hollow laughter, because I know that the people of Washington are not laughing along. They saw it was time for us as leaders to begin to invest in America, to take care of our children, our families and communities. They saw this, but they are not going to get it.

The American people understand the importance of a domestic agenda, but they will not see it now. Instead, they have seen a minority thwart their interests. They have seen that a minority in the U.S. Senate does not think that caring about their interests is a priority.

Washingtonians saw that the President wanted 160 new inspectors for meat and poultry safety. My State watched hundreds of children get sick, and some die, from e.Coli. I have visited the hospital wards. I have talked to the parents of the children who died. And now I have to tell them that the e.Coli outbreak is not considered an emergency, and that food safety is not a priority for the Republicans in the Senate.

Washingtonians saw that the President wanted to help the 23,000 workers being laid-off by the aerospace industry in the State of Washington by creating new jobs. There were going to be 8,000 new jobs in transportation projects and another 8,000 in recreational facilities and maintenance. I have talked with the workers at Boeing who are in jeopardy of losing their jobs, and now I have to tell them that job-creation is not a priority for the Republicans in the Senate.

Washingtonians saw that the President wanted to restore and revitalize

rivers and forests in the Northwest. The Forest Service and Fish and Wildlife Services have identified thousands of sites that are badly in need of restoration. And now I have to tell these people that welfare is better than a job, and that environmental degradation is not a priority for Republicans in the Senate.

Veterans in Washington saw that the President wanted to bolster programs for them. And now I have to tell the men and women who risked their lives for this country that their problems are not a priority for Republicans in the U.S. Senate.

Washingtonians saw that the President wanted to expand WIC. Right now, in my State, only 47 percent of our neediest mothers and children are being served by the WIC Program. And now I have to tell the other women and their children that their well-being is not a priority for Republicans in the Senate.

Washingtonians saw that the President wanted to ensure that all 3-, 4- and 5-year olds in the State of Washington could participate in the Head Start Program. And now I have to tell mothers that poor children will not have the access to education that rich children have, and that they are not a priority for the Senate.

Washingtonians saw that the President wanted to help people living with AIDS. The State of Washington has had to cut out home health programs for AIDS patients, thereby raising the cost of health care in the State. We could have put people to work, caring for low-income people with HIV disability, allowing the sick to spend the end of their lives in dignity. And now I have to tell people living with AIDS that the epidemic is not a priority for Republicans in the Senate.

Washingtonians saw the need for jobs and education and caring that was in the President's package. But they are not going to get any of them.

Mr. President, I have to answer the people of Washington. I have to try to describe what goes on here. Why this happened.

Milton and Susan Sherwood of Shelton, WA, wrote to tell me that they believe in the immunization program. They wrote:

> If nothing else gets accomplished during the next four years, passing this one program, for all our children, would be worth it.

How do I tell them gridlock stopped the immunization program?

Howard Amack of Vancouver, WA, wrote me:

> I hope you will support the President's programs to try to get people back to work and improve our health and education systems. So far we seem to be having the same old gridlock in Congress. The people won't stand for this.

How do I tell Howard it is business as usual?

I think Richard Moore of Issaquah, WA, best expresses my frustration:

> I am an independent who is appalled at the Republicans' stonewalling of the President's stimulus package. If the Republicans continue their obstructionist tactics, they will be responsible for any problems which may develop. The Republicans should step aside and set aside the gridlock. Americans want progress and they want accountability.

What we have just been through reminds me a bit of the "Wizard of Oz." Remember that scene toward the end of the film, when a short female in funny shoes pulled back a curtain and exposed the real story? What we saw behind that curtain was not what we got.

I used to be a preschool teacher. I know that when you are confronted by one or two problem kids, you do not cave in to their demands. And, you do not give up. You stand resolute. I never thought that I would say that being a preschool teacher was good training for being a U.S. Senator in the majority party. But, it really is.

So, let the minority celebrate—this minority of Senators who have stopped all these important programs from moving forward—these programs to help the unemployed, children, AIDS patients, and poor mothers. It hurts me to watch a policy continue that allows only the children of the rich to be immunized. And educated. And fed. And housed.

Mr. President, is it not time for a change? Would it not be a change if we spent our time working on ways to help our people and move our country forward rather than trying to stop progress.

EARTH DAY 1993: TIME TO RECOMMIT TO THE SPIRIT OF UNCED

Mr. PELL. Mr. President, today we celebrate Earth Day. This is an occasion for each of us to rededicate ourselves to the protection of our natural heritage. On Earth Day 1993, I think it is particularly appropriate to commit ourselves once again to the spirit and goals of the Earth summit.

Held less than 1 year ago, the Earth summit laid the foundation for addressing one of the principal challenges our planet will face over the next decade: integrating economic growth objectives with the protection of our planet's finite resources.

The conference produced three major documents: Agenda 21, a blueprint for sustainable development into the 21st century; the Convention on Climate Change; and the Convention on Biological Diversity.

Carrying out the promises and commitments of that conference will require political leadership of the first order. We have that leadership in President Clinton.

In his first major speech on the environment since taking office, the President announced a series of steps that will help restore the mantle of leadership the United States once enjoyed on environmental issues. I will highlight for my colleagues just two particular points from the President's speech. I ask unanimous consent that the full text of his remarks appear in the RECORD immediately following my statement.

First, the President announced that the United States will sign the Convention on Biological Diversity. In taking this step, the President is bringing the United States back to the international negotiating table. As my colleagues may recall, to the consternation of the world community, the United States refused to sign the convention last summer at UNCED. I applaud the President for his willingness to work to resolve the problems that admittedly existed with the convention so that its many benefits can be realized.

Second, the President announced that the United States would move beyond the requirements of the Convention on Climate Change and reduce its emissions of greenhouse gases in the year 2000 to 1990 levels. This pledge advances international efforts to combat climate change. It demonstrates the United States commitment to action.

I applaud the President for his early and decisive action on these issues.

On this Earth Day, I would also encourage my colleagues and the President to look at other opportunities to follow-through on UNCED. In particular, I want to draw their attention to Senate Joint Resolution 69, the Earth Summit Environmental Leadership Act, which I introduced with Congresswoman PELOSI on March 24. This legislation sets broad policy guidelines for U.S. implementation of the Earth summit. It calls for:

The adoption of a national strategy on sustainable development;

The promotion of sustainable development through the U.S. foreign assistance program and through the multilateral development banks; and

The Presidential affirmation of strong United States support for the Commission on Sustainable Development. I ask unanimous consent that a copy of the resolution appear following my remarks in the RECORD.

Mr. President, on this Earth Day I feel great hope that we are beginning to move ahead on many of the most pressing environmental problems facing our country and our planet. It is high time that we do that. For in the final analysis, we must truly accept the proposition that our natural heritage is not ours to own, it is merely borrowed from future generations.

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

REMARKS BY THE PRESIDENT IN EARTH DAY SPEECH, APRIL 21, 1993

The PRESIDENT: Thank you very much, ladies and gentlemen, for being here in the wonderful Botanical Gardens. I must say

there's a lot I have to learn about this town, as you can tell if you follow events from day to day. And I didn't know that the Botanical Gardens was a branch of the Congress until I showed up here. (Laughter.) Just one more thing I'm not responsible for—I'm glad to be here. (Laughter.)

I also think that we should introduce a guest from another country who is here with us—the Environmental Minister from Australia, Roz Kelly. Would you stand up? We're glad to have you here. (Applause.)

Al Gore introduced Katie McGinty, and you were all good enough to clap. And I don't know if you could hear through the clapping that her parents are here. And what you may not know is that the real reason we appointed her is that she's one of 10 children and we'd like to carry Pennsylvania in 1996. (Laughter.) We think that there's a significant likelihood now because of that.

I want to say a special word of thanks to the Vice President for two things—first of all, for the wonderful trip that he has just concluded, going to Poland to represent our country on the occasion of the 50th anniversary of the Warsaw Uprising, and the wonderful remarks he gave in New York on the eve of that departure and the way that he represented the United States in Poland. And secondly, notwithstanding what he said in the introduction, which was true—(laughter)—one of the reasons I did ask him to join the ticket is that he knew more about the subject of the environment than I did and I thought I had something to learn from him. And I have learned a great deal, and it has been an immensely rewarding experience and one which I hope will benefit the United States in many ways over the course of the next four years.

That's worth clapping for—I agree with that, don't you think? (Applause.)

It's a good thing to have this celebration in the springtime, a time when our spirits are renewed and we are reminded by nature of new beginnings and forgotten beauty. This has been an astonishingly beautiful spring in Washington, D.C., and something for which I will always be grateful—my first springtime here that I see every morning as I go out and jog around in it and try to breath in it—something that is a continuing challenge. (Laughter.)

A little more than a week ago, most Americans celebrated holy days of freedom and renewal. Today, we still nurture the faith that helps us to understand more clearly that we can do better. This is a time of new beginnings, a time when there is anguish and anxiety all around us, but we still must yearn once again to succeed in our common purposes to reach our deepest goals.

For all of our differences, I think there is an overwhelming determination to change our course, to offer more opportunity, to assume more responsibility, to restore the larger American community, and to achieve things that are larger than ourselves and more lasting than the present moment. We seek to set our course by the star of age-old values, not short-term expediencies; to waste less in the present and provide more for the future; to leave a legacy that keeps faith with those who left the Earth to us.

That is the American spirit. It moves us not only in great gatherings, but also when we stand silently all alone in the presence only of nature and our Creator.

If there is one commitment that defines our people, it is our devotion to the rich and expansive land we have inherited. From the first Americans to the present day, our people have lived in awe of the power, the majesty and the beauty of the forest, the rivers, and the streams of America. That love of the land, which flows like a mighty current through this land and through our character, bursts into service on the first Earth Day in 1970.

When I traveled the country last year, I saw and spoke of how much had been accomplished by the environmental movement since then and how much still remains to be done. For all that has been done to protect the air and the water, we haven't halted the destruction of wetlands at home and the rain forest abroad. For all that has been learned, we still struggle to comprehend such dangers to our planet's delicate environment as the shroud of greenhouse gases and the dangerous thinning of the ozone layer. We haven't done nearly enough to protect our forest communities from the hazards, such as lead poisoning, which is believed to cause mental retardation, learning disabilities, and impaired growth.

Unless we act, and act now, we face a future where our planet will be home to nine billion people within our lifetime, but its capacity to support and sustain our lives will be very much diminished. Unless we act, we face the extinction of untold numbers of species that might support our livelihoods and provide medication to save our very lives. Unless we act now, we face a future in which the sun may scorch us, not warm us; where the change of season may take on a dreadful new meaning; and where our children's children will inherit a planet far less hospitable than the world in which we came of age. I have a faith that we will act, not from fear, but from hope and through vision.

All across this country, there is a deep understanding rooted in our religious heritage and renewed in the spirit of this time that the bounty of nature is not ours to waste. It is a gift from God that we hold in trust for future generations. Preserving our heritage, enhancing it, and passing it along is a great purpose worthy of a great people. If we seize the opportunity and shoulder the responsibility, we can enrich the future and ennoble our own lives.

Just as we yearn to come together as a people, we yearn to move beyond the false choices that the last few years have imposed upon us. For too long we have been told that we have to choose between the economy and the environment; between our jobs; between our obligations to our own people and our responsibilities to the future and to the rest of the world; between public action and private economy.

I am here today in the hope that we can together take a different course of action, to offer a new set of challenges to our people. Our environmental program is based on three principles. First, we think you can't have a healthy economy without a healthy environment. We need not choose between breathing clean air and bringing home secure paychecks. The fact is, our environmental problems result not from robust growth, but from reckless growth. The fact is that only a prosperous society can have the confidence and the means to protect its environment. And the fact is healthy communities and environmentally sound products and services do best in today's economic competition.

That's why our policies must protect our environment, promote economic growth, and provide millions of new high-skill, high-wage jobs.

Second, we want to protect the environment at home and abroad. In an era of global economics, global epidemics and global environmental hazards, a central challenge of our time is to promote our national interest in the context of its connectedness with the rest of the world. We share our atmosphere, our planet, our destiny with all the peoples of this world. And the policies I outline today will protect all of us because that is the only way we can protect any of us.

And, third, we must move beyond the antagonisms among business, government and individual citizens. The policies I outlined today are part of our effort to reinvent government—to make it your partner and not your overseer—to lead by example and not by bureaucratic fiat.

In the face of great challenges, we need a government that not only guards against the worst in us, but helps to bring out the best in us. I know we can do this because our administration includes the best team of environmental policymakers who have ever served the United States: the Vice President, Interior Secretary Babbitt, EPA Administrator Browner—and I hope that the EPA will, soon, by the grace of Congress, be a Cabinet-level department—and Energy Secretary O'Leary, Commerce Secretary Brown, Transportation Secretary Pena, the Agriculture Secretary Mike Espy, our Environmental Policy Director Katie McGinty, and our Science and Technology Advisor Jack Gibbons. All of them share an unshakable commitment to a healthy environment, a growing economy and a responsible government.

Our economic plan will create new job opportunities and new business opportunities, protecting our natural environment. The reductions in the interest rates which we have seen already will free up tens of billions of dollars for responsible investments in this year alone.

The jobs package I have asked the Congress to pass contains—this is hardly been noticed, but it actually contains green jobs from waste water treatment to energy efficiency, to the restoration of our national parks, to investments in new technologies designed to create the means by which we can solve the problems of the future and create more jobs for Americans.

Our long-term strategy invests more in pollution prevention, energy efficiency, and solar energy, in renewable energy, and environmental restoration, and water treatment—all of which can be found in the five-year budget that we have presented to the Congress.

These investments will create tens of thousands of new jobs, and they will save tens of thousands more. Because when we save energy and resources we will have more to invest in creating new jobs and providing better living standards. Today every other advanced nation is more energy efficient than we are. That is one of the reasons why over the last couple of years, for example, the * * * because that economy uses one-half the energy we do to produce the same amount of goods. We can do better and we will.

I believe we can develop the know-how to out-conserve and out-compete any one else on Earth. All over the world people are buying products that help them to protect their environment. There's a $200-billion market today for environmental technologies. And by the turn-of-the-decade in the century, it will be $300 billion.

Let me just share one example with you—something we all know and use and something some of us are still trying to learn how to replace: light bulbs. Long-lasting energy-saving light bulbs didn't even exist in 1985. Now American companies sell over $500 million worth of these products, with sales ex-

pected to reach $2 billion by 1995 and $10 billion by the year 2000, creating thousands of new jobs. American scientists have taken the lead in developing these technologies, and it's time to help our companies take the lead in bringing out products and services to market.

I've asked the Energy Department, the Commerce Department, and the EPA to assess current environmental technologies and create a strategic plan to give our companies the trade development, promotional efforts and technical assistance they need to turn these advances into jobs here in America, as well as to help promote a better environment. America can maintain our lead in the world economy by taking the lead to preserve the world environment.

Last year, the nations of the world came together at the Earth summit in Rio to try to find a way to protect the miraculous diversity of plant and animal life all across the planet. The Biodiversity Treaty which resulted had some flaws, and we all know that. But instead of fixing them, the United States walked away from the treaty. That left us out of a treaty that is critically important not only to our future, but to the future of the world. And not only because of what it will do to preserve species, but because of opportunities it offers for cutting-edge companies whose research creates new medicines, new products, and new jobs.

Again, just one recent example makes the point. A tree that was thought to have no value, the Pacific Yew, used to be bulldozed and burned. Now we know that that tree contains one of our most promising potential cures for ovarian cancer, breast cancer and other forms of cancer. We cannot walk away from challenges like those presented by the Biodiversity Treaty. We must step up to them.

Our administration has worked with business and environmental groups toward an agreement that protects both American interests and the world environment. And today, I am proud to announce the United States' intention to sign the Biodiversity Treaty. (Applause.)

This is an example of what you can do by bringing business and environmentalists together, instead of pitting them against each other. We can move forward to protect critical natural resources and critical technologies. I'm also directing the State Department to move ahead with our talks with other countries which have signed the convention so that the United States can move as quickly as possible toward ratification.

To learn more about where we stand in protecting all our biological resources here at home, I'm asking the Interior Department to create a national biological survey to help us protect endangered species and, just as importantly, to help the agricultural and biotechnical industries of our country identify new sources of food, fiber and medication. (Applause.)

* * * hospitable and more hostile to human life. Today, I reaffirm my personal, and announce our nation's commitment, to reducing our emissions of greenhouse gases to their 1990 levels by the year 2000. (Applause.)

I am instructing my administration to produce a cost-effective plan by August that can continue the trend of reduced emission. This must be a clarion call, not for more bureaucracy or regulation or unnecessary costs, but instead, for American ingenuity and creativity, to produce the best and most energy-efficient technology.

After the Cold War, we face the challenge of helping Russia achieve a healthy democracy, a healthy economy, and a healthy environment. Our Russian aid package includes $38 million to clean up pollution and promote better uses of energy. As with the full range of our investments in Russia, this is truly an investment not only in promoting our own values, but in protecting our national security. To protect the environment at home and abroad, I am committed to a government that leads by example, brings people together, and brings out the best in everyone. For too long our government did more to inflame environmental issues than to solve them. Different agencies pursued conflicting policies. National leaders polarized people. And problems wound up in the courts or in the streets instead of being solved.

We seek to bring a new spirit to these difficult issues. Three weeks ago in Portland, Oregon, we brought together business people, timber workers, and environmentalists from throughout the Northwest to discuss how best to preserve jobs and to protect the old-growth forests and the species which inhabit them. People sat down in a conference room, not a court room, and in the words of Archbishop Thomas Murphy of Seattle, we tried to find common ground for a common good. At the close of that forest conference, I asked my Cabinet and our entire administration to begin work immediately to craft a balanced, comprehensive long-term policy that is also comprehensible.

Before I ask our companies and our communities and our families to meet any challenge, it seems to me we have to set that standard for the government. The American people are entitled to know where the United States stands on this issue and many other issues. And it is time to bring an end to the time when issues like this wind up in court and there are five different positions from the United States government itself. We can never solve problems in that fashion. We can only undermine the security and stability of people's lives.

That's one reason I am proud that yesterday the United States Army announced its plan to clean up a large number of sites where we learned recently that chemical weapons materials may be buried, in some places from as long ago as World War I. Working with the EPA, the Army will clean up this problem safely and in an environmentally-sound manner.

This is a legacy of America's efforts to defend our people and the community of free nations. Now, we are taking steps to defend our people and our environment and the environment of the world. In that same spirit, I plan to sign an executive order requiring federal facilities that manufacture, process or use toxic chemicals, to comply with the federal right-to-know laws, and publicly report what they are doing. (Applause.)

I might add that it is time that the United States government begins to live under the laws it makes for other people. With this executive order, I ask all federal facilities to set a voluntary goal to reducing their release of toxic pollutants by 50 percent by 1999. This will reduce toxic releases, control costs associated with cleanups, and promote clean technologies. And it will help make our government what it should be—a positive example for the rest of the country. (Applause.)

Poor neighborhoods in our cities suffer most often from toxic pollution. Cleaning up the toxic wastes will create new jobs in these neighborhoods for those people and make them safer places to live, to work, and to do business.

Today, I am also signing an executive order that directs federal agencies to make preliminary changes in their purchasing policies, to use fewer substances harmful to the ozone layer. Here, too, we must put our actions where are values are. Our government is a leading purchaser of goods and services. And it's time to stop not only the waste of taxpayers' money but the waste of our natural resources.

Today I am signing an executive order which commits the federal government to buy thousands more American made vehicles, using clean, domestic fuels such as natural gas, ethanol, methanol, and electric power. This will reduce our demand for foreign oil, reduce air pollution, promote promising technologies, promote American companies, create American jobs, and save American tax dollars. To demonstrate my commitment to this issue, Energy Secretary O'Leary is creating a task force led by the Land Commissioner of Texas, Gary Mauro, who is here in the audience today, who has headed a successful effort in his own state. I hope we can do as well in America as they have done in Texas. (Applause.)

In that same spirit, I plan to sign an executive order committing every agency of the national government to do more than ever to buy and use recycled products. This will provide a market for new technologies, make better use of recycled materials, and encourage the creation of new products that can be offered to the government, to private companies, and to consumers. And again, it will create jobs through the recycling process.

We must keep finding new ways to be a force for positive change. For example, the federal government is the largest purchaser of computer equipment in the world, and computers are the fastest growing area of electricity use. That's why I am also signing an executive order today requiring the federal government to purchase energy-efficient computers. We're going to expand the market for a technology where America pioneered and still leads the world, and we'll save energy, saving the taxpayers $40 million a year, and set an example for our country and for the world.

For as long as I live and work in the White House, I want Americans to see it not only as a symbol of clean government, but also a clean environment. That's why I'm announcing an energy and environmental audit of the White House. We're going to identify what it takes to make the White House a model for efficiency and waste reduction. It might mean fewer memos and less paper. (Laughter.) And then we're going to get the job done. I want to make the White House a model for other federal agencies, for state and local governments, for business, and for families in their homes. Before I ask you to do the best you can in your house, I ought to make sure I'm doing the best I can in my house. (Applause.)

I ask that all of us today reaffirm our willingness to assume responsibility for our common environment, and to do it willingly, hopefully, and joyously. We are challenged here today not so much to sacrifice as to celebrate and create. I've challenged Americans who are young in years or young in spirit to offer their time and their talent to serve their communities and their country. I've asked them to help in teaching our children, healing the sick, policing our streets.

But equally important are efforts to protect our environment—from our largest cities to our smallest towns to our suburbs. Our National Service Plan will ask thousands of Americans to do their part, from leading recycling drives to preventing lead poisoning.

The challenge to shoulder responsibility and seize opportunity extends to each of us in business, communities, and homes. In our own lives, in our own ways, each of us has something to offer to the work of cleaning up America's environment. And each of us surely has something very personal to gain.

On a colder day in the middle of winter, just three months ago, a poet asked us to celebrate, not only the marvelous diversity of our people, but the miraculous bounty of our land. "Here on the pulse of this new day," Maya Angelou challenged us to look at, "the rock, the river, the tree, your country." Now, it is a season of new hope and new beginnings. And as we look anew at our neighbors, our children and our own communities, as well as the world around us, we must seize the possibilities inherent in this exhilarating moment; to face our challenges, to exercise our responsibilities, and to rejoice in them.

Thank you very much. (Applause.)

S.J. RES. 69

Whereas the United Nations Conference on Environment and Development (hereinafter in this resolution referred to as "UNCED"), known as the Earth Summit, assembled in June of 1992 in Rio de Janeiro, Brazil, the largest summit of heads of state in history and outlined a comprehensive action plan (hereinafter in this resolution referred to as "Agenda 21") for environmentally sustainable development (hereinafter in this resolution referred to as "sustainable development");

Whereas the United States has a strong national interest in the environmental sustainability of global economic development;

Whereas Agenda 21 offers a significant starting point for continuing progress in avoiding environmental degradation and social and economic disintegration in the 21st century;

Whereas the role of the United States should be one of leadership and positive action in the implementation process of Agenda 21 and all other decisions of UNCED;

Whereas Agenda 21 urges all governments to adopt national strategies for sustainable development;

Whereas Agenda 21 urges all countries to "make significant progress" in incorporating environmental costs into economic decisions, to undertake research or sustainable production methods and consumption patterns, and to undertake other actions to make their economies more environmentally sustainable;

Whereas Agenda 21 calls for a "supportive international climate for achieving environment and development goals" by "providing adequate financial resources to developing countries and dealing with international debt" and calls for "the reallocation of resources presently committed to military purposes" to support United States policies and the efforts of developing countries to implement Agenda 21;

Whereas UNCED recommended that a high-level United Nations Commission on Sustainable Development (hereinafter in this resolution referred to as the "Commission") be established by the 47th United Nations General Assembly to provide a vital forum to review progress made by considering reports from national governments, international organizations, and nongovernmental organizations;

Whereas many opportunities for agreements concerning more extensive actions on critical issues remained unresolved at UNCED and will require further attention by the nations of the world; and

Whereas the ultimate success of achieving sustainable development and a healthy environment at the national and international levels depends upon actions taken at the State and local community levels, and on actions by schools, public offices, businesses, and citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, Effective follow-up to achieve the many goals of the agreements reached at UNCED will depend on the overall direction and action by the President and the Congress on the following:

(1) The President and the Congress should adopt a national strategy for environmentally sustainable development, based on an extensive process of nationwide consultations with all interested organizations and individuals, including State and local governments, nongovernmental organizations, businesses, and labor groups.

(2) The President and the Congress should encourage and facilitate, at all levels of community and sectors of society, appropriate means for adopting individual Agenda 21 plans of action, including the establishment of local, county, State, business, and other boards and commissions for achieving sustainable development. Each Member of the Congress should help initiate this process within their States or districts.

(3) The President, Secretary of State, and the Congress should formulate initiatives and policies to help developing countries develop the capacity to implement Agenda 21. The Congress should restructure United States foreign assistance to provide a fundamental mandate for sustainable development.

(4) The President should establish an effective mechanism to plan, initiate, and coordinate United States policy for implementing Agenda 21. Responsibility should be vested in a duly constituted office, headed by an appropriate high level official, and the necessary staff support structure should be provided.

(5) In order to contribute to a transition to an environmentally sustainable United States economy, the research and policy initiatives urged in Agenda 21 should be pursued, including research on environmentally sustainable consumption patterns, identification of a strategy to eliminate or reduce subsidies for unsustainable natural resource exploitation, and move toward pricing policies that more truly reflect environmental costs.

(6) The Congress should adopt a system to reallocate an appropriate amount of savings from reduced defense spending in order to achieve the goals of Agenda 21 for global environmental protection and sustainable development over the next decade.

(7) The President should promote and actively participate in new and existing multilateral efforts aimed at creating a more favorable international economic climate for developing countries to practice sustainable development. Such efforts should include—

(A) reduction in developing country debt, linked with environmental policy reforms;

(B) focusing the work of multilateral donor consultative groups which now exist for each of some eighty developing countries on evaluation of, and support for, their national sustainable development strategies; and

(C) increasing loans and concessional assistance to developing countries where implementation of national sustainable development strategies are underway.

(8) The United States should actively support the Commission authorized by the 47th United Nations General Assembly. The United States should seek a strong role for the Commission in the United Nations system to monitor and evaluate progress in meeting the goals identified in Agenda 21 and other decisions at UNCED. The United States should pursue a strong sustainable development mandate for all relevant activities of the United Nations and a catalytic role for the Commission in coordinating and facilitating the implementation of that mandate.

(9) The President should affirm strong United States commitment to the Commission by—

(A) appointing a high-level representative or delegation from the United States to the Commission, including, as appropriate, representation at the ministerial level and Congressional and non-government observers, and

(B) supporting the United Nations Secretary General for Policy Coordination and Sustainable Development in coordinating the implementation of Agenda 21 in the United Nations system and heading the secretariat support structure for the Commission;

(10) The President should submit a national report to the Commission on—

(A) activities the United States has undertaken to implement Agenda 21, both domestically and internationally, on progress made toward fulfilling other commitments undertaken at UNCED; and

(B) other environmental and developmental activities the United States has undertaken to strengthen agreements reached at UNCED.

The President should strongly encourage all United Nations members to submit such national reports.

(11) The United States should support rules of procedure for the Commission which ensure the active participation of nongovernmental organizations, based on the procedures used in UNCED as agreed in paragraphs 38.11 and 38.44 of Agenda 21, and should also encourage the active participation in the Commission of representatives of the international financial institutions, GATT, regional and subregional development banks and financial institutions, and regional economic integration organizations.

(12) The President should submit an annual report to the Congress on the steps taken by the United States to implement Agenda 21 and the recommendations made by this resolution, and should make information regarding such steps available to Members of the Congress upon their request.

HOLOCAUST MEMORIAL

Mr. HATCH. Mr. President, today America opens a new museum on the Washington Mall that commemorates events half a century ago and half a world away—the Holocaust. I have been privileged to serve as a member of the U.S. Holocaust Memorial Council. And I was deeply impressed by the profoundly moving exhibits that I viewed during a visit to the museum earlier this week.

In reading recent press commentary on the memorial, I have been disappointed by the line some observers have taken. They ask why such an institution should take its place among museums and memorials about America's national life. Mr. President, the

reason is simple: To remember and, by remembering, to strengthen America's moral compass.

What are we remembering through this memorial? The lives of the 6 million Jews who perished in the Holocaust. The religious values of the Jewish people that were never abandoned despite their suffering. The murder of tens of thousands of Gypsies, Poles, and other innocent people. Above all, we are reminding ourselves of the deep flaws in human nature that permitted the Holocaust to occur and that, if we forget, could do so again.

A foreign visitor touring the other monuments and museums on The Mall for the first time would likely conclude that it was testament to the age of achievement. Yet he would not learn from these structures that the 20th century has been the bloodiest in history, a reality in which we are all implicated if not by acts of commission at least by those of omission.

None of this century's evils exceeds that of the Holocaust. But Stalin's gulag, Mao's collectivization and cultural revolution, the Khmer Rouge reign of terror, the Soviet occupation of Afghanistan, Saddam Hussein's degradations against the Iraqi Kurds, and the ethnic cleansing in Bosnia all demonstrate that even the experience of the Holocaust proved insufficient to temper the potential for evil in human nature.

In a time when we herald the triumph of the liberal democratic ideas, a more sober analysis would also highlight the threat to vulnerable racial, ethnic, and religious groups in many parts of the world. As we define our role in the post-cold war world, the U.S. Holocaust Memorial Museum should help our Nation rededicate itself to upholding individual dignity and human rights and to engaging American influence to counter growing global disorder.

Mr. President, the inability—or even the refusal—to see the difference between right and wrong was a core reason for the failure of the world to avert the Holocaust. Yet we have seen this kind of moral equivalency in the stark contrast between the condemnations of Israel for taking military action in self-defense and the silence after attacks on Israel by its adversaries. We have seen it, too, in the U.N. arms embargo in the former Yugoslavia, which applied equally to the victims and perpetrators of aggression.

There is no denying the West's tendency when confronted with monstrous wrongs to avert its eyes or to rationalize inaction, especially when acting carries a price. In the Holocaust Museum, one can learn about how in 1939 U.S. officials, by refusing to waive certain immigration restrictions, forced 937 Jewish refugees on the S.S. *St. Louis* to return to Nazi Germany, where many later were killed.

This moral failure was echoed in the many months that passed before the world took note of the mass murders of Cambodians under the Communist Khmer Rouge from 1975 to 1978, as well as in the reluctance of U.S. leaders to act decisively to save the Iraqi Kurds from Saddam Hussein's wrath after the Persian Gulf war in 1991.

Mr. President, the Holocaust Museum should also warn us against the mechanistic ways we contemplate building a more orderly world. A flurry of institutional fixes—reform of the U.N. Security Council, standing U.N. crisis response forces, creating regional peacekeeping bodies of every conceivable acronym—has appeared across America's op-ed pages. What's needed, however, is not so much a change in institutions but in our sense of mission.

Greater order will come when strong nations, guided by a sense of justice, are willing to intervene on behalf of those threatened by aggression or oppression verging on genocide. Many observers argue that only interests, not ideals, should guide our foreign policy. To be sure, it is not our business to right every ill. But when a wrong of catastrophic proportions looms, we must make it our business.

The worst mistake mankind can make would be to think of the Holocaust, or our response to it, as an artifact of the past. Philosophers can debate whether evil is embodied in the world or in the will of imperfect human beings. Whatever the answer, the flawed nature of man in this world means that we cannot fully eliminate the possibility of future holocausts. If the Holocaust Museum heightens our awareness of this fact, if it serves as a magnetic pole for our Nation's moral compass, it can become the most valuable memorial in our Capital.

THE EMERGENCY APPROPRIATIONS BILL

Mr. DURENBERGER. Mr. President, I want to make sure Minnesotans know why I decided to vote against closing debate on the so-called emergency supplemental appropriations legislation that had been before the Senate before our recess and since we returned on Monday.

If we are getting any message from the American people, Mr. President, it is that they want spending brought under control. They want levels of spending to come down, not go up. They don't concern themselves all that much with budget technicalities, with give-ups or pay-backs, and the like. With the economy in relatively good shape, they simply are not prepared to continue with borrow-and-spend—and this is just what this bill gave them.

While the budget we passed on last month was vintage Carter—high levels of taxes leading to stagflation—this bill was vintage Johnson—high levels of pork, leading to bigger deficits.

I'm terribly disappointed, because I'd been expecting some vintage Clinton. What I mean by that is—a bill with responsible, restrained, necessary spending; a bill reflective of a Clinton who promised he would be a new kind of Democrat and who ran a reasonably frugal, low-tax Arkansas; and nothing more.

I had several concerns with this bill.

In the first place, it purported to stimulate the economy. But it is not clear at all that the economy needs stimulating, or that this level of spending would be sufficient, were it needed. The economy is growing strongly, at nearly 5 percent per year.

And if stimulus were needed, this wouldn't be sufficient. A stimulus of this amount—perhaps one-fifth of 1 percent—is simply a drop in the bucket. To put this in perspective, one-fifth of 1 percent is the same as adding 5 cents to a child's $25 monthly allowance.

But most of the spending in this bill doesn't stimulate the economy. It merely provides for spending in future years on big capital projects. If it funds jobs, it does so at a cost of hundreds of thousands of dollars per job, according to the administration's own estimates. We should not forget that every dollar that is used to provide a job is a dollar either taken out of a taxpayer's wallet or a dollar that is borrowed from our grandchildren.

Second, when we pass a supplemental appropriations bill of any kind, it ought to address real, short-term urgent needs. This legislation contained very little that even arguably fell into this category.

Third, sometimes a supplemental appropriations bill is passed to provide funds for programs with respect to which, on reconsideration, appear to need more money than was originally allocated. There were many programs in this bill that do good things, and in a normal year we might be in a position to provide for them.

But there have been no hearings to determine why these provisions are needed now and why they ought either to increase the deficit or displace other spending. They are, rather, a laundry list of provisions meant to broaden the appeal of this bill, overall.

In my view, that is not the way to legislate responsibly when we are asking the American people to sacrifice.

Finally, in an emergency appropriations bill, we exempt the spending in it from the Budget Act ceilings that would otherwise require offsetting spending reductions. In the last election, the American people did not tell us to go on building the deficit; they told us to cut the deficit. But this emergency declaration's effect is to increase the deficit and the national debt—in other words, to go in just the wrong direction.

Mr. President, I want to take a moment to call special attention to sev-

eral important education and childrens' programs that would have received additional funding under this proposal, even though, for the reasons I've stated earlier, I did oppose the bill.

In many cases these are programs that deserve additional Federal support. And, I expect to be supporting funding increases for many of these programs during the normal annual appropriations cycle later this year.

But, despite my past and future support for these programs, Mr. President, I do not believe it is prudent to add $12 or $16 billion to the crushing Federal deficit we are handing future generations under the guise of economic recovery.

HEAD START

One program which I expect to get considerable funding increases later this year, Mr. President, is Head Start. Under the legislation we have before us, we are being asked to support a one-time $500 million appropriation for Head Start programs that are to be run this summer.

During its last reauthorization, I was a cosponsor, conferee and strong proponent of the changes we made in the Head Start law, including increased authorized funding levels designed to fully fund this important program.

In the past, I've also communicated my strong support for substantial increases in annual appropriations for Head Start—through my votes and in letters and other communication with the Senate Labor/HHS Appropriations Subcommittee.

And, I supported a sense of the Senate amendment—again expressing support for full-funding of Head Start—that was added to the fiscal year 1994 Budget Resolution less than 2 weeks ago.

While I have been a strong supporter in the past, Mr. President, I also agree with a growing number of Head Start proponents who are calling for a fundamental review of this important program prior to approving significant additional increases in spending.

In particular, Mr. President, I feel it's essential that we revisit what we mean by full funding of Head Start as we consider proposals to increase Head Start appropriations levels—not just in this supplemental, but in the fiscal year 1994 appropriations bill we will consider later this year.

In the past, with appropriations levels for Head Start lagging far behind authorized funding levels, this hasn't been such an important issue. The needs have been so great—and the numbers of children served so far below the number of children eligible—that we needed to place highest priority on what one might call the quantitative aspects of full funding.

Mr. President, I believe we are now entering a new era during which we must give more focus to quality and outcomes in programs like Head Start, and a new era during which we must ensure that all programs serving children and families are more responsive to the interests of both those we intend to benefit, and those who pay the bills.

The issue, in other words, is not whether we continue to increase funding for Head Start, but how and when. And, as we do that, we must make sure that we get the maximum benefit for the children and families that Head Start has traditionally served.

I haven't yet assembled a comprehensive list of all the questions we need to ask, Mr. President. But, I have made a commitment to do that in consultation with Head Start leaders and other advocates for families and children both nationally and in Minnesota. And, I have started making my list.

The most relevant question in this debate, Mr. President, is whether we should be funding hastily assembled summer Head Start programs like those supported by the legislation now before us. Quite frankly, Mr. President, I'm not at all sure that a program that will have to be organized in the next 60 days really represents the best place for us to put the next $500 million we put into this important national program.

Even more fundamental, however, is a long list of questions that children's advocates and many people in the Head Start community have been wanting us to ask for many years.

Among the questions I would like to see explored are:

Whether additional resources in Head Start should be directed only to meeting numerical targets or also to improving quality.

How quality and outcomes in Head Start can and should be measured and whether and how quality and outcomes should be tied to funding.

Whether the part-day, part-week, part-year model under which Head Start was founded is now relevant in an era of increased need for full-day supervision and care for children of low income parents who are working outside the home or in school or job training programs.

How funding for families eligible for Head Start and Federal and State child care assistance can be better integrated—for example, to provide Head Start services in child care settings and child care services at Head Start centers.

How closer links can be established between Head Start and elementary school programs—without losing the separate identity and organizational autonomy of Head Start.

At what pace the numbers of children in Head Start can grow relative to its infrastructure including availability of licensable facilities and recruitment and training of personnel.

Whether changes in the Head Start formula—between and within States—should be made to more closely reflect actual geographic differences in need and levels of eligible children being served.

How States and local communities could be given additional incentives to provide supplementary funding for Head Start programs—again, without losing the separate identity and organizational autonomy of Head Start.

Again, Mr. President, this is not intended to be an exhaustive list of questions that need to be addressed as we put real meaning behind the concept of full funding for Head Start. But, I do believe we owe the children and families of this country an in-depth debate on these and other issues as we continue to increase overall funding for this vital national program.

PELL GRANTS

Mr. President, as I have approached the debate on this supplemental, I have tried very hard to separate parts of this proposed legislation into the must do and the it would be nice to do categories. One that clearly fits in the must do category is the provision designed to meet the commitment we've previously made to funding Pell grants for low income college students.

Under the legislation we're now considering, a one-time appropriation of $1.86 billion will be made to the Department of Education which will be used to make up shortfalls the Pell Program has experienced over the last several years.

Unlike most provisions of this bill, the extra Pell grant appropriation does not expand on what we've previously committed ourselves to. It simply meets a promise we've made to low income college students, but not fully funded.

The underlying problem requiring this catch-up funding is that, during the recent recession, more students have had incomes qualifying for Pell grants and—out of work—more eligible students have been going to college. As a result, there have been significant shortfalls in the Pell Program due to underestimating demand for grants.

Last year, this shortfall forced Congress to cut the maximum Pell grant from $2,400 to $2,300. Ironically, Congress also increased the maximum authorized Pell grant in last year's higher education amendments to $3,700, with additional $200 increases authorized each year until the maximum reaches $4,500.

Unless something is done to supplement fiscal year 1993 appropriations, the Department of Education has indicated another $200 decrease in the maximum Pell grant may be required for next school year.

Mr. President, any decrease in Federal Pell grants has implications for both students and State government in Minnesota since Minnesota's State grant program is tied to the size of Federal grants. In effect, a commitment is made to fund a portion of each

eligible student's expenses by a combined Federal and State grant. Under current State law, if the maximum Federal grant goes down, the State of Minnesota would have to pick up the difference.

According to the Minnesota Higher Education Coordinating Board, which administers the State grant program, the $100 cut in the maximum Pell grant will already cost the State $4.2 million this year. Another $200 cut could cost the State an additional $8.4 million.

Although the State of Minnesota is facing a significant budget shortfall this year, legislative leaders seem committed to picking up the shortfall created by the earlier $100 per student cut in the maximum Pell grant.

However, there is no certainty that Minnesota will pick up an additional cut which would have the effect of raising college costs by $200 for virtually all 80,000 Minnesota students who receive Pell grants.

Clearly, Mr. President, we must meet our traditional commitment to low-income students through the Pell Grant Program. And, I trust we will do that—whether by this supplemental appropriation bill, or through the fiscal year 1994 Department of Education appropriation we will consider later this year.

But, low-income students aren't alone in the difficulty they are having in meeting rising tuition costs. We must also look to more fundamental changes in how we pay for college, and how we can get more value out of what we spend.

That's why I have proposed a new system of income-contingent direct loans called IDEA. President Clinton has said he will introduce a similar proposal later this spring as part of his plan to offer community service options to young people as a way of helping them pay for college.

I look forward to working with the President and my colleagues as we consider both those proposals—not just to meet the short-term shortfall addressed by this legislation—but to help assure financial access to higher education for all those who can benefit from a college education.

CHAPTER I CENSUS ADJUSTMENT

Mr. President, a third provision I feel compelled to comment on briefly is a one-time appropriation of $234.8 million to the Chapter 1 Special Education Program. This extra funding is intended to help cushion the effects of using 1990 census data on Chapter 1 Programs in school districts all across America.

Although the full impact of the census change on Minnesota school districts hasn't yet been calculated, 250 of my State's approximately 400 districts have been notified that their basic chapter 1 grant for next year will be cut by 15 percent.

The cut has been limited to that percentage because of a hold-harmless provision in current law that limits 1 year basic grant funding cuts. Most of these districts serve smaller communities in rural parts of the State, and are already under severe fiscal stress from declining enrollments and a weakened agricultural economy.

A still unknown number of these or other districts will experience an even greater cut because of reductions in a separate chapter 1 grant that some districts receive that have high concentrations of low-income children. This so-called concentration grant is not currently subject to the 15 percent hold-harmless provision that applies to the chapter 1 basic grant.

Under the census adjustment provision of this legislation, no district will receive less than 92 percent of its 1992–93 chapter 1 funding—both from the basic grant and the concentration grant. That will provide one-time relief for about 300 school districts in Minnesota who would experience funding cuts in excess of 8 percent. And, it will offer significant relief for a still unknown number of districts who are not entitled to concentration grants in 1993–94 because of changes reflected in the 1990 census.

One school district dramatically affected by the shift to 1990 census data is Pierz, a small, rural district located in central Minnesota.

In 1992–93, the Pierz school district received $334,000 in the basic grant part of their chapter 1 funding. It also got a $51,000 concentration grant.

Because Pierz showed a significant drop in numbers of low-income children in the 1990 census, its basic grant for 1993–94 would be $127,000 under current law. And, although it hasn't been calculated for sure, it will probably not qualify for any concentration funding next year.

So, factoring in the 15-percent hold-harmless provision in the basic grant—and presuming no concentration grant next year—Pierz' chapter 1 funding will go from $385,000 this school year to $283,900 in 1993–94 without the additional funds provided in this bill.

In each succeeding year, Pierz' chapter 1 funding would go down another 15 percent until the basic grant reaches the $127,000 level. Of course, this does not take into account chapter 1 formula changes that could be made in this year's reauthorization of the Elementary and Secondary Education Act or future increases in chapter 1 appropriations.

Under this legislation, however, Pierz' total chapter 1 funding for 1993–94 would go from $385,000 to $354,200. The $71,200 in additional revenue from the supplemental represents about two full-time teaching positions or one teaching position and two aides. Pierz now has 5.5 teaching positions and eight paraprofessionals in its Chapter 1 Program.

Although Pierz and many other districts in Minnesota will benefit from this legislation, it's important to point out the temporary nature of the relief being offered. This is, after all, a one-time appropriation. Unless changes are made in the chapter 1 law or funding formula, the funding shortfall for many school districts will be repeated next year and in subsequent years, as well.

With that in mind, Mr. President, I have pledged to work closely with chapter 1 administrators, teachers, and parents in Minnesota—as well as with my colleagues on the Labor Committee—to address the full range of issues regarding chapter 1 during this year's reauthorization of the Elementary and Secondary Education Act [ESEA].

We can't be satisfied to address either the concerns or opportunities represented in chapter 1 one year at a time. And, we also can't be satisfied to cushion shortfalls in funding by adding to the deficit.

For both reasons, I look forward to this year's ESEA reauthorization as a time to deal not just with one-time fixes, but with long-term rethinking of how we design a proper Federal Government role in promoting quality and access to the best quality education we as a nation can deliver.

I also want to address the issue of the $300 million in this bill for the immunization program. I am committed to a healthy America, and fully committed to preventive care and well-baby care. And early childhood immunization is essential to a national prevention strategy. I should make it clear that all $300 million was in the Hatfield-Dole amendment, which I supported.

It is troubling that between 1989 and 1991 more than 55,000 measles cases were reported to the Centers for Disease Control and Prevention [CDC]. Especially alarming is the fact that during that time, over 80 percent of the measles cases among children ages 16 months to 5 years could have been prevented through timely vaccination. It is crucial that children under 2 years receive properly scheduled diphtheria, pertussis tetanus [DPT] vaccinations, because of the higher risk of several illness for preschool-aged children should they become infected.

During the congressional deliberations last fall, I supported efforts by the Appropriations Committee to expand funding in 1993 for immunization grants to States. I voted for passage of the Health and Human Services appropriations which raised the fiscal year 1993 appropriation for immunizations to $341.78 million, an increase of $45.08 million over the fiscal year 1992 appropriation.

The CDC has already began using a portion of fiscal year 1993 funding for the Infant Immunization Initiative. Through this initiative, the CDC has awarded grants to States and local governments to develop and implement Immunization Actions Plans [IAP's]. IAPs ensure that vaccines are readily

accessible to children under the age of 2.

Specifically, the State and local IAP's grants are intended to remove barriers to immunization, reduce missed opportunities to vaccinate, measure immunization coverage, raise awareness among the public, parents and providers, and stimulate innovative approaches to improving immunization levels in vulnerable children.

The Minnesota Department of Health has received a grant of $900,000 to develop an action plan and implement an improved delivery system. Minnesota has already provided funds to all community health boards to conduct assessments of immunization levels and to identify the kinds of interventions that each locality needs. These assessments are due to be completed this spring.

Minnesota has also identified the barriers to pre-school children receiving complete immunizations. These include lack of awareness by parents, health provider misunderstandings, and socioeconomic problems of inner-city populations.

According to the Division of Disease Prevention and Control at the Minnesota Department of Health, the Minnesota program is up and running on schedule, but it will take at least 2 years to completely turn around the rate of immunizations in Minnesota under the CDC-funded State action plan. The department also reports that it has adequate vaccines to provide to public clinics, and that the availability of vaccines in Minnesota has not been a barrier to preschool immunization.

SUMMER OF SERVICE

Another program I would have liked to support is the Summer of Service under the Commission on National and Community Service. That program would have provided $15,000,000, awarded by a competitive process to between 4 and 10 sites, to create 1,000 jobs as an initial step in testing concepts for the National Service Program.

I am a strong supporter of beginning, if at all possible this summer, a Summer of Service Program.

I hope that funds will be found under existing summer jobs programs for initiatives along the lines of the Summer of Service, and could in fact be used as a pilot program to test the concepts alluded to in the provisions of the Appropriations Committee report on the Summer of Service Program.

In making the decision to oppose the supplemental, I had to ask myself: Why would Congress need to pass a supplemental appropriation, and how much would emergency money help? In weighing the pros and cons of this vote for preschool immunization, I looked for a measurable benefit—namely, meeting an emergency need for vaccines, or a funding shortfall that, if unmet, would, for example, prevent delivery of vaccines to children. Absent that emergency, I had to consider the effect of an increased budget deficit on Minnesotans.

That is how I arrived at my difficult decision to vote against the supplemental. I will continue to support necessary increases in funding of immunization programs under the Senate appropriations process, which requires that new appropriations do not add to the budget deficit.

In my view, the best children's program is deficit reduction—and I will do my best to make sure we do not compromise our children's future through irresponsible spending practices.

EARTH DAY 1993

Mr. BINGAMAN. Mr. President, 23 years ago, millions of Americans participated in the first Earth Day, an event that gave birth to the modern environmental movement. Earth Day 1970 was the start of organized, national support for taking care of our natural resources. Among the significant achievements that had their seed with that first Earth Day are the Clean Air and Water Acts, the Safe Drinking Water Act, and the creation of the Environmental Protection Agency.

To paraphrase Charles Dickens, writing in "A Tale of Two Cities," this is the best of times and the worst of times for our natural resources. As a result of landmark environmental legislation passed in the 1970's, and subsequent updates and refinements, we have made significant progress in pollution prevention and in cleaning up our air, water, and land. Knowledge about the impacts of pollution on our resources and on our health is at an all-time high. The American people continue to be involved and committed to a clean environment. As a nation, we are holding ourselves to an ever higher environmental standard, and we are striving to develop best practices to solve our problems.

Yet, we continue to have significant environmental problems, and they are terribly complex. Cleanup of the contamination associated with our weapons complex will be a massive undertaking. The legacy of industrial pollution, pre-1970, is still with us—we cannot mitigate two centuries of neglect in two decades. Aging infrastructure, population pressures, and ecological changes impact water and soil quality. And as we improve detection and analysis, we have discovered that many problems are worse than originally thought. As a result, getting a handle on our environmental problems has created tremendous financial pressures.

Where do we go from here? I am convinced that to deal with these challenges, we will have to develop new practices and new ideas. We have to change the way we think about the environment, and we have to change the way we work to keep it clean. As we have learned over the last 20 years, it is terribly expensive to cure pollution. What we need to do is improve our ability to prevent it. We must promote the development of technologies that lead to environmentally superior products.

The $5 billion that our Federal Government spends on research and development of environmental technologies represents less than 7 percent of our Federal research and development budget. Our Federal R&D enterprise is a $75 billion effort. But for the past 45 years, we have devoted the bulk of our talent and resources to fighting the cold war. We have a historic opportunity to redirect these resources to our civilian technology base. And environmental technologies are among the first place we should begin.

I wish New Mexico and all Americans a Happy Earth Day 1993. At this time in our Nation's history, we should reach out to reclaim our environmental legacy, and to bring to life our vision for a healthy, safe world for our children. We owe them no less.

WARSAW GHETTO UPRISING

Ms. MIKULSKI. Mr. President, on this very special day that marks the opening of the Holocaust Museum in the Nation's Capital I would like to refresh in all of our memories the valiant and doomed moment in the history of World War II that we call the Warsaw ghetto uprising.

Mr. President, my family came from Poland and I am proud of that. Today, as a Christian of Polish heritage, I empathize with the tremendous emotion that the Jewish community in this country feels today. Millions of Catholic Poles were also killed by the Nazi forces.

I remember traveling back to the land of my ancestors and visiting one of the death camps. It was an experience I was not sure I could bear and it haunts me to this day. For all of us who have even come near such searing feelings, the opening of the Holocaust Museum will be an important but a painful event.

Mr. President, it gives me great pride to note, in the context of this opening, that the man who dedicated so much of himself and so many of his personal resources to the museum is a well known and much loved citizen of my hometown, Baltimore. Both Harvey Meyerhoff and his wife Lynn are dear friends and have been a major force in bringing this project to completion. I salute them on behalf of my State of Maryland and thank them from the bottom of my heart.

I know that Harvey Meyerhoff was so dedicated to the Holocaust Museum because he believed that there was a lesson to be learned. The lesson is a simple one—but one which must be brought home again and again in the

most dramatic way. That lesson is this—never again.

That is the lesson we must repeat to ourselves as we walk through this somber monument. And as we remember and mark the 50th anniversary of the Warsaw ghetto uprising.

Mr. President, let me recount the story one more time for posterity. In 1940, by Nazi edict, a large section of Warsaw was designated as the area which would contain almost 380,000 Polish Jews. The area was walled in and Jewish citizens were forced in and contained there. They came not only from Warsaw but eventually from many other parts of Poland as well.

At one time the population was as high as 500,000. That number diminished as the people were systematically taken out and transported to death camps. By 1943 there were only 60,000 left, so the Nazis repositioned the walls.

But those inside were not idle. A resistance movement had sprung up. They had worked quietly and under the most adverse circumstances to build a system of tunnels and bunkers so that they could not only move about without detection but also help others escape. They had even managed to hide some weapons.

Early on the morning of April 19, German troops assaulted the ghetto. But the resistance was ready. To the amazement of the Nazis the people of the Warsaw ghetto fought back. They fought back with the weapons they had secreted away. But more commonly they fought back with whatever was at hand—kitchen knives, chair and table legs, or shovels. Men stood with women and women next to adolescents.

Mr. President, the Germans drew back in surprise. But not for long. They returned to end the uprising and end the lives of all those in the ghetto by systematically levelling the entire area.

Jews were shot on sight. Captives were sent to the camps. Buildings were bombed. Streets were covered with fire from flamethrowers. Many people jumped to their death from burning buildings, others took their own lives.

It took the Nazis a full month and more than 10,000 soldiers to annihilate the 500 freedom fighters who were defending the ghetto. When they had finally leveled the area the Nazis blew up the Great Synagogue on Tlomackie Street as a symbol of their celebration.

Of all the Jews in Warsaw only 4,000 survived the war; 4,000 people and the memory of one of the most heroic and unbelievable acts of resistance ever witnessed.

Mr. President, I ask that we bear witness to that act again today and apply the bitter lessons learned to circumstances in the world today some 50 years later. What better honor could we give to the brave fighters of the Warsaw ghetto uprising than to resolve that any form of systematic slaughter of one people by another will never happen again.

TRIBUTE TO FATHER SELLINGER

Ms. MIKULSKI. Mr. President, I rise to pay tribute to one of the major leaders of higher education in my home State of Maryland, the Reverend Joseph A. Sellinger. Father Sellinger, the greatly admired and deeply loved president of Loyola College, died peacefully in his sleep this week after a heroic battle with cancer. If ever a person has given himself to the glory of God by helping his fellow man, that person is Father Sellinger.

Father Sellinger was well known not only in the world of education, but throughout the State and the region for his spirit, his drive, and his desire to make Loyola College the finest institution he could. I knew him as a friend and as the legend he was.

When I was a student at Mount St. Agnes in Baltimore, I remember going to the lectures and lacrosse games at Loyola. Even in those early years Loyola was the place to go, a social center and an important force in the Baltimore community.

Later, as a faculty member, I came to know Father Sellinger and I learned about the compelling force he was for Loyola. Father Sellinger defined Loyola's spirit.

Let me tell you what I mean. He wanted to build a college based on old-fashioned values of hard work, discipline, and order. And he did it.

Father Sellinger came to Loyola as a young priest, not even yet ordained. That was in 1945 and his students were soldiers returning from World War II determined to get an education and make a life for themselves and their families. They had seen war. They were strong and tough.

Father Sellinger understood that. He earned their respect by expecting from them what he expected from himself, the desire to do better and make something of yourself.

He set goals for students, goals for himself, and goals for the university. For his students, Father Sellinger demanded quality and a commitment to getting a quality education. For himself, he demanded that he meet the day-to-day challenges of leading an institution like Loyola while preparing that college for the future at the same time.

That meant learning how to be a fundraiser, how to build a network to advance the college, and through it all never losing touch with the students or the faculty.

For Loyola, his goal was to shepherd the college to a new level of respect. That he did. Through the tireless efforts of Father Sellinger, Loyola grew from a small local school to a fine and respected regional university.

During the 30 years that Father Sellinger served as president, the Loyola campus grew from 33 acres to 70 and from a college of 1,300 to a university with 6,000 students.

His tenure saw the establishment of a separate business school, named the Joseph A. Sellinger School of Business and Management as the donor had asked. And it also saw the merger with my alma mater, Mount St. Agnes.

Father Sellinger made a name for Loyola and gave Loyola a name in the region and the country. More importantly he gave Loyola the imprint of his personality and his conscience. He made it a school where it was understood that values were part of the curriculum and where the best was expected of you.

His philosophy and his personal example helped Loyola students find out about themselves, about their faith, and about their country. They learned that you can do good and still do well.

Every student that graduates from Loyola will be a living legacy to the inspiration and integrity that was Father Joseph Sellinger. In Loyola College he has left us all an enormous gift and I know that he would insist that we use it wisely and well.

TRIBUTE TO WILLIAM JAMES

Ms. MIKULSKI. Mr. President, I rise today with a sense of sadness to inform the Members of this body of the death of William S. James, former Maryland State treasurer. Mr. James served as treasurer for 3 years and as president of the Maryland State Senate for 12 years. He brought great integrity to Maryland State government.

His 28 years as a delegate, State senator, President of the Maryland State Senate and finally Maryland State treasurer were characterized by strong leadership and deep commitment to government.

His accomplishments are impossible to list, but they include reform of public education, water pollution control and natural resource protection. His work and commitment have left a formidable and lasting legacy.

William James played an important role in Maryland politics and he will be remembered for his honesty, hard work, and dedication. He will be missed.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. DOLE. Mr. President, I understand the distinguished majority leader plans to introduce today a bill to impose conditions on the renewal of most favored nation or MFN status on China in June 1994.

The letter circulated by the distinguished majority leader earlier this month indicates that the bill would be similar to previous bills debated annually in the House and Senate.

Mr. President, American exports to China went from $4.8 billion in 1990 to $6.3 billion in 1991 to more than $8 billion last year according to Commerce Department statistics. Press reports say the most recent Chinese buying delegation purchased more than $1 billion of American products in a single trip.

China buys the widest possible range of goods from American manufacturers and farmers, Mr. President, aircraft, telecommunications equipment, autos and auto parts, industrial machinery, computers, power generation equipment and medical products. In about 2 weeks, we expect a Chinese grain buying delegation to visit. China has always been a good market for the American farmer.

This bill is a signal to American workers and farmers that they better get ready for bad news because the Chinese have made it clear that imposing conditions on their MFN status means they will go elsewhere to buy their products.

That is why this bill will be good news for workers and farmers in Japan and France and elsewhere. If the United States Congress is foolish enough to shoot itself in the foot and send an important customer someplace else, they'll be more than happy to take our place.

Mr. President, we just had an extensive debate over the so-called economic stimulus package which was supposed to provide more jobs and benefit the economy. The distinguished majority leader argued long and hard for that bill.

But the jobs endangered by this China MFN bill aren't part-time or temporary summer jobs, they are full-time, high-paying jobs in our most basic industries—no doubt about it, there are hundreds of thousands of American jobs at stake.

And for what? To promote human rights and political reform. There isn't anyone here in this body who doesn't want to promote political reform and advance human rights in China and who doesn't think Beijing has much to do in those areas.

But we're just kidding ourselves if we think this annual exercise in frustration is going to do anything but complicate that goal—maybe even set it back—while export jobs are lost, American investors in China are badly damaged and our European and Asian competitors get all the benefits. Make no mistake about it, Mr. President, the French and Japanese parliaments are not sitting around every year looking for ways to put their farmers and manufacturers at a competitive disadvantage.

You can bet that the European governments will not mind at all if we put Boeing and McDonnell Douglas in a bind and give airbus a helping hand—just when the American aircraft industry has to cut thousands of jobs.

There will be another extremely harmful result if this type of legislation passes, Mr. President, and that is the damage to Hong Kong. In the short term it will put at risk the some 150,000 jobs and $7.5 billion in exports that the American chamber of commerce in Hong Kong says now exists. In the long term, it will cause severe damage to our ability to influence democracy and free market enterprise when Hong Kong moves to Chinese control in 1997.

Mr. President, I understand the majority leader's concern for democracy and human rights in China. He has spoken often and eloquently on the Senate floor to that end and he knows that I share his concern. But I simply cannot agree that this bill would have anything but the opposite effect.

Mr. President, the United States relationship with China is wide and complex. We've got to stop funnelling every aspect of that relationship into what is a very narrow and very specialized part of our trade policy. MFN is not and can not be a tool to remake the world in our image.

Mr. President, if we are sincerely interested in strengthening our own economy—in promoting jobs in our own States—if we are seriously interested in promoting human rights and democracy in China and elsewhere in Asia, we will reject these kinds of bills. If the administration is serious as well about those goals, it will do the same.

Thank you, Mr. President.

DEATH OF DON SMITH

Mr. BUMPERS. Mr. President, Don Smith departed this life on April 16, 1993. He was a truly superior person and I was honored to eulogize him at a memorial service at Metropolitan Memorial Methodist Church on April 19.

Mr. President, I often wish I could be Governor again, quite certain that I would get it just right the next time. I am always wishing I had not been a late bloomer, or that I had been more attentive at critical junctures in my life.

I don't think Don Smith ever had such thoughts. He married Sue, whom he loved and adored. And if she had any faults, I do not think he ever noticed.

He was one of the most devoted fathers in the history of the world, and I have known few as attentive to a parent as he was to Helon.

In short, I saw him as a consummately contented and serenely happy man, doing exactly what he loved.

If I said, and I often did, "Don, you ought to quit those cigarettes," I did not get a cerebral response or defensive rationalization; just that enigmatic, infectious grin. he knew well when not to rationalize. He was not about to quit smoking, and so it went.

Never in the history of man has a grin or a twinkle of the eye been so appealing, or endeared one to so many for so long. Don lit up every room he entered.

But while that smile or grin would have been a political facade on most faces, we all knew that with Don it was a reflection of a truly great sense of humor, or maybe just amusement at a different memory of a tall tale just told by some gas bag. Or I think most time sit was just a very natural, genuine glad-to-see-you smile.

I first met Don Smith under what I considered very adverse circumstances. He had been appointed securities commissioner and then Arkansas public service commissioner by the Republican Governor who preceded me. You do not have to have a vivid imagination to know what was running through my mind, though everything I saw and heard from him contradicted my preconceptions. I soon discovered that not only was he not a Republican, he was one of the real heroes of the consumer movement and a nationally recognized authority on utility and energy law. When I came to the Senate, we became friends almost instantly, and remained close friends until his death.

Of all Don's qualities, it was his generosity that was most endearing. "Don, how about helping son Bill find a job for the summer?" Done. "How about helping with Betty's Peace Links Gala?" Done. "How about ranking up a little money for the campaign?" Done.

But as to his love of family, I remember the movie "City Slickers." Three New York yuppies had become disenchanted with their life and had gone out west to participate in a cattle drive over some predestined route. Jack Palance was the hardened, grisly trail boss. As they rode beside each other, Billy Crystal was complaining about his life—romance gone, nothing to look forward to, marriage a drag. Jack Palance said, "You gotta figure out what's most important?"

Billy Crystal: "Well, what is it?"

Palance, holding up one finger: "This is what's important."

Crystal: "What's that?"

Palance: "What's important."

Crystal: "Well, what is it?"

Palance: "That's what you gotta figure out."

Don figured out early on what was important in his life. It was Sue, Helon, and those boys. He loved his work, and loved to make money, though he was contemptuous of money. Money was only important as a necessity in providing every advantage he could for his family.

But he was also a chef, a nature lover, music and theatre lover, reader of good literature, lover of politics. he tilled the most unique garden in Washington and generously shared the bounty of that garden. He was truly a Renaissance man.

These were all a part of his voracious love of life and love of experiencing everything he could.

Don, like many of us, came from humble beginnings in rural America. Successful as he was, he never considered himself anything more or less than he was—a man at complete peace with who and what he was.

And every person with whom he came in contact instinctively knew that and loved him for it.

No, I do not believe he would change anything if he were doing it again.

Mr. President, Arkansas lost one of its finest sons this week.

RETIREMENT OF PATRICIA L. BRAUN

Mr. BYRD. Mr. President, I have long believed it appropriate to recognize the retirement of Capitol Hill staff people who have rendered long, distinguished, and faithful service to the Congress.

Today, with feelings of both regret and congratulations, I want to recognize the retirement from my staff of Patricia Leonard Braun, after roughly 31 years of staff service in the House of Representatives and the United States Senate.

A native Virginian and a 1958 graduate of the University of Maryland, Pat Braun began her congressional career in 1962 on the staff of Congressman Roland V. Libonati from Illinois more than three decades ago, in which capacity she worked from 1962 to 1965.

From 1966 through 1969, Pat Braun was employed by Texas Congressman Earle Cabell.

Subsequently, in 1970, Ms. Braun joined the staff of Senator Joseph M. Montoya from New Mexico.

In 1977, Pat Braun joined my State staff, initially as a caseworker, and then as my chief caseworker.

In 1988, Ms. Braun assumed the position of projects director on my staff, a role in which she has distinguished herself through her hard work, loyalty, dedication, perception, dependability, and diligence.

Regardless of the headlines that Senators might create on the Senate floor or the attention that they might accrue in front of the television cameras, the success of any Senator's career is oftentimes in large measure the cumulative product of many other factors, not the least of which is the thoroughness of the caseworkers who deal daily with constituents and the staff members who work on our behalf with the people and communities in our home states to find solutions to their problems.

Thus, in no small measure, I hold staff members like Pat Braun in special esteem, and I shall long treasure my memories of the outstanding service that she has rendered to me, to the people of West Virginia, and to the United States Senate.

As she enters on this new phase of her life and career, I wish for Pat Braun every success and satisfaction, and a retirement filled with rich rewards and bright challenges for her alert mind and sharp intellect.

SOURCES OF SCHOLARSHIPS

Mr. STEVENS. Mr. President, in an effort to help the young people of this country, the American Legion has published its 42d edition of "Need a Lift?" It is one of the best informational handbooks I have seen on educational opportunities for scholarships, careers, and loans.

It is important for students to have as much information as is available about student financial aid and scholarships. For that reason, I ask that section IV of "Need a Lift?" covering Federal student loan and scholarship programs be printed in the RECORD.

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

SECTION IV—SOURCES OF SCHOLARSHIPS AND OTHER FORMS OF FINANCIAL AID AVAILABLE TO ALL STUDENTS

A. FEDERAL PROGRAMS (LISTED ALPHABETICALLY)

1. U.S. Department of Education provides the largest source of funding for financial aid programs. These programs are listed in the following paragraphs. Applications are available at postsecondary schools and high schools. The "Federal Student Aid Fact Sheet from the U.S. Department of Education, 1992–93 may be obtained by writing to Federal Student Aid Programs, P.O. Box 84, Washington, DC 20044. Federal student aid questions may be directed to the toll-free Federal Student Aid Information number: 1–800–4 FED AID.

a. College Work-Study Program (CWSP). This program provides on-campus and off-campus employment to undergraduate and graduate students enrolled in colleges and eligible postsecondary institutions who need financial aid to meet college expenses. The wage paid is at least the current Federal minimum wage, but it may also be related to the type of work and its difficulty. In arranging a job and assigning a work schedule, the aid administrator takes into account the student's health, class schedule and academic progress.

b. Pell Grant Program. Formerly called the Basic Grant Program, this program makes funds available to eligible students attending participating colleges, community/junior colleges, vocational schools, technical institutions, hospital schools of nursing, and other participating postsecondary institutions. To apply for the grant, an applicant must demonstrate need and be an undergraduate student enrolled on at least a half-time basis. For the 1992–93 award period, individual awards will depend on program funding. The maximum award for the 1992–93 academic year was $2,400. To apply for a Pell Grant, a student must complete either the Federal form called "Application for Federal Student Aid" or one of several private or State need analysis applications which are used to determine eligibility for other sources of student aid: the Financial Aid Form (FAF) processed by CSS, the Family Financial Statement (FFS) processed by ACT, the Application for Pennsylvania State Grant & Federal Student Aid form processed by PHEAA, the Student Aid Application for California (SAAC) processed by CSS, the Illinois State Scholarship Commission's form (AFSSA), processed by CSX or the Single file Form processed by USAF. Further information may be obtained from the Office of Student Financial Aid at the institution or a high school guidance counselor.

c. Perkins Loan (formerly National Direct Student Loan Program—NDSL). These loans are available to students enrolled at least half time (and in some cases less than half-time) in a regular program of study at a participating school and who demonstrate need for financial assistance. Aggregate loans may not exceed $18,000 for a graduate student including undergraduate loans; $9,000 for students who have not completed their bachelor's but have completed 2 years leading to a bachelor's degree; $4,500 for any other student. Repayment of the loan begins 9 months after a borrower ceases to carry at least one half the normal academic work load, and is to be repaid within 10 years. Your "grace period" may be different than nine months if you are less than a half-time student. Interest of 5 percent will begin at the time the repayment period begins. You may defer repayment or have portions of your loan canceled under certain conditions.

d. Plus Loans and Supplemental Loans for Students (SLS). PLUS loans are for parent borrowers. SLS loans are for undergraduate/graduate students. Interest rates are variable (maximum 12%). Like STAFFORD LOANS, they are made by a lender such as a bank, credit union, or savings and loan association. It is not necessary to demonstrate need. Parents, graduate students and independent undergraduates may borrow $4,000 per year. In exceptional circumstances, the financial aid administrator may authorize dependent undergraduates to apply for an SLS. All borrowers must begin repaying these loans within 60 days, unless the borrower is entitled to a deferment and the lender agrees to let the interest accumulate until the deferment ends. The negotiation of each loan is between the student and the lending institution. Individuals who desire more information or wish to initiate a loan should discuss the matter with the lender and the school financial aid administrator.

e. Stafford Loan (Formerly Guaranteed Student Loan—GSL). This program provides loans to students for educational expenses, and is available from eligible lenders such as banks, credit unions, savings and loan associations, State agencies and schools. Students must be enrolled on at least a half-time basis in participating postsecondary institutions, ranging from vocational and technical schools to degree-granting institutions. All applicants must undergo a needs test. For new borrowers, the interest rate is 8 percent for the first 4 years of repayment and 10 percent after that. A 5 percent origination fee is charged, which will be deducted proportionately from each loan payment. The money is passed on to the Federal Government to help reduce the Government's cost of subsidizing these low-interest loans. Your lender may also charge you an insurance premium of up to 3 percent of the loan principal.

Loans must be repaid. Repayment normally is over a 5–10 year period. The amount of the student's repayment depends on the size of his or her debt. The more the student borrows, the higher the payment will be. Failure to repay on a timely basis can damage a person's credit rating and may lead to legal action to recover the debt.

Deferment of payment may be granted for a variety of reasons. Deferments are auto-

matic while in school but must be applied for through your lender if out of school. Check with your lender for deferment information.

Depending on your need, you may borrow up to $2,625 a year, if you're a first or second-year undergraduate student; $4,000 a year, if you have completed 2 years of study and have achieved third-year status; $7,500 a year, if you're a graduate student. The total Stafford Loan debt you can have outstanding as an undergraduate is $17,250. The total for graduate or professional study is $54,750, including any loans made as an undergraduate.

f. Supplemental Educational Opportunity Grant (SEOG) Program. This grant program is for students with exceptional financial need (priority given to PELL grant recipients). Students must be enrolled as an undergraduate or vocational student in a regular program of study at an educational institution participating in the program. In some cases, awards may be made to less than half-time students. Graduate students are not eligible. The amount of the award may be up to $4,000 yearly.

There are other Federal programs you can get information about from your State educational agencies. These programs are:

g. The Paul Douglas Teacher Scholarship. Encourages outstanding high school graduates to pursue teaching careers after they finish postsecondary education. Provides scholarships of up to $5,000 for each year of postsecondary education to students who graduate from high school in the top 10 percent of their class, and who meet other selection criteria their State educational agency may establish. Generally, students are required to teach two years for each year of scholarship assistance they receive. Check with your State Scholarship Agency for information.

h. The Robert C. Byrd Honors Scholarship. Students who demonstrate outstanding academic achievement and show promise of continued excellence may receive $1,500 for their first year of postsecondary education. These scholarships are based solely on merit, and are not renewable. Recipients are selected by the agency in the State responsible for supervising public elementary and secondary schools.

2. U.S. Department of Health and Human Services administers programs of assistance for students enrolled in health professions programs.

a. Exceptional Financial Need Scholarship Program [IV-1] provides a scholarship to encourage students with exceptional financial need to pursue careers in medicine, osteopathic medicine, dentistry, optometry, podiatric medicine, pharmacy, or veterinary medicine. Applicants should be citizens, nationals or lawful permanent residents of the United States or District of Columbia, the Commonwealths of Puerto Rico, or the Marianna Islands, the Virgin Islands, Guam, the American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands and the Federated State of Micronesia. Scholarships will cover all or a part of the cost of tuition, and other reasonable educational expenses including fees, books, laboratory expenses and other costs of attending school. No service or financial obligation accomplishes the scholarship. For information, write: Health Resources and Services Administration, Bureau of Health Professions, Division of Student Assistance, Parklawn Building, Room 8-38, 5600 Fishers Lane, Rockville, MD 20857. To apply for the program, contact the Director of Student Financial Aid at the school were you intend to apply for admission or where you are enrolled.

b. Program of Financial Assistance for Disadvantaged Health Professions Students is a program that provides financial assistance without a service or financial obligation to disadvantaged health professions students who are of exceptional financial need to pursue a degree in medicine, osteopathic medicine, or dentistry by providing financial support to help pay for their costs of education. Federal funds for this program are allocated to participating accredited health professions schools located in the United States and Puerto Rico. These schools are responsible for selecting the recipients of such assistance. You are eligible to apply if you are a citizen, national or lawful permanent resident of the United States or the District of Columbia, the Commonwealths of Puerto Rico or the Marianna Islands, the Virgin Islands, Guam, the American Samoa or the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated State of Micronesia; are accepted for enrollment or are enrolled in a participating health professions school as a full-time student; and are determined by your school's Financial Aid Director to be of "exceptional financial need" and to meet disadvantage criteria.

Depending on funding available, a student may receive funds to cover the costs of tuition and other reasonable education expenses including fees, books, laboratory expenses and other costs of attending school.

To apply, contact the Director of Student Financial Aid at the school where you intend to apply for admission or where you are enrolled, or write to the address in (a) above.

c. The Health Education Assistance Loan (HEAL) Program is a federally insured loan program for eligible graduate students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, public health, pharmacy, chiropractic, or in programs in health administration, clinical psychology, or allied health.

Eligible Borrower—must be a citizen, national or permanent resident of the United States and accepted for enrollment as a full-time student, or already in full-time attendance and in good standing at an eligible HEAL school. Pharmacy students must have satisfactorily completed three years of training toward a pharmacy degree.

Eligible Schools—Accredited health professions schools are eligible to participate in the HEAL Program if the school has an agreement with the Secretary. Foreign schools are not eligible under the HEAL Program even though some are eligible for the Guaranteed Student Loan Program.

Eligible Lenders—Financial or credit institutions (including banks, savings and loan associations, credit unions, or insurance companies), State agencies, pension funds, eligible HEAL schools, and non-profit private entities designated by a State.

Loan Limitations—Medical, osteopathic, dental, veterinary, optometric or podiatric students may borrow up to $20,000 per year, not to exceed $80,000 for all years. Pharmacy, chiropractic, health administration, clinical psychology, public health or allied health students may borrow up to $12,500 per year not to exceed $50,000 for all years.

Loans may be used solely for tuition, other reasonable educational expenses, including fees, books, supplies and equipment, and laboratory expenses, reasonable living expenses, reasonable transportation costs that relate directly to borrowers' educational expenses, and the HEAL insurance premium.

Interest—The HEAL program does not provide a subsidy payment for interest. The amount of interest which may be charged to the borrower on the unpaid balance of the loan may not exceed the average bond-equivalent rate during the prior calendar quarter for 91-day Treasury bills sold at auction, plus three percent, rounded to the next higher ⅛ of one percent. Payment of principal and interest may be deferred while the borrower is a full-time student and during specific eligible periods of deferment. For more information contact the Director of Student Financial Aid at your school, or write to address in (a) above: Room 8-39.

d. The Health Professions Student Loan Program is a program of long-term, low interest loans to assist students having need for financial assistance to undertake the course of study required to become a physician, dentist, osteopath physician, optometrist pharmacist, podiatrist, or veterinarian. Funds are allocated to accredited schools of medicine, dentistry, osteopathic medicine, optometry, pharmacy, podiatric medicine, and veterinary medicine which are located in the United States and Puerto Rico, and which participate in the student loan program.

Each school participating in this program is responsible for selecting the recipients of loans and for determining the amount of assistance a student requires. Students applying for assistance under this program should apply through the school in which they have been accepted for enrollment or in which they are enrolled.

You are eligible to apply for a loan at a school that participates in the Health Professions Student Loan Program if you are:

1. A citizen, national, or a lawful permanent resident of the United States or the District of Columbia, the Commonwealth of Puerto Rico or the Marianna Islands, the Virgin Islands, Guam, the America Samoa, the Trust Territory of the Pacific Islands the Republic of Palau, the Republic of the Marshall Islands, and the Federated State of Micronesia;

2. Accepted for enrollment or enrolled as a full-time student in a course leading to a degree of doctor of medicine, doctor of dental surgery or equivalent degree, doctor of osteopathic medicine, doctor of optometry or equivalent degree, bachelor of science in pharmacy or equivalent degree, doctor of pharmacy degree, doctor of podiatric medicine or equivalent degree, or doctor of veterinary medicine or equivalent degree; and

3. In need of the loan to be able to pursue the course of study.

Note: Students enrolled in schools of medicine or osteopathic medicine must demonstrate exceptional financial need.

Pre-professional students, interns, residents, and students seeking advanced training are not eligible for assistance under this program.

The maximum amount you may borrow for each school year is the cost of tuition plus $2,500 or the amount of your financial need, whichever is the lesser. The interest rate is five percent (5%) for all loans made on or after November 4, 1988.

For information, contact the Director of Student Financial Aid at your school, or write to the address in (a) above.

e. National Health Service Corps (NHSC) Scholarships [IV-2] are awarded to U.S. citizens enrolled or accepted for enrollment as full-time students in accredited U.S. schools in the fields of Allopathic or Osteopathic Medicine, Dentistry, Nurse Practitioner Education (Post-Baccalaureate), Nurse Midwifery Education (Baccalaureate or Post-Baccalaureate) and Primary Care Physician

Assistant Training (Baccalaureate or beyond). These scholarships include a monthly living stipend and payment of school tuition. Each year of scholarship support incurs a year of Federal service obligation. The minimum service obligation is 2 years.

The NHSC places full-time primary health care practitioners in selected federally-designated Health Manpower Shortage Areas of the United States. Virtually all of these practitioners owe service obligations of 2 to 4 years due to their participation in the NHSC Scholarship Program.

The scholarship program is administered by the Bureau of Health Care Delivery and Assistance, Division of Health Services Scholarships. For further information write to: NHSC Scholarships, Parklawn Building, Room 7-18, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443-1650, or for toll-free message tape, call 1-800-638-0824 (except Maryland).

f. National Health Service Corps Loan Repayment Program. [IV-2] the NHSC Loan Repayment Program invites applications from licensed allopathic (M.D.) or osteopathic (D.O.) physicians in the specialties of family practice, obstetrics-gynecology, pediatrics, internal medicine, and osteopathic general practice, certified Nurse practitioners and Nurse Midwives, primary Care Physician Assistants and Dentists.

In exchange for a service obligation, this Federal program will pay up to $25,000 each year for a minimum 2-year commitment toward a participant's qualified undergraduate and graduate education loans (including HEAL) and up to $35,000 per year for each year of commitment thereafter. In addition, the program will pay 39 percent of the increased Federal, State, and local income taxes caused by these payments. The service obligation involves a full-time professional practice at an approved Loan Repayment Service Site in the USA. Over 900 positions are available, mainly at private, non-profit community health centers serving the poor, the homeless, and migrant farm workers and their families. Compensation packages are negotiable and compare favorably with similar physicians in the same geographic area. Matches to sites must be concluded by June 15, 1992 and employment begin no later than September 1, 1992.

For an application, a list of NHSC Loan Repayment Service Sites, and a complete description of the Program, write to: Division of Health Services Scholarships, Loan Repayment Program Branch, Room 620, Metro Plaza Building, 12300 Twinbrook Parkway, Rockville, Maryland 20852, or telephone during office hours (8:30-4:30) 1-800-221-9393.

g. National Health Service Corps Loan Repayment Program for Graduate Nurses [IV-2] The National Health Service Corps (NHSC) Loan Repayment Program pays for each year of full-time salaried practice at an approved NHSC Loan Repayment Service Site, up to $20,000 (up to $25,000 for certain sites under contract to Indian Tribes) toward a participant's qualified Government and commercial health professions education loans.

Applicants must be nurses who are U.S. citizens, preferably in their last year of graduate training for the M.S.N. A signed NHSC Loan Repayment Contract must be submitted with application agreeing to practice at an approved Site for 2, 3, or 4 years. Preference for selection will be given those who have completed graduate training in certified family nurse practitioners, pediatric nurse or nurse midwives. For applications write to NHSC Loan Repayment Program for Graduate Nurses, Room 7-16, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

h. Minority Access to Research Careers Program (MARC) Honors Undergraduate Research Training Awards. [IV-3] The Minority Access to Research Careers Program's Honor's Undergraduate Research Training Program is designed to increase the number of well-prepared minority students who can compete successfully for entry into graduate programs leading to the Ph.D. in biomedical research, its goal is also to help develop strong science curricula and research opportunities to prepare students for careers in biomedical research. A formal research experience for the recipient is an essential feature of the program. Summer study and research should be part of the overall training program at outstanding institutions or laboratories selected to enhance and supplement the trainee's formal course work and research training experience. The criteria for selection of trainees includes evidence that the candidate has clear potential to perform at a high level in the biomedical sciences and that the candidate demonstrates a determination to subsequently enter graduate programs leading to the Ph.D. degree. Applicants must be honor students in all four years of college. The college or university must have an enrollment drawn substantially from ethnic minority groups such as American Indians, Blacks, Hispanics, and Pacific Islanders.

Each school will make awards for stipend and tuition support for five or more students. The award may include travel expenses to one national meeting closely related to a project.

Graduates of this undergraduate program are then eligible to compete for a MARC Predoctoral Fellowship which supports 5 years of training toward either the Ph.D. or M.D./Ph.D. at any high quality graduate institution.

Applications may be filed by January 10, May 10 or September 10. Apply for information or application to: U.S. Department of Health and Human Services, National Institutes of Health, National Institute of General Medical Sciences, Westwood Building, Room 950, Bethesda, Maryland 20892.

3. Other U.S. Department of Health and Human Service Programs Are:

a. Senior Commissioned Officer Student Training and Extern Program (COSTEP) [IV-4.] COSTEP if offered by the U.S. Public Health Service (PHS) as a competitive program designed to assist students financially during their final year of professional school in return for an agreement to work for the PHS after graduation. To be eligible for Senior COSTEP, a student must: be under the age of 44; be a U.S. citizen; meet medical standards; have no obligation to other uniform service; pass a security (suitability) review; be enrolled in an accredited health professional program; and have at least 8 months educational commitment remaining in their final year. As an active-duty PHS Officer during the senior year, the student receives pay and allowances of an O-1 Officer (Ensign) of approximately $1,850 per month. Tuition and fees may also be paid depending upon supporting program. Following graduation, the student agrees to work for the PHS for twice the time supported (i.e., an 18-month employment commitment for 9 months of financial support). Upon graduation, assignments are made to the program or agency that provided the financial support during the school year. The PHS programs and agencies currently supporting Senior COSTEP include: Indian Health Service; National Institutes of Health; Food and Drug Administration; and Federal Bureau of Prisons. Graduates are promoted to the rank of O-2 Officer (Lieutenant junior Grade) with monthly pay and allowances of over $2,100 plus benefits. Senior COSTEP is available for all commissionable categories based upon the needs of the Public Health Service. Current priorities are nursing, physician assistant, pharmacy, engineering, and therapy students. For applications, write/call: Senior COSTEP PHS Recruitment 8201 Greensboro Dr. Suite 600 McLean, VA 22102 1-800/221-9393 or 703/734-6855 (in Virginia)

b. Professional Nurse Traineeship Program [IV-5]. Professional nurse traineeships are available through participating training institutions to help registered nurses prepare to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, to serve as nurse practitioners, or to serve in other professional nursing specialities requiring advanced training. Traineeships provide a living stipend (not to exceed $8,800) and tuition and fees as set by the participating training institution. Trainees are selected by the training institutions. Further information is available from: Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 9-36, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857. Students should request information through the Dean of Nursing at their institution. NOTE: This assistance is only for students studying at the master's or doctoral level or studying to become nurse midwives.

c. Nursing Student Loan Program. [IV-5.1] The program is intended to assist students to achieve careers in nursing by providing long-term, low-interest loans to help meet costs of education.

Federal funds for this program are allocated to accredited schools of nursing education. These schools are responsible for selecting the recipients of loans and for determining the amount of assistance a student requires. Students applying for assistance under this program should apply through the school in which they have been accepted for enrollment or in which they are enrolled.

You are eligible to apply for a Nursing Student Loan if you are a citizen, national, or a lawful permanent resident of the United States or the District of Columbia, the Commonwealths of Puerto Rico or the Marianna Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands and the Federated State of Micronesia; are accepted for enrollment or are enrolled as a full-time or half-time student in a course leading to a diploma in nursing, an associate degree in nursing, a bachelor's degree in nursing or an equivalent degree, or a graduate degree in nursing.

You may borrow $2,500 for an academic year, $4,000 for each of the final two years, or the amount of your financial need, whichever is the lesser. The total amount of a student's loan for all years may not exceed $13,000.

In determining the amount of assistance you may require, the school considers: All financial resources available to you, including other sources of aid, such as scholarships or other repayable loans, and the costs reasonably necessary for attendance at the school.

The interest rate is five percent (5%) for all loans made on or after November 4, 1988. To apply, contact the Director of Student Financial Aid at your school.

4. The U.S. Department of Interior Administers a Program of Indian Tribal Grants

[IV-6.1] Over 45 Indian tribes have established their own grant programs to promote higher education for their members. Contacts for tribal assistance should be made through the student's tribe or agency in which they are enrolled.

5. Indians Higher Education Grant Program [IV-6] is a program for students who are members of a tribal group being served by the Bureau and who are enrolled in accredited institutions of their choice in pursuit of an undergraduate or graduate degree; must demonstrate financial need to the institution they are or will be attending. For information only, write to: Department of the Interior—BIA, Office of Education Programs, MS 3512, Code 522, 18th & C Street, N.W., Washington, D.C. 20240.

6. The U.S. Information Agency Sponsors: The Fulbright Teacher Exchange Program. [IV-7] Under the Mutual Educational and Cultural Exchange Act, qualified American educators may work in elementary and secondary schools abroad, and, in some instances, institutions of higher education in various countries. To be eligible, an applicant must be teaching currently as an elementary or secondary school teacher, college instructor, assistant, associate or full professor. Candidates must have at least a bachelor's degree, be a U.S. citizen at the time of application, proficiency in the language of the host country and have at least three years of successful full-time teaching experience. two years are required for participation in summer seminars held in Italy and the Netherlands. Evidence of good health and stability also is required.

Round-trip transportation to some countries for those selected to participate may be provided. A maintenance allowance may also be provided, paid in the currency of the host country, based upon that country's cost of living. For teachers participating in the Exchange Program, the successful applicant's U.S. salary is continued by the participant's own school. Seminar grants may include round trip transportation and tuition costs, but for some, the participants are responsible for their own maintenance expenses. Regional interviewing committees conduct preliminary screening of applicants. Annual application deadline date is October 15. Application forms can be obtained from and then submitted to the Fulbright Teachers Exchange, USDA Graduate School, 600 Maryland Avenue S.W., Room 142, Washington, D.C. 20024. Phone: 1-800-726-0479.

DEDICATION OF THE U.S. HOLOCAUST MEMORIAL MUSEUM

Mr. GRASSLEY. Mr. President, I rise to introduce into the RECORD a report prepared by one of my staff members. In February, Melissa Patack had the opportunity to travel to Germany on a program sponsored by B'nai B'rith and the Konrad Adenauer Foundation. She prepared this report to summarize and set forth on the public record, her experiences on the trip. Through this program, the Konrad Adenauer Foundation seeks to promote understanding and dialog between Germans and American Jews. Both B'nai B'rith and the Konrad Adenauer Foundation should be commended for undertaking this project.

These exchanges are very important. They build bridges—people to people. And, hopefully they ensure that we learn from history, rather than repeat it.

This week, we dedicate the U.S. Holocaust Memorial Museum, built with a public-private partnership. It honors the memories of the victims by teaching today's generation, and future generations about the past. The presence of the museum here in Washington, a short distance from monuments to our great American democracy, will serve as a reminder of how far civilization can fall. I offer my congratulations to Council Chairman Bud Meyerhoff and Vice Chairman Bill Lowenberg and all of those who worked tirelessly, devoting energy and financial resources, to make the museum a reality.

I ask that the staff report be included following my statement.

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

STAFF REPORT OF MELISSA PATACK, B'NAI B'RITH-KONRAD ADENAUER FOUNDATION, GERMANY STUDY MISSION, FEBRUARY 7-13, 1993

In order to foster better understanding and to create ties between Germans and American Jewry, the Konrad Adenauer Foundation has developed exchange programs with several American Jewish organizations. B'nai B'rith participates in one such program, identifying American Jews involved in public policy to bring to Germany at the invitation of the Konrad Adenauer Foundation for an intensive week of fact finding. The most recent bi-partisan delegation of ten included local school board members from San Diego and Philadelphia; state legislators from Kansas and New Jersey; a Chicago city councilman; senior aides to U.S. Senators Charles Grassley and Harris Wofford; a former spokesperson for an executive branch department; and directors of Jewish political organizations affiliated with the Democratic and Republican parties.

The delegation was privileged to meet with senior governmental officials to discuss a variety of topics, including, the rise of right wing extremism and recent violence against non-German residents, the challenges of reunification, the future of the German armed forces and Germany's international military responsibilities, European unity, and the status of Germany's Jewish community.

Germany of the 1990's appears to be very sensitive to its history and the obligations which arise from the atrocities committed by Germany during the 1930's and 1940's. Nevertheless, right wing violence has increased from 217 incidents in 1990 to more than 2400 incidents in 1992, according to Dr. Eckard Werthebach, director of the Federal Office for the Protection of the Constitution, the domestic intelligence agency. While violence has been on the rise, membership in these right wing groups remains very small, in proportion to a nationwide population of 80 million; the 81 organizations claim approximately 42,700 members, of whom 6,400 appear to be militant. The vast majority of these groups are populated by young people, under the age of 20. This has presented the police with unique challenges, since these organizations seem to have little or no formal structure and much of the violence seems spontaneous and unplanned. Some of the officials with whom we met acknowledged that the government was, initially, slow to respond to the violence. Ignatz Bubis, chairman of the Central Council of Jews in Germany charges that the police have simply stood on the sidelines while the violence goes on. Interior Minister for the state of Saxony, Heinz Eggert, said that if the events which took place in Rostock (where the housing units of refugees were burned) happened in his jurisdiction, he would have stayed on the job only long enough to fire his police chief and then he would have resigned himself.

The vast majority of Germans oppose this right wing violence. More than 300,000 turned out to demonstrate against the intolerance and violence directed at foreigners and asylum seekers, including Gen. Klaus Naumann, Chief of Staff of the Bundeswehr. In Berlin, for example, we saw people wearing pins, as well as signs posted in stores, which had slogans indicating their opposition to bigotry. Interior Minister Franz Schuster, of the state of Thuringia in eastern Germany, noted that Germany has banned political parties which advocate violence, and it will continue to do so, where appropriate. The free speech guarantee of the German constitution necessarily takes a back seat to the need for the democratic government to outlaw any offspring of the National Socialist Party of the 1930's. This right wing violence is seen as an assault on Germany's democracy, not as simply a product of tough economic times and a generous asylum policy.

Nevertheless, there seems to be a growing consensus that Germany's asylum policy needs to be reformed. Last year, Germany took in close to 500,000 asylum seekers and an additional 250,000 refugees from war torn former Yugoslavia. This liberal asylum policy is unmatched by any of Germany's neighbors. Negotiations are underway between the ruling government coalition and the opposition, and according to Hans-Ulrich Klose, a member of Parliament and the leader of the opposition Social Democratic Party faction, the law should be changed by this summer. The result will be a limitation on the number of refugees to approximately 300,000 annually. While this change may be warranted by the upheaval in eastern Europe and the brutal situation in the Balkans, this change will not solve Germany's problem of being home to 5-6 million foreigners who have no legal status in Germany and no prospect of becoming German citizens. Germany's generous asylum policy liberally admits people to the country, but it only grants about 5% of all asylum requests. Once the refugee is in Germany, it is almost impossible to deport an individual denied asylum. The result is a huge population of non-citizens who become convenient scapegoats and targets.

The increase in violence has some connection to, although it cannot be excused by, the difficulties and burdens of reuniting Germany. The conversion of the former GDR's command economy to a free market economy has caused dislocation and unemployment—3 million unemployed, mostly in the east. While this is low by U.S. standards, it has been a burden to those easterners who believed reunification would increase their standard of living, not decrease it. Many easterners believe that their western countrymen have not sacrificed for reunification, and westerners say the easterners are not appreciating their new freedoms.

Two of the practical issues we addressed were the education system and the police force. In Thuringia, for example, Herman Strobel, state secretary to the Culture Minister, stated that some 3400 teachers were dismissed. The rest are being retrained,

which is a very difficult task. Teachers are being taught democracy, as well as social and religious values. The police forces are going through similar upheavals. The pervasive presence of the Stasi secret police in the former GDR has given the leadership serious concerns. Many police officers have been dismissed, leaving the police force understaffed. To check against the Stasi influence in Saxony, Interior Minister Eggert recruited his police chief from Stuttgart.

The Bonn government acknowledges that the process of reunification is going to take longer and will cost much more than originally planned—at least $100 billion annually will be spent in the eastern part for the next 5 to 7 years. As Friedreich Bohl, MP and chief of staff to Chancellor Kohl, noted, if it's not done right, it will have disastrous consequences. Conversely, if integrating the east into west in Germany doesn't succeed, we can't expect to do any better in the rest of eastern Europe and the former Soviet Union.

We observed, first hand, the consequences of reunification, in a meeting with high school students from Weimar. The freedoms and choices now available can be intimidating. The young girls with whom we spoke are more concerned and pessimistic about their future; the boys, however, were quite optimistic and were eager to face the challenges of a free economy. In the command economy, 95% of all adults worked—both parents in most families. Now, there is significant unemployment, and these teenagers are likely experiencing it in their own families where one or both parents may be unemployed.

Germany faces unprecedented challenges in the military sphere. As a result of its aggressor role in the first half of this century, its Constitution prohibits military engagement outside the NATO arena. And, military operations may only be undertaken for common defense. With the collapse of Communism and the removal of east-west tensions, Germany is facing pressure to become more engaged with the U.S. and European allies in peacekeeping efforts abroad. The ruling coalition, headed by the Christian Democratic Union, is ready to reinterpret the Constitution, or enact appropriate changes, but without national consensus, which would include the opposition SPD, the government cannot move forward, General Naumann and MP Bohl explained. Germany has an enormous grass roots pacifist movement that cannot be discounted. (Since this trip, a legal decision has been issued which would allow Germany to participate in certain military operations that are outside the self-defense area.)

Germany supports the Vance-Owens plan in Bosnia, according to Dr. Dieter Kastrup, top career foreign service official in the Foreign Ministry. Gen. Naumann said that the west could not accomplish its goals through military intervention; it is an impossible situation. During World War II, the Wehrmacht had 17 divisions in Yugoslavia and was unable to meet its objectives. He disputed assertions from some quarters that the west could put an end to the fighting with surgical strikes, sounding very much like General Colin Powell. He advocated a complete enforcement of economic sanctions—squeezing the Serbs—and draw firm lines to contain the fighting.

In addition to discussions with top government officials, the delegation had unique opportunities to learn about and visit with the Jewish community in Germany. Today, Germany has about 40,000 Jews, compared to 600,000 before Hitler came to power. The largest part of the community lives in Frankfurt, where Ignatz Bubis resides. Bubis believes that the Jewish community is not significantly threatened by the increase in right wing violence. While there have been acts directed at Jewish landmarks, such as cemeteries, he feels there is no more anti-semitism in Germany today than in any other western country. He would be concerned if the ruling coalition entered into any agreements with or made any political accommodations to right wing parties; that would be the red line for Jews in Germany, according to Bubis. (Since the trip, local elections were held in Frankfurt and the radical right wing party, Republikaners, won 8% of the vote.)

Although Bubis feels himself a German, he believes most Germans still regard Jews as not complete Germans, as outsiders. Ann Ehmann, deputy director at the Wannsee Conference House, seemed to echo this view, when she told us that, historically, Germans have prized unity over equality. The Wannsee Conference was a meeting of 15 top Nazi officials in 1942 held outside Berlin; there the final solution—liquidation of Europe's Jewish population—was agreed upon in an 80 minute "business meeting." Today it serves as a museum and study center on the Holocaust. Unlike, Jews, who see the Holocaust from the perspective of the victims, Germans see the events from the perspective of the perpetrators. It is a very difficult history to study and the Wannsee Conference House serves as a very important landmark in the effort to address the painful history.

In Erfurt (population: 250,000), in the eastern part of Germany, we met with a part of the 40 member community, headed by Raphael Sharf-Katz—a survivor who returned to him hometown. Sharf-Katz has his share of problems—no teacher, no Rabbi, and the prospects of a 50,000 DM budget cut from the state of Thuringia (unlike the U.S., the government supports all religious movements and individuals pay a payroll tax to their religious movement). All of this at a time, when Russian Jews are migrating to the area—80 last year. We were hosted at the synagogue, which was destroyed during Kristallnacht in 1938.

In Meerane, we visited a hostel which is the home to some 100 Jews who have emigrated from the former Soviet Union. Unable to gain entry to the U.S. and unwilling to go to Israel, these Jews are choosing to make their home in Germany.

And, in Berlin, we attended Sabbath services and were hosted for Friday night Sabbath dinner by the B'nai B'rith group. There we met with some 30–40 individuals who lead successful and productive lives in Germany today. They are proud of their heritage as Jews and they practice their faith openly. They are strongly committed to Israel and work on behalf of Jewish causes and concerns.

We spent one afternoon at Buchenwald, a men's concentration camp outside Weimar. It was built in 1937 as a work camp; 250,000 people met their death there and one-fifth were Jews. The Nazis took a magnificent hillside where German poets, including Goethe, worked amid serenity and turned it into a prison and death house. In the early years, prisoners were brought on trains to Weimar and marched to the camp. Prisoners worked on building the camp and in the limestone quarry just outside the camp. Prisoners who worked in the quarry had a 3 month lifespan. Most who died were worked to death. In 1943, a railroad was constructed to bring the prisoners right to the camp and the munitions factory completed around the same time. The camp was also expanded at that time to house prisoners from more than 30 nations who were used as slave labor. Those who survived the "selections" at Auschwitz were transferred to Buchenwald for work. In 1944, Buchenwald was bombed by the allies; some of the SS headquarter buildings which were also on the premises were destroyed. The target of the bombing was the factory, not the camp itself. V–2 guidance systems were produced in the plant. Buchenwald was liberated in April, 1945, when American troops arrived. At that time, 21,000 prisoners remained; the rest—30,000—were forced on a death march by SS troops.

Buchenwald is in the former east Germany. A museum was constructed in the mid-1980's to tell its story. Although Germany has been reunified for 2 years, the museum has not been changed yet, although it is planned. The Communist story explains that World War II was a triumph of communism over fascism. It portrays the leaders of the underground as the principal victims, and it attributes liberation of the camp to the communists who were held as prisoners—a self-liberation.

Our guide through Buchenwald was Marlis Grafe, a life long resident of Weimar. She has worked there since 1986 and feels that she has experienced two major deceptions—the first—her parents say that they really didn't understand what was happening only a few miles away during the war. And the second—the east German view of the events. She was incredibly sensitive and forthcoming. One couldn't help but wonder how someone can devote their professional life to the story of a concentration camp.

This fact finding mission strengthened our understanding of Germany today and how Germans address Germany's past. It gave us links to a mostly prosperous industrious people with a very complex history. The exchange provided context and reference points to better appreciate the complications Germany faces in reunifying east and west, highlighting the difficulties we face in assisting the former Soviet Union with its efforts to establish a free enterprise society with democratic values. And finally, it brought us to the scene of a part of the Holocaust, a dark chapter that must be studied and understood to ensure that it won't be repeated.

TEXTILE INDUSTRY'S ENVIRONMENTAL EFFORTS

Mr. HELMS. Mr. President, the textile industry's voluntary efforts to preserve the environment deserve a round of applause. The fact that the U.S. textile industry is sponsoring the Encouraging Environmental Excellence [E3] Program underscores the importance of environmental preservation within the industry.

The E3 Program recognizes the environmental commitment of individual textile companies that meet certain criteria. The criteria range from significant reductions in air emissions and in water and solid waste to the development of employee education and community outreach programs on the environment.

Furthermore, the American Textile Manufacturers Institute [ATMI] is a

member of the AMTEX partnership, a research consortium of the national laboratories of the Department of Energy and the Nation's fiber, textile, apparel, and home furnishings industries. AMTEX's objective is to develop new technologies and to increase the competitiveness of domestic manufacturers. Thanks to the efforts of AMTEX, ATMI is moving closer toward its goal of a zero-discharge facility.

Mr. President, I am proud of, and I salute, the following North Carolina companies that participate in the E3 Program:

American & Efird, Inc., Mount Holly, Charlotte, Gastonia, Salisbury, Maiden, Lenoir.

Artee Industries, Inc., Shelby, Lincolnton.

Avondale Mills, Inc., Charlotte, Burnsville, Sanford, Greensboro.

Belding Thread Group, Charlotte, Hendersonville.

Bloomsburg Mills, Inc., Monroe.

Burlington Industries, Inc., Greensboro.

Coats American, Charlotte.

Collins & Aikman Textile Group, Charlotte, Farmville, Norwood, Troy, Albemarle, Salisbury, Old Fort.

Cone Mills Corp., Greensboro, Cliffside, Forest City, Henrietta, Salisbury, Haw River, High Point, Thomasville.

Cranston Print Works Co., Fletcher.

Dixie Yarns, Inc., Mebane, Ranlo, Saxapahaw, Tryon, Tarboro, Gastonia, Newton.

Doran Textiles, Inc., Shelby.

Graniteville Co., Greensboro.

Guilford Mills, Inc., Greensboro.

Milliken & Co., Bostic, Columbus, Robbins.

The New Cherokee Corp., Spindale.

Pharr Yarns, McAdenville, Lowell, Spencer Mountain, Belmont.

Reeves Brothers, Bessemer City.

Russell Corp., Mt. Airy, Walnut Cove, Newport, Carthage.

Sara Lee Knit Products, Winston-Salem, Asheboro, Forest City, Jefferson, Maxton, Farmington, Jamestown, Quaker Meadows, North Ridge, Sanford, Sparta, West Point, Stratford, Eden.

SCT Yarns, Inc., Cherryville, Charlotte.

Spartan Mills, Lawndale.

Springs Industries, Inc., Aberdeen, Biscoe, Laurel Hill, Statesville, Laurinburg, Charlotte.

Stonecutter Mills Corp., Mill Spring, Spindale.

Swift Textiles, Inc., Greensboro, Erwin.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE ENVIRONMENT ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 171, which the clerk will report.

The bill clerk read as follows:

A bill (S. 171) 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.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of the Environment Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Establishment of the Department of the Environment.
Sec. 104. Assistant Secretaries.
Sec. 105. Deputy Assistant Secretaries.
Sec. 106. Office of the General Counsel.
Sec. 107. Office of the Inspector General.
Sec. 108. Bureau of Environmental Statistics.
Sec. 109. Grant and contract authority for certain activities.
Sec. 110. Study of data needs.
Sec. 111. Miscellaneous employment restrictions.
Sec. 112. Termination of the Council on Environmental Quality and transfer of functions.
Sec. 113. Administrative provisions.
Sec. 114. Inherently governmental functions.
Sec. 115. References.
Sec. 116. Savings provisions.
Sec. 117. Conforming amendments.
Sec. 118. Additional conforming amendments.

TITLE II—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

Sec. 201. Establishment; membership.
Sec. 202. Commission responsibilities.
Sec. 203. Report to the President and Congress.
Sec. 204. Commission staff.
Sec. 205. Advisory groups.
Sec. 206. Termination of Commission.
Sec. 207. Funding; authorization of appropriations.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

SEC. 101. SHORT TITLE.

This title may be cited as the "Department of the Environment Act".

SEC. 102. FINDINGS.

The Congress finds that—

(1) recent concern with Federal environmental policy has highlighted the necessity of assigning to protection of the domestic and international environment a priority which is at least equal to that assigned to other functions of the Federal Government;

(2) protection of the environment increasingly involves cooperation with foreign states, including the most highly industrialized states all of whose top environmental officials have ministerial status;

(3) the size of the budget and the number of Federal civil servants devoted to tasks associated with environmental protection at the Environmental Protection Agency is commensurate with departmental status; and

(4) a cabinet-level Department of the Environment should be established.

SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF THE ENVIRONMENT.

(a) REDESIGNATION.—The Environmental Protection Agency is hereby redesignated as the Department of the Environment (hereafter referred to as the "Department") and shall be an executive department in the executive branch of the Government. The official acronym of the Department shall be the "U.S.D.E.".

(b) SECRETARY OF THE ENVIRONMENT.—(1) There shall be at the head of the Department a Secretary of the Environment who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, the Director of Environmental Statistics, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(3) Except as described under paragraph (2) of this section and section 104(b)(2), and notwithstanding any other provision of law, the Secretary may delegate any functions including the making of regulations to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as determined to be necessary or appropriate.

(c) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the position of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary and such other executive officers as the Secretary may determine necessary.

(e) REGIONAL OFFICES.—The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as he may determine necessary to carry out the functions vested in him or other officials of the Department.

(f) INTERNATIONAL RESPONSIBILITIES OF THE SECRETARY.—(1) In addition to exercising other international responsibilities under existing provisions of law, the Secretary is—

(A) encouraged to assist the Secretary of State to carry out his primary responsibilities for coordinating, negotiating, implementing and participating in international agreements, including participation in international organizations, relevant to environmental protection; and

(B) authorized and encouraged to—

(i) conduct research on and apply existing research capabilities to the nature and impacts of international environmental problems and develop responses to such problems; and

(ii) provide technical and other assistance to foreign countries and international bodies to improve the quality of the environment.

(2) The Secretary of State shall consult with the Secretary of the Environment and such other persons as he determines appropriate on such negotiations, implementations, and participations described under paragraph (1)(A).

(g) AUTHORITY OF THE SECRETARY WITHIN THE DEPARTMENT.—Except as provided under section 112, nothing in the provisions of this Act—

(1) authorizes the Secretary of the Environment to require any action by any officer of any executive department or agency other than officers of the Department of the Environment, except that this paragraph shall not affect any authority provided for by any other provision of law authorizing the Secretary of the Environment to require any such actions;

(2) modifies any Federal law that is administered by any executive department or agency; or

(3) transfers to the Department of the Environment any authority exercised by any other Federal executive department or agency prior to the date of the enactment of this Act, except the authority exercised by the Environmental Protection Agency.

(h) APPLICATION TO THE DEPARTMENT OF THE ENVIRONMENT.—The provisions of this Act apply only to activities of the Department of the Environment, except where expressly provided otherwise.

SEC. 104. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 12, as the Secretary shall determine, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—(1) The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including, but not limited to—

(A) enforcement;
(B) compliance monitoring;
(C) research and development;
(D) air;
(E) radiation;
(F) water;
(G) pesticides;
(H) toxic substances;
(I) solid waste;
(J) hazardous waste;
(K) hazardous waste cleanup;
(L) emergency response;
(M) international affairs;
(N) policy, planning, and evaluation;
(O) pollution prevention;
(P) congressional affairs;
(Q) intergovernmental affairs;
(R) public affairs; and
(S) administration and resources management, information resources management, procurement and assistance management, and personnel and labor relations.

(2) The Secretary may assign and modify any responsibilities at his discretion under paragraph (1), except that the Secretary may not modify the responsibilities of any Assistant Secretary without prior written notification with explanation of such modification to the appropriate committees of the Senate and the House of Representatives.

(c) DESIGNATION OF RESPONSIBILITIES PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF FUNCTIONS.—On the effective date of this Act, the Administrator and Deputy Administrator of the Environmental Protection Agency shall be redesignated as the Secretary and Deputy Secretary of the Department of the Environment, Assistant Administrators of the Agency shall be redesignated as Assistant Secretaries of the Department, the General Counsel and the Inspector General of the Agency shall be redesignated as the General Counsel and the Inspector General of the Department, and the Chief Financial Officer of the Agency shall be redesignated as the Chief Financial Officer of the Department, without renomination or reconfirmation.

(e) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities include information resource management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information resource management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 105. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) FUNCTIONS.—Functions assigned to an Assistant Secretary under section 104(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

SEC. 106. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 107. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of the Environment.

SEC. 108. BUREAU OF ENVIRONMENTAL STATISTICS.

(a) ESTABLISHMENT.—(1) There is established within the Department a Bureau of Environmental Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(A) compiling, analyzing, and publishing a comprehensive set of environmental quality statistics which should provide timely summary in the form of industrywide aggregates, multiyear averages, or totals or some similar form and include information on—

(i) the nature, source, and amount of pollutants in the environment; and

(ii) the effects on the public and the environment of those pollutants;

(B) promulgating guidelines for the collection of information by the Department required for the statistics under this paragraph to assure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis;

(C) coordinating the collection of information by the Department for developing such statistics with related information-gathering activities conducted by other Federal agencies;

(D) making readily accessible the statistics published under this paragraph; and

(E) identifying missing information of the kind described under subparagraph (A) (i) and (ii), reviewing these information needs at least annually with the Science Advisory Board, and making recommendations to the appropriate Department of Environment officials concerning extramural and intramural research programs to provide such information.

(2) Nothing in the provisions of paragraph (1) shall authorize the Bureau to require the collection of any data by any other Department, State or local government, or to establish observation or monitoring programs. The Bureau shall not duplicate the information collection functions of other Federal agencies.

(3) Information compiled by the Bureau of Environmental Statistics, which has been submitted for purposes of statistical reporting requirements of this law, shall not be disclosed publicly in a manner that would reveal the identity of the submitter, including submissions by Federal, State, or local governments, or reveal the identity of any individual consistent with the provisions of section 552a of title 5, United States Code (the Privacy Act of 1974). This paragraph shall not affect the availability of data provided to the Department under any other provision of law administered by the Department. The confidentiality provisions of other statutes authorizing the collection of environmental statistics shall also apply, including but not limited to, section 14 of the Toxic Substances Control Act (15 U.S.C. 2613), section 2(h) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h), section 114(c) of the Clean Air Act (42 U.S.C. 741(c)), and section 1905 of title 18, United States Code.

(b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—The Bureau shall be under the direction of a Director of Environmental Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The term of the Director shall be 4 years. The Director shall be a qualified individual with experience in the compilation and analysis of environmental statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) ENVIRONMENTAL STATISTICS ANNUAL REPORT.—On July 1, 1995, and each July 1 thereafter, the Director shall submit to the President an Environmental Statistics Annual Report (hereafter referred to as the "Report"). The Report shall include, but not be limited to—

(1) statistics on environmental quality including—

(A) The environmental quality of the Nation with respect to all aspects of the environment, including, but not limited to, the air, aquatic ecosystems, including marine, estuarine, and fresh water, and the terrestrial ecosystems, including, but not limited to, the forest, dry-land, wetland, range, urban, suburban, and rural environment; and

(B) changes in the natural environment, including the plant and animal systems, and other

information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(2) statistics on the effects of changes in environmental quality on human health and nonhuman species and ecosystems;

(3) documentation of the method used to obtain and assure the quality of the statistics presented in the Report;

(4) economic information on the current and projected costs and benefits of environmental protection; and

(5) recommendations on improving environmental statistical information.

(d) CONTINUING PERFORMANCE OF THE FUNCTIONS OF THE DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(e) ADVISORY COUNCIL ON ENVIRONMENTAL STATISTICS.—The Director shall appoint an Advisory Council on Environmental Statistics, comprised of no more than 6 private citizens who have expertise in environmental statistics and analysis (except that at least one of such appointees should have expertise in economics) to advise the Director on environmental statistics and analyses, including whether the statistics and analyses disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

SEC. 109. GRANT AND CONTRACT AUTHORITY FOR CERTAIN ACTIVITIES.

The Secretary may make grants to and enter into contracts with State and local governments, Indian tribes, universities, and other organizations to assist them in meeting the costs of collecting specific data and other short term activities that are related to the responsibilities and functions under section 108(a)(1) (A), (B), (C), and (D).

SEC. 110. STUDY OF DATA NEEDS.

(a) STUDY OF DATA NEEDS.—(1) No later than 1 year after the start of Bureau operations, the Secretary of the Department of Environment, in consultation with the Director of the Bureau and the Assistant Secretary designated as Chief Information Resources Officer, shall enter into an agreement with the National Academy of Sciences for a study, evaluation, and report on the adequacy of the data collection procedures and capabilities of the Department. No later than 18 months following an agreement, the National Academy of Sciences shall report its findings to the Secretary and the Congress. The report shall include an evaluation of the Department's data collection resources, needs, and requirements, and shall include an assessment and evaluation of the following systems, capabilities, and procedures established by the Department to meet those needs and requirements:

(A) data collection procedures and capabilities;

(B) data analysis procedures and capabilities;

(C) the ability of data bases to integrate with one another;

(D) computer hardware and software capabilities;

(E) management information systems, including the ability of management information systems to integrate with another;

(F) Department personnel; and

(G) the Department's budgetary needs and resources for data collection, including an assessment of the adequacy of the budgetary resources provided to the Department and budgetary resources used by the Department for data collection needs and purposes.

(2) The report shall include recommendations for improving the Department's data collection systems, capabilities, procedures, data collection, and analytical hardware and software, and for improving its management information systems.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the provisions of this section.

SEC. 111. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

(b) REPORTS ON IMPLEMENTATION.—One year after the date of the enactment of this title and again 3 years after the date of the enactment of this title, the Secretary shall report to the Senate Committees on Appropriations, Governmental Affairs, and Environment and Public Works and to the House of Representatives on the estimated additional cost of implementing this title over the cost as if this title had not been implemented, including a justification of increased staffing not required in the execution of this title.

SEC. 112. TERMINATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY AND TRANSFER OF FUNCTIONS.

(a) TRANSFER OF FUNCTIONS OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—(1) Except as provided under paragraph (2), all functions of the Council on Environmental Quality under titles I and II of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and under any other law, are transferred to the Secretary. The Secretary is authorized to take all necessary action, including the promulgation of regulations, to carry out these functions.

(2) Referrals of interagency disagreements concerning proposed major Federal actions significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 102(2)(C)) and concerning matters under section 309(b) of the Clean Air Act (42 U.S.C. 7609(b)) shall be made to the President for resolution.

(b) TERMINATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—(1) Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) is amended by striking out "Council" and inserting in lieu thereof "Secretary of the Environment".

(2) Sections 202, 203, 205, 206, 207, and 208 of the National Environmental Policy Act (42 U.S.C. 4342, 4343, 4345, 4346, 4346a, and 4346b) are repealed.

(3) The heading for title II of the National Environmental Policy Act is amended to read as follows:

"TITLE II

"ENVIRONMENTAL QUALITY REPORT".

(c) REFERENCES IN FEDERAL LAW.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Council on Environmental Quality—

(1) with regard to functions transferred under subsection (a)(1), shall be deemed to refer to the Secretary; and

(2) with regard to disagreements and matters described under subsection (a)(2), shall be deemed to refer to the President.

(d) AVAILABILITY OF FUNDS.—Unobligated funds available to the Council on Environmental Quality shall remain available to the Department until expended for the gradual and orderly termination of the Council and transfer of Council functions as provided in this Act.

(e) SAVINGS PROVISIONS.—(1) All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, by the Council on Environmental Quality, or by a court of competent jurisdiction, in the performance of functions of the Council on Environmental Quality, and

(B) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Environment, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Council on Environmental Quality at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) The provisions of this section shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(4) No suit, action, or other proceeding commenced by or against the Council on Environmental Quality, or by or against any individual in the official capacity of such individual as an officer of the Council on Environmental Quality, shall abate by reason of the enactment of this Act.

(5) Any administrative action relating to the preparation or promulgation of a regulation by the Council on Environmental Quality may be continued by the Department or the President with the same effect as if this Act had not been enacted.

(6) The contracts, liabilities, records, property, and other assets and interests of the Council on Environmental Quality shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 113. ADMINISTRATIVE PROVISIONS.

(a) ACCEPTANCE OF MONEY AND PROPERTY.—(1) The Secretary may accept and retain money, uncompensated services, and other real and personal property or rights (whether by gift, bequest, devise, or otherwise) for the purpose of carrying out the Department's programs and activities, except that the Secretary shall not endorse any company, product, organization, or service. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be credited in a separate fund in the Treasury of the United States and shall be available for disbursement upon the order of the Secretary.

(2) The Secretary shall prescribe regulations and guidelines setting forth the criteria the Department shall use in determining whether to

accept a gift, bequest, or devise. Such criteria shall take into consideration whether the acceptance of the property would reflect unfavorably upon the Department's or any employee's ability to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(b) SEAL OF THE DEPARTMENT.—(1) On the effective date of this Act, the seal of the Environmental Protection Agency with appropriate changes shall be the seal of the Department of the Environment, until such time as the Secretary may cause a seal of office to be made for the Department of the Environment of such design as the Secretary shall approve.

(2)(A) Chapter 33 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 716. Department of the Environment Seal

"(a) Whoever knowingly displays any printed or other likeness of the official seal of the Department of the Environment, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(b) Whoever, except as authorized under regulations promulgated by the Secretary of the Environment and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the official seal of the Department of the Environment, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined not more than $250 or imprisoned not more than 6 months, or both.

"(c) A violation of subsection (a) or (b) may be enjoined at the suit of the Attorney General of the United States upon complaint by any authorized representative of the Secretary of the Department of the Environment.".

(B) The table of sections for chapter 33 of title 18, United States Code, is amended by adding at the end thereof:

"716. Department of the Environment Seal.".

(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(d) ADVISORY COMMITTEE COMPENSATION.—The Secretary is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 114. INHERENTLY GOVERNMENTAL FUNCTIONS.

(a) GOVERNMENT OFFICERS AND EMPLOYEES.—(1) Inherently governmental functions of the Department shall be performed only by officers and employees of the United States. For purposes of this section, the term "inherently governmental function" means any activity which is so intimately related to the public interest as to mandate performance by Government officers and employees. Inherently governmental functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. The Secretary shall promulgate regulations or internal guidance to implement this section. This section is not intended, and may not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the Department, its officers, or any person.

(b) CONFLICTS OF INTEREST.—(1) The Secretary shall by regulation require any person proposing to enter into a contract, grant, or cooperative agreement whether by sealed bid or negotiation, for the conduct of research, development, evaluation activities, or for consulting services, to provide the Secretary, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Secretary, bearing on whether that person has a possible conflict of interest with respect to—

(A) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons; or

(B) being given an unfair competitive advantage.

(2) Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this section by subcontractors of such person who are engaged to perform similar services.

(3) For purposes of this subsection, the term "consulting services" includes—

(A) management and professional support services;

(B) studies, analyses, and evaluations;

(C) engineering and technical services, excluding routine engineering services such as automated data processing and architect and engineering contracts; and

(D) research and development.

(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF CONFLICTS.—(1) Subject to the provisions of paragraph (2), the Secretary may not enter into any such contract, agreement, or arrangement, unless he affirmatively finds, after evaluating all such information and any other relevant information otherwise available to him, either that—

(A) there is little or no likelihood that a conflict of interest would exist; or

(B) that such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement.

(2) If the Secretary determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Secretary may enter into such contract, agreement, or arrangement, if the Secretary—

(A) determines that it is in the best interests of the United States to do so; and

(B) includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

(d) PUBLIC NOTICE REGARDING CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations which require public notice to be given whenever the Secretary determines that the award of a contract, agreement, or arrangement may result in a conflict of interest which cannot be avoided by including appropriate conditions therein.

(e) DISCLAIMER.—Nothing in this section shall preclude the Department from promulgating regulations to monitor potential conflicts after the contract award.

(f) CENTRAL FILE.—The Department shall maintain a central file regarding all cases when a public notice is issued. Other information required under this section shall also be compiled. Access to this information shall be controlled to safeguard any proprietary information.

(g) REGULATIONS.—No later than 120 days after the effective date of this Act, the Secretary shall promulgate regulations for the implementation of this section.

SEC. 115. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of the Environment;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of the Environment;

(3) to the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of the Environment; or

(4) to any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of the Environment.

SEC. 116. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Environment, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency,

or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Environmental Protection Agency may be continued by the Department with the same effect as if this Act had not been enacted.

(f) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

(g) SAVINGS.—The Department of the Environment and its officers, employees, and agents shall have all the powers and authorities of the Environmental Protection Agency.

SEC. 117. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of the Environment".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of the Environment".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "Secretary of the Environment".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of the Environment".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of the Environment"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following:

"Assistant Secretaries, Department of the Environment (12).

"General Counsel, Department of the Environment."; and

(3) by striking out "Chief Financial Officer, Environmental Protection agency" and inserting in lieu thereof "Chief Financial Officer, Department of the Environment."

(f) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Bureau of Environmental Statistics, Department of the Environment.

"Executive Director of the Commission on Improving Environmental Protection.".

(g) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting "the Department of the Environment," after "Veterans Affairs,"; and

(B) by striking out "The Environmental Protection Agency,";

(2) in section 11(1) by striking out "or Veterans Affairs" and inserting "Veterans Affairs, or the Environment,"; and

(3) in section 11(2) by striking out "or Veterans Affairs" and inserting "Veterans Affairs, or the Environment,".

SEC. 118. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works and other appropriate committees of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to the Congress legislation which the Secretary determines is necessary and appropriate containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act.

TITLE II—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

SEC. 201. ESTABLISHMENT; MEMBERSHIP.

(a) ESTABLISHMENT.—There is established the Commission on Improving Environmental Protection (hereafter referred to as "the Commission") whose 13 members including the Chairman shall be composed of experts in governmental organization (with emphasis on environmental organization), management of organizations and environmental regulation and improved environmental governmental service delivery, consisting of—

(1) seven members to be appointed by the President;

(2) three members to be appointed by the Speaker of the House; and

(3) three members to be appointed by the Senate Majority Leader.

(b) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President in consultation with the Congress.

SEC. 202. COMMISSION RESPONSIBILITIES.

(a) RESPONSIBILITIES.—The Commission shall be responsible for examining and making recommendations on the management and implementation of the environmental laws and programs within the jurisdiction of the Department of the Environment in order to enhance the ability of the Department to preserve and protect human health and the environment. The Commission shall make recommendations and otherwise advise the President and the Congress on the need to—

(1) enhance and strengthen the management and implementation of existing programs within the Department;

(2) enhance the organization of the Department to eliminate duplication and overlap between different programs;

(3) enhance the coordination between different programs and offices within the Department;

(4) enhance the consistency of policies throughout the Department; and

(5) establish new and enhanced small business and small governmental jurisdictions compliance assistance programs, and to strengthen organizational mechanisms in the Department for providing better compliance and technical assistance to small businesses and small governmental jurisdictions.

(b) RECOMMENDATIONS.—The Commission shall provide specific steps and proposals for implementing the Commission's recommendations including an estimate of the costs of implementing such recommendations, except that the Commission shall not suggest substantive changes in the policy expressed by existing laws.

(c) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

SEC. 203. REPORT TO THE PRESIDENT AND CONGRESS.

The Commission shall report to the President and the Congress on its investigation, findings, and recommendations in an interim report no later than 12 months after the effective date of this title, and in a final report no later than 24 months after the effective date of this title. The interim report shall be made available for public review and comment, and the comments taken into account in finalizing the report.

SEC. 204. COMMISSION STAFF.

The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. With the approval of the Commission the Executive Director may appoint and fix the compensation of staff sufficient to enable the Commission to carry out its duties.

SEC. 205. ADVISORY GROUPS.

The Chairman shall convene at least one advisory group to assist the Commission in developing its recommendations. One advisory group shall be composed of past staff of the Department of the Environment and its predecessor Environmental Protection Agency, other Federal and State officials experienced in administering environmental protection programs, members of the regulated community and members of public interest groups organized to further the goals of environmental protection. The Executive Director is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code. The advisory group shall be subject to the provisions of the Federal Advisory Committee Act.

SEC. 206. TERMINATION OF COMMISSION.

No later than 90 days after the date on which the Commission submits its final report, the Commission shall terminate unless otherwise directed by the President.

SEC. 207. FUNDING; AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 in fiscal year 1993 and $2,000,000 in fiscal year 1994 to carry out the provisions of this title.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect 6 months after the date of the enactment of this Act.

The PRESIDING OFFICER. The manager of the bill, the chairman of the Governmental Affairs Committee, the Senator from Ohio [Mr. GLENN] is recognized.

Mr. GLENN. I thank the Chair.

Mr. President, I am particularly pleased, today being Earth Day, that we are introducing the 1993 Department of Environment Act.

I am proud to send this legislation up. This is legislation I have introduced twice before and which the Senate has passed once before.

It would make the Environmental Protection Agency a cabinet-level department. Along with making EPA a Cabinet-level agency, the bill also establishes a Bureau of Environmental Statistics to analyze and compile and publish data necessary to shape environmental policies. In addition, the legislation authorizes the establish-

ment of a Presidential Commission on Improving Environmental Protection.

Mr. President, the bill is backed by the administration. The President and Vice President both have expressed themselves in full support of this legislation.

Let me just say a couple of words about these two additions, the Bureau of Environmental Statistics and the Presidential Commission on Improving Environmental Protection.

Mr. President, when we first started looking at this matter of making EPA into a Cabinet-level department, we looked at the statistics situation and found that almost anything you wanted to prove, whatever your preconceived position was with regard to an environmental matter, you could find someplace with somebody with some set of statistics to back up your preconceived view.

It meant you could come on the floor of the Senate and have a study by one group, somebody on the other side could have a study by another group, and you both could prove your point by the statistics involved. This is not unlike the situation many years ago, with regard to labor statistics. They established a Bureau of Labor Statistics [BLS] that takes all these different views and develops some of their own, and then puts these into a form that is usable and is taken as the authentic figures for this country. That is what we see this Bureau of Environmental Statistics doing.

The Presidential Commission addresses something else we found. When we looked at elevating the EPA in our original legislation, we looked around for all the different areas of Government that should be brought into the EPA, if we are going to make this move. And we found that it is a rare agency or a rare department of Government that does not have some EPA function or some environmental matter that they are responsible for or that they have to address on a regular basis—that they have responsibilities for.

I will tell you, quite frankly, when the committee staff looked at this, we developed so many hundreds of these different places across the length and breadth of Government where there are environmental matters that have to be addressed, if we were going to combine all of these things into the department and have to make judgments which should stay where they are now—for instance, environmental concerns of the Department of Defense—we could not move all of them in, yet some should be moved in to be concerns of departmental EPA; it got to be beyond our capability to really do this. It got to be a very, very, very complex matter.

So what we decided to do is set up a commission. And heaven knows, in this day and age on the floor, I hate to rise and suggest any commission. I am sure my colleague from Delaware will have a few words to say on the commission, perhaps, later on. I hate to propose that as a solution. But I think in the long term we really do save a lot of money and we simplify Government if we set up a group to try to analyze these different functions of Government that deal with the environment that are now spread out through almost every agency and every department of Government. That is the reason we set up this commission. That is the only reason it was formed. It was not just to set up another commission, committee, council, advisory group, or whatever. It has finite life. We do not want it to go on forever.

Those are two major things that are put into the bill besides just a straight elevation to Cabinet-level status.

The bill before the Senate today is a substitute. It was agreed to by the Senate Committee on Governmental Affairs on March 24 of this year and is somewhat different from the original bill.

Let me briefly highlight the main changes:

First, it adds a provision abolishing the Council on Environmental Quality [CEQ] and distributes its NEPA functions.

I add that is not something we just formulated in the committee. It is something that the President has already taken action on. The President, when he came in, and Vice President GORE, preferred not to use the Council on Environmental Quality, and they wanted to distribute these NEPA functions in some different directions. So they took action to abolish the council. This legitimizes, or puts in legislation basically what has already been done at the executive level.

This provision is not only supported by the administration, but has been agreed to by the Environment and Public Works Committee, which received sequential referral of the provision and marked it up on April 2 of this year.

The committee reported the provision with no changes. It would give CEQ's NEPA functions, the National Environmental Policy Act functions, to the new department, except that dispute resolution authority would be undertaken directly by the President, where such authority already resides now.

The new department, working through the Bureau of Environmental Statistics, would be responsible for producing the annual environmental quality report required by NEPA.

The substitute also deletes title II of the bill involving an international meeting on energy efficiency and the establishment of a greenhouse gas monitoring office. There are a couple of reasons for this. In the current climate of budget austerity, these provisions can be eliminated from this bill without causing any difficulty or losing any important opportunity.

No. 2, we have already had some meetings. As a matter of fact, last year when then-Senator GORE of Tennessee was still in the Senate—now the Vice President of the United States—he led a delegation to South America, of course, representing us at an international meeting where matters such as this were discussed and can be discussed in the future. So we felt our original inclination to require an international meeting had sort of gone by the boards, so we eliminated it from this bill.

For similar reasons, the substitute deletes authorization of funding for the Bureau of Environmental Statistics without affecting the authorization of the Bureau itself. I just gave some of the rationale for the Bureau a few moments ago, but EPA has indicated to us that it believes that the Bureau can carry out its mission without any new funding authority. I was glad to hear that. They feel they are going to be able to run a sufficiently efficient organization at EPA now that they are going to be able to carry out this mission without increasing funding by using the funds that they have right now. So that is good news.

The substitute reduces by more than half the cost of the Commission on Improving Environmental Protection. That is the Presidential Commission I mention, which will examine and make recommendations to us about not only the ways to improve management of Department of Environment programs themselves, but also how we may include other Government agencies; functions in the Department of Environment and actually save money in the long run by doing that, by eliminating some of these duplicating functions we find in agency after agency, department after department.

I strongly believe there are issues that realistically do require a commission to resolve.

Some of these functions will be split. Some of the functions, as I mentioned, will stay in their existing spot now, in particular agencies or departments. Others can be more efficiently done by EPA, combined with functions from other agencies. So I think overall we will be able to save a considerable amount from the way the Government operates right now. I do believe a commission is required to resolve these things and I believe they can operate with fewer funds and I believe, in the long haul, that whatever the costs, these changes will represent a considerable cost savings as a result of this bill.

The United States and the world stand at a dangerous but at an opportune crossroad. Here and around the globe, environmental problems pose significant threats to the health and safety of billions. There is a new and a growing recognition of the urgent need to address the problems of global

warming, ozone depletion, water, air, sea pollution, and radioactive hazards.

We are almost inundated with things that come out of industry and our use of more energy and different types of energy these days, that give us a whole new host of problems.

Such problems are testing the mettle of governments all over this world to develop innovative, comprehensive, and cost-effective solutions that recognize the fragility of our ecosystems—and they are fragile—and the vulnerability of our people when something happens to our environment.

In the almost 3 years since I first introduced legislation to elevate the EPA, environmental problems facing our Nation have not improved. In some cases, they have grown more dangerous, more complex.

Some examples are the waste tanks containing high-level radioactive waste at the Hanford site in Washington State remain a dangerous threat to public health and safety. There is not any other way to put it.

Hundereds of Superfund priority list sites remain untouched as the endless battles of bureaucracy and resources continue. And it is almost amazing, with all the money in the Superfund and the time it has been there, and all the effort and concentration we have put on it, now little has been accomplished in cleaning up some of those Superfund sites. So on many fronts we are still struggling to clean our water, our air, and our lands.

Now more than ever, we need a Cabinet-level Department of the Environment. I say this first because more than one pundit has observed over the past year that such an elevation is merely a cosmetic and political facelift for an agency that cannot seem to get its job done in its current status.

I do not disagree in any shape or form that improvements need to be made at EPA. The Governmental Affairs Committee, which I chair, held hearings last year on management problems at EPA. And, hopefully, some of the things we do in this bill, together with the commission's recommendations, will address these problems. I think we can do a much more efficient job once the commission has gone through Government to see how we can combine some of the functions that are not under EPA now but need to be. But the fact that the agency needs improvement in no way diminishes the importance of making it Cabinet level.

Let me address a different issue. It remains a diplomatic fact of life for example, that the seriousness with which one views another Government's concerns is influenced by the stature, by the position of the person who articulates them. A sub-Cabinet EPA sends the wrong signal to the rest of the world about the priority and leadership given by the United States to the cause of global environmental protection.

In talking to officials who have gone to some of these international meetings, almost every other industrialized nation in the world that comes to these international convocations, or symposia or environmental meetings, comes with ministerial or Cabinet rank, except for the leading nation in the world, the leading user of energy in the world, the leading nation addressing environmental concerns in the world, the United States of America. Our representatives show up only with agency level status.

I am not saying that status of rank is everything in these international meetings, but it certainly accounts for something and accounts for some of the credibility that should be given to our representatives at these meetings.

I think, elevating EPA to Cabinet status is worth doing because of this: Our environmental concerns are not something that are going to be solved in a week, a day, a month, or even several years or even decades. What we are starting out with here is an emphasis on the environment and worldwide concerns that I mentioned earlier. That is going to go on for not only decades but, I believe, for generations. It is going to be something that the world is going to be concerned about and the United States will be taking a leadership role in for generations ahead. Long after anyone in this Chamber today and anyone on the roster of the U.S. Senate is gone, there are still going to be environmental concerns. They are going to be of increasing concern and deserve the status of being heard at the top levels of Government.

Can anyone truly claim there should be no room at the Cabinet table for the agency that bears the enormous responsibility for the basic elements of nature, the basic elements of nature that sustain life, sustain our lives right here on Earth? Indeed, the real and the potential impact on the human environment of our fragile Earth may be of such magnitude that they will require a level of attention never before even imagined both abroad and at home. I think the United States must provide aggressive leadership toward a solution of domestic and global environmental problems. To do otherwise would consign the quality of life of all Americans to the decisions of other nations and cede our moral obligation to protect the global commons that we all share, and it is indeed a global commons.

I do not usually rise on the Senate floor, as my colleagues know, and refer to experiences in space. I just do not do that. But I did have a unique opportunity to view the beauty and the grandeur of this Earth from space. Let me just give a little example that I was struck by then and I think every single person who has been an astronaut who has gone into space has been impressed by when they came back, and that is how thin and fragile the environment is that sustains life on our planet.

In high school, or even grade school now, the kids start looking at these charts, and they have a chart that shows the atmosphere above us. And it looks grand, it is glorious, it is big, it is thick, and you think you can throw almost anything into it and it can take it. It shows the atmosphere and the stratosphere and the substratosphere and the ozone layer, and it looks like it is so thick up there that nothing could harm it ever.

Yet, what is the truth about the thickness of this? The truth is that as we all climb on these airplanes to fly back home all over the country, when we go past 18,000 feet—which is not much; that is during climbout over Washington National over here you go about 18,000 feet—at that point, you are above 50 percent of the Earth's atmosphere. When you fly cross country—I came back the other day from Texas. I was down there with Senator KRUEGER. I came back from Texas, and the plane was cruising at 41,000 feet. At 40,000 feet cruising cross country on an airplane, you are above 80 percent of the Earth's atmosphere. There are only 20 percent of those air molecules left above you. We do not live in a layer. We live in a film of air that surrounds this Earth.

Let me give a little different example, and this comes from my own experience in the space program.

Looking back at a sunset or a sunrise, where the light of the Sun comes through the Earth's atmosphere and back out to the spacecraft going around the Earth, at sunset and sunrise, you are struck, when you look at it, with what a thin little layer that is. You cannot believe how thin it is with the light coming toward you.

Let me give an example of this. I mentioned 40,000 feet. Keep that figure in mind, 80 percent of the Earth's atmosphere below you when you are at 40,000 feet.

Let us say that I put my hand up here above my head, and with my height, that is about 80 inches. About another 10 inches on my height up here is 80 inches. Let each inch equal 100 miles. That would equal the 8,000-mile diameter of the Earth. And think of the Earth as this size here, a model of the Earth that is 80 inches around. Do you know how thick the layer of air would be that would encompass that 80 feet? If this is the diameter of the Earth represented by this 80 inches, that 80 percent of the Earth's atmosphere is less than one-tenth of an inch on that size Earth. Less than one-tenth of an inch on an 80-inch globe is what we live in. And if we louse it up, there is no coming back from that.

So it gives a little bit of an idea, having been up there and looked at it, how impressive it is. I think every person who has been privileged to go up there, as Jake Garn was, who was here in the Senate just recently—and we discussed

that here—you cannot believe how thin that margin is. It is not a huge ascendancy of atmosphere and substratosphere and all that we look at in the textbooks. It is a tiny little film we live in. And if we ever louse it up, if we ever pollute that thin film in which we live to the point where you cannot come back from it, then we will have done irreparable harm to the future of not only nature but of ourselves and all mankind into the indefinite future.

So, Mr. President, I am gratified to find that the vision of how fragile our Earth is, is becoming more widely known and that this view is becoming more widely shared. This has been through the hard work and the persistence of many environmentalists and others who have dedicated their lives to protecting the environment.

So I believe we now stand at the threshold of a very important and positive change. If I did not believe and if I was not confident that the creation of a Department of the Environment, as opposed to the current EPA, would strengthen our Nation's commitment to help protect this delicate and wonderful planet, then I would not be standing here advocating that. Mr. President, I think it will help to have a Department. I think it will gain more stature and more acceptance of its views in international organizations.

I urge every Senator to support this measure. I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Delaware.

Mr. ROTH. Madam President, the President's Cabinet is already rather large. I firmly believe that it should be reorganized as part of a top-to-bottom restructuring of the entire executive branch. I have introduced legislation, S. 15, to achieve that restructuring and hope that very soon the chairman and I will be standing here asking the Senate to pass such legislation.

But pending that legislation, I do believe it is important to elevate the EPA to Cabinet-level status. The EPA, in my opinion, is at least the equal of several other Cabinet departments. And when we do finally restructure the executive branch to prepare for the next century, it is appropriate that we now declare that environmental concerns be assigned to a Cabinet post. They are that important, as the distinguished chairman so eloquently stated.

In elevating EPA we will be instructing our people, our Government, and foreign governments on the importance that official U.S. policy places upon the cause of protecting the environment.

We have been, we are, and we will be asking the American people to bear a significant burden in time, effort, and money for environmental protection. It is appropriate that the Nation's official policy reflect that this burden is being undertaken for a very important cause.

Moreover, it has been my observation over the years that as Congress enacts various programs, it sets in motion conflicting policies. These conflicts need to be resolved within the Government itself by Government officials. It would be helpful in this context if it were clear to all Government officials what importance our Nation's policy attaches to environmental concerns.

Finally, in international affairs where we deal as strangers ever uncertain of one another, it is always a sign of a nation's commitment to an issue to see what rank and status are attached to those officials negotiating that issue. Since rank and status antedate the specifics of a given controversy, they serve as an objective index of a nation's sentiments, which cannot be manipulated for current effect. When other countries send their highest ranking officials to negotiate on the environment, we should not be placed in the quandary of deciding whether to send our highest ranking officials or our environmental officials. By elevating EPA to Cabinet-level status, we overcome that problem.

I find it fitting that we take this action so close to Earth Day, when awareness of our Federal environmental policy is great. The EPA was created by President Nixon by executive order in 1970 and over the years this agency has seen its responsibilities and size grow. Today the EPA employs over 18,000 people, oversees over 20 major environmental statutes and has requested $6.4 billion under President Clinton's budget proposal for 1994.

I have often expressed my strong belief that Federal planning and decision-making on domestic and international environmental issues must come from an organization with Cabinet-level status. The protection of our environment must be one of our top priorities.

In the years to come we will see the nations of the world getting together to agreement on the important environmental issues that affect us all. During these negotiations it is important that our chief negotiator have Cabinet status. It is also critically important from a competitive point of view because global competition must be bound by the same strict environmental rules lest our firms be disadvantaged by others who are producing products cheap and dirty. Elevating EPA should aid that effort.

My colleague, Senator GLENN and I worked very hard in the last Congress to pass an EPA elevation bill (S. 533). Unfortunately we were unable to reach an agreement with the House of Representatives. This year we will try again. Once again we have the support of the White House. Once again we have full committee support for the effort. But once again we have encumbered the effort with additional provisions and costs—the establishment of a Bureau of Environmental Statistics, the creation of a commission on environmental legislation, and grants to States for data collection. In addition, this time the committee has added, at the administration's request, a provision abolishing the Council on Environmental Quality.

Mr. President, for the last two Congresses, the extraneous parts of the bill have prevented its enactment into law and I have to say that I am afraid that the same scenario will take place again this year. Issues extraneous to elevating EPA draw fire; they whet the appetite of other Members to add their own extraneous provisions; they serve as cover for some who oppose elevating EPA by allowing them to take issue with these extraneous proposals.

So I believe that we should learn from our mistakes in parliamentary strategy and initiate and pursue a clean-bill strategy—one restricted to elevating EPA. We do not need to impose new mandates for this agency and the costs of this bill are still quite high for a time when we are looking at ways to reduce the size of the Federal budget deficit. If we do not initiate a clean bill strategy, we have no basis on which to oppose Senate amendments and House amendments as bad extraneous amendments. It is time to decide whether elevating EPA merits our allegiance or whether it is merely a circumstance to be used to force extraneous amendments upon unwilling Members of Congress.

I think we all realize how precious our environment is to us and how important it is that we be its guardians. We must demand the highest form of responsibility and action. The environmental legacy we leave for future generations of course depends on the right decisions being made today.

Mr. President, at the appropriate time I intend to offer a substitute amendment and I hope that my colleagues will agree with me that the surest and cheapest way to elevate EPA is to do exactly that and no more in this legislation.

Madam President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I am very pleased to stand here today in strong support of this legislation to make the Environmental Protection Agency a Cabinet department. I know the distinguished chairman of the Governmental Affairs Committee has been working for several years to accomplish this and it finally appears that there is light at the end of the tunnel. I commend him for his perseverance.

Madam President, it is fitting today that we begin consideration of this bill on Earth Day. This day symbolizes the importance of making environmental values a part of every day life, for creating a Cabinet department of environment is more than just a symbolic act.

It is a recognition that those same values must become an integral part of Government policy in all areas.

Energy, labor, finance, business, all the issues critical to our Nation's economic prosperity are represented in the highest levels of our Government as they should be, and environment deserves a seat at that table too, for without a healthy environment we cannot sustain long-term economic viability.

The Environmental Protection Agency was created by Executive order in 1970 to respond to decades of environmental neglect, and in the 23 years that have passed the EPA and this Nation have made considerable progress.

However, Madam President, as we approach the 21st century, we have new, very different environmental challenges that face us.

Last year, a distinguished alumni of this body, Senator Edmund Muskie, testified before the Environment Committee about these challenges. He said the problems we face today are much more difficult than the problems he faced when he chaired the subcommittee that was responsible for most of the environmental legislation we now have today. He said the problems we face today are much more subtle. They are much more complex, and much more politically challenging than those he and the Congress faced two decades ago.

Meeting these challenges would require strength, ingenuity, vision, though also they will require leadership, leadership in strengthening the link between our environment and our economy, leadership in moving toward true sustainable development. A department of the environment will help us achieve that goal.

This new era in environmental policy will also require some changes in the way we make decisions. For one, we cannot afford to compartmentalize issues as we have in the past. To paraphrase the great naturalist John Muir, when you try to pick out anything by itself, you find it connected to everything else.

Just as with nature, sound policy decisions today must take account of the interconnection of issues. It is critical. There are few major issues facing this country today which do not have environmental impacts. Trade and tax policies, investment decisions, energy programs, all have environmental components. By establishing a new Cabinet-level department capable of advancing our environmental effort on a broad front we can better achieve that necessary integration.

Furthermore, a Cabinet-level department will help put the environment on a more equal footing with the concerns represented by other agencies. It will allow environmental programs to better compete with other activities for scarce resources. And as I said, it will allow environmental considerations to be better integrated into the whole range of policy decisions.

That integration must also extend to our international relations and international trade issues. The environment can no longer be considered solely as a domestic issue, if indeed it ever could. Global problems such as the thinning of the ozone layer, greenhouse gas emissions, loss of biodiversity, cannot be solved by one country alone. It will take concerted, coordinated action by many nations.

As the domestic economic dimensions of international trade become more evident to us, so too do environmental consequences. Trade relations under the General Agreement on Trade and Tariffs, or the North American Free-Trade Agreement, are today dealing with environmental issues, and they are only just the beginning. This interconnection, this conjunction, this convergence of trade and environmental issues becomes more and more important and more and more frequent with each passing year.

Trade as a part of environment is an important first step in earning greater respect from the international community on these issues. Environment is a ministerial position in other countries. It has not been in this country. When we raise it to the same status in our country as it enjoys in other countries it will have the same respect in their eyes as their environmental departments already have in theirs. It is a first step in greater American leadership.

Most of our global competitors and our major trading competitors have given their environmental agencies full cabinet status. It is about time we do too. Because we do not, it puts the United States in the awkward position. When our subcabinet environmental officials negotiate environmental treaties and policies with cabinet-level ministers of other nations the United States is not on equal footing.

It sends a significant signal to the international community that we do not attach as great importance to environmental protection as do other countries. These concerns were expressed by former EPA Administrator, Bill Reilly, just last year when he stated "The perception that the United States Environmental Protection Agency is not headed by a Cabinet officer I think strikes many other governments as odd, anomalous, and difficult to understand, particularly now as we have these interactions on such fundamental important issues."

If we expect to be world leaders on environmental policies, our negotiators must clearly be seeing us on equal footing with other countries' negotiators. Establishing a Cabinet-level environmental department will do just that.

This legislation also terminates the Council on Environmental Quality. The President proposed this action in February in order to streamline the operation of and reduce the cost of the Executive Office of the President. Most of the duties performed by the CEQ will be transferred to the new department of environment. EPA already performs many similar functions under section 309 of the Clean Air Act. For instance, the new department will monitor the actions of other agencies for compliance with the environmental statutes, particularly the National Environmental Policy Act. However, if disputes do arise between the department and other agencies, the President retains the authority to resolve them as he has under current law.

There is money to be saved. CEQ currently has a budget of $2.5 million and 31 staff slots. By disbanding this Council and having the new department take over the functions within its existing resources, the administration estimates it will save most if not all of the $2.5 million annual budget.

Madam President, this legislation is important. It is long overdue.

The Senate passed a similar bill just last Congress. Today, on the anniversary of Earth Day, we are all reminded of the importance the environment plays on our individual and collective lives. It is an opportune time for this body to frame the same environmental awareness together.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Madam President, I rise as one who feels very strongly about the obligation that we have to handle the environment in a manner befitting our responsibility, taking particular advantage of the science and technology that has been made available as a consequence of the advancements in the manner in which we rely on resource development to support our economy, our jobs. And I would remind my colleagues that it is only by maintaining a strong economy, an economic viability, that we can truly meet not only the environmental challenge but the environmental obligation; that is, to address those areas of America that have been environmentally abused, and to ensure those unspoiled areas that we can proceed with responsible resource development by using sound science.

To ensure that decisions are made relative to the effects that resource development will have on our land mass, that those decisions are made with the very best science and technology as opposed to the raw emotion which often prevails in this body, where Members come to the conclusion as a consequence of the commitment of a national environmental group that may want to for reasons of pure preservation mandate that it simply is impos-

sible, or unsuitable, or unreasonable, and under the guise of environmental protection suggest that vast areas of America's resources should not be developed in a responsible manner, again using science and technology.

I supported the last Cabinet-level structure, with the elevation of the Veterans' Administration. The discussions with regard to elevating the Environmental Protection Agency to Cabinet status has been with us for a long time. The merits and obligations of meeting and being sensitive, I think, to the environmental concerns speak for themselves relative to the justification of elevating EPA to full Cabinet status. But I stand here today to communicate a certain sensitivity to balance and responsibility within the Environmental Protection Agency, and to remind my colleagues of the necessity of ensuring that only through a strong economy can we really function and meet our obligation.

I would like to vote for this elevation. I come from Alaska, and there is probably no State in the Nation whose citizens feel more strongly about protecting the environment than Alaska. We think that we are sensitive, that we are responsive to the new technology, and we are very frustrated by those who dictate the terms and conditions under which resource development would take place in our State, because they bring a mixed metaphor, a metaphor of concern. But once the veil is penetrated, you find more often than not, that you are dealing with preservationists who simply want to tie up in perpetuity huge areas of our land mass.

We have 56 million acres of wilderness, and we are proud of that. But there is a commitment by the national environmental movement by the turn of the century to increase wilderness in my State up to 100 million acres. That is uncalled for, unreasonable, and it is impracticable. And through the Environmental Protection Agency, we see a tremendous influence by these extreme environmental agencies that bear no responsibility for a healthy economy in this country, because it is not part, as they see it, of their social obligation.

Madam President, I encourage my colleagues to reflect, as we address the merits of the EPA Cabinet status, that there is a dual obligation to address environmental concerns in a constructive way, to ensure that we can have responsible development, we can have new jobs in this country, and remove the emotional aspects from the decisionmaking process and bring in sound science.

There are so many examples involving my State of Alaska where the EPA has shown unacceptable judgment, not just bad judgment, not just nonresponsiveness, but uninformed and uncaring in its enforcement efforts. As a consequence, I am very, very concerned. I know many of my colleagues have heard horror stories. But it is appropriate at this time that these horror stories be enunciated, because it is important that these public servants that serve within the Environmental Protection Agency be taken to task and recognize that they have a dual obligation not just to protect the environment but, clearly, to maintain an economic vitality that can support our obligation to the environment.

Sometimes it is hard to reward an agency for poor work, for irrational decisionmaking, and for sometimes thoughtless, bureaucratic behavior in the agency. It is there, Madam President.

In my State of Alaska, we are trying to get the EPA to follow the lead of 11 other Federal agencies and open up an Alaska regional office. The EPA's region 11 has been authorized by Congress. The authority has been given to the administration. The administration had exercised that authority and it is pending. We have the Park Service, Fish and Wildlife Service, Forest Service, Coast Guard, FAA, Bureau of Land Management, Minerals Management, BIA, and Army Corps; they are all there for a good reason. But there is a tremendous reluctance out of the region, region 10 in Seattle, to support a region 11 in Alaska. They do not want to come up there. They are afraid they are going to be transferred up there.

They are making accusations if the delegation—the senior Senator from Alaska, our Congressmen and myself—get them in our State, we are going to have some kind of undue influence. Can you imagine anything as irrational as that, any more than we have undue influence on the other Federal agencies? They are fighting us absolutely tooth and nail. We want them there, and we want them to live with us, and we want them to understand the uniqueness of a landmass one-fifth the size of the United States, our 30,000 miles of coastline, the fact that we are unique; and we are the only State in the Union where half of our land mass is a permafrost, where you cannot drill a well or put in a septic tank. We want them to come up and understand and coordinate and cooperate and recognize their interpretation of the Federal laws as they apply in Alaska, and recognize that when you decide you need another 90 days for a decision, more often than not, you are putting off the project for a whole year, because in many areas we only have a 90-day construction season.

It would make good sense for both the agency and for Alaska. We are the only State in the Union with Arctic, the only single State in the Union. We have Arctic conditions.

Madam President, as you know, we are the largest supplier of oil. Approximately 24 percent of the total crude oil production in the United States comes from my State of Alaska. We are the State with the largest mineral potential, most national forests, parks, wildlife refuges, and the greatest number of acres of wetlands, 170 acres, or nearly half of the State.

We have some 150 Federal facilities, Madam President, with hazardous waste problems associated with former military testing. We cannot get decisions in a responsible framework of time. The EPA, working with the Corps of Engineers, our State Department of Environmental Conservation, finds itself frustrated time and time again with the inaction from the Environmental Protection Agency, with headquarters located in Seattle. That location is some 2,000 miles away from Fairbanks or Nome. It would be like asking EPA officials in Miami to make decisions for Montana. The distance increases travel costs for the agency; it raises havoc with the timely decisionmaking process. Businesses often face huge costs from these delays. Most unfortunate is the fact that it results in a lack of trust.

One can go to Alaska and ask our Alaskan miners, who often feel the distant inspectors do not understand the problem. They do not know them. They come from Seattle, fly up in an airplane, stay at the hotel, go out on a mining property and spend the least amount of time. They only go on good days. They do not go when there is snow or rain or it is tough.

They make the decision or make the recommendation and take it back to Seattle, and time goes by and time goes by.

The sensitivity of the jobs, the cash flow, the payroll, these are all someone else's problems.

Moving government closer to the people, I think we would all agree, can help solve many of the frustrations, frustrations within EPA management, by improving the knowledge, by improving the timely decisionmaking factors.

I would encourage the new administration to move with dispatch to allow us to have what other Federal agencies have been granted in Alaska, and that is a responsible oversight, domiciled within our areas.

As to the decisionmaking process, I could go on and on and on. But let me highlight just a few because I think they are reflective not just of a few instances but of more or less a uniformity as a consequence of distance and lack of understanding and the fact that they can come up to Fairbanks, 1,600 or 1,700 miles from Seattle, and they do not have to live with the problem.

In my hometown of Fairbanks, EPA has recently turned down a proposal where 21 businesses offered to pay the EPA some $2.2 million toward the cost of a cleanup of a battery site. This was once a recycling site. It was a site that was set up to handle batteries that were no longer usable instead of leav-

ing them on the street, or leaving them in a gas station, or leaving them in a landfill, or dumping them in a river. It was an approved site, approved by the Government. Unfortunately, acid was spilled over an extended period of time.

There was a new highway going by. They did some soil samples and found out that indeed there had been pollution and it was necessary to clean it up. This was one quarter acre of land. EPA came in and said, "We are the only ones with the expertise to do it." They did not hire any local contractors. They brought contractors in from outside and expended over $3 million to pick up a quarter acre of soil and took that soil and put it on a railroad car and took it to Utah because we do not have any disposal areas in Alaska. Then they billed back to the individual Alaskans, the people who had contributed their batteries into an approved site. There were no deep pockets. These were little people.

I appealed to EPA. I said, "This is not what the law was designed to do." They said, "No; but we have the obligation to carry it out."

So negotiations went on. This has been going on for 3 years. Now they have turned it over to the Justice Department. The Justice Department does not want it.

These are the kinds of horror stories that exist within the EPA that we, as responsible legislators, have to address. And the people out there say: Good heavens; that is what we elected you for. We want to comply within the law.

Do you know what they are doing in my town of Fairbanks today? They are leaving the batteries on the sidewalk at night. They are dumping them in the river because there is no approved disposal, because EPA has simply shut it down and has borne no responsibility for any relief.

We recently had, in the entire State, one waste-oil recycling center, which was very marginal. The private sector put it in. EPA closed it.

Now, there is no question that there were reasonable problems with the facility. There is no other place now in Alaska where you can dump your oil. This was the recycling. Instead of going in and saying: Good heavens, we will help you get a grant; we will help—no way. EPA shut it down; in violation; marginal operator; lack of capital. Who would want to go in there and pick up a business like that?

We have to design this structure. EPA has to understand that they have to make the process work, too; not just enforce the law.

We had, about 15 years ago, one of the largest molybdenum discoveries in North America. It was in Quartz Hill near Ketchikan, AK. Eight years went into the exploration of the area, and $58 million in exploration.

Studies were made relative to tailing disposal, and various sites were chosen. And as a consequence of the evaluation that went on for that period of time, the Forest Service, along with the State Department of Environmental Conservation, had to address specific disposal sites for the tailings.

Madam President, the sequence of events is relatively revealing. Finally, at the conclusion of 16 years, someone added up the events that resulted in the project not going ahead. The history of Quartz Hill suggests that in 1974, a major discovery of molybdenum was made. This is a mineral used to harden steel. Then in 1988, 14 years later, the Forest Service gave a final environmental impact statement for tailings discharge in Wilson Arm. They said it was environmentally acceptable and the Environmental Protection Agency concurred.

The regional administrator at that time was a gentleman by the name of Robby Russell. A month later, in November, the Environmental Protection Agency issued a draft NPDES permit. They gave him a permit for the tailings. There was objection from the EPA underlings as to what was going on. In May 1990, the inspector general's report recommended region 10 reconsider its tentative decision to issue the NPDES permit for Wilson Arm tailings.

The report of the inspector general, which was brought about by extreme environmental pressure, stated that the EPA regional director Robby Russell's decision was "not illegal; just bad judgment."

So in May 1990, the EPA went back, and then they issued a tentative denial of the NPDES permit for Wilson Arm tailings. No new data was collected or analyzed to support the tentative denial. And it was made—believe this, Madam President—it was made by an acting regional administrator, Thomas Dunn, who just stepped into the new position. That was in May.

In September, on September 27, 1990, EPA issued a denial of the NPDES permit for Wilson Arm tailings disposal 4 days before the acting regional administrator, Thomas Dunn, left office.

I have pleaded with EPA for an explanation of this kind of activity. I never got one. I never got an adequate written explanation of how one administrator's decision could be overturned by a temporary acting administrator once they had gotten rid of the previous administrator.

These are the kind of actions that EPA has to account for. These are the kind of things that we have to reflect on when we debate on the merits of EPA having Cabinet status.

As a consequence, Madam President, 850 jobs of a permanent nature never came about. They never came about because U.S. Borox, out of Los Angeles, an old-time company in the United States—well known, 20-Mule Team Borox—decided that there was no point in an appeal to the EPA as a consequence of the objection by the national environmental communities and terminated the permit. And as a consequence, the area sits as it always was, a virtual wilderness.

What does that mean to the our administration's commitment to new jobs? No new 850 jobs there. No new contributions to offset the balance of payments with the value of molybdenum that would have come out of that project.

This is what we find frustrating as we reflected on our experience in Alaska with the Environmental Protection Agency.

Madam President, 3 years ago, in Juneau, AK, our State capital, the proposal to open Alaska Juneau Gold Mine had been underway, and the question of where the tailings disposal would ultimately rest came before the Environmental Protection Agency.

That mine had been the largest operating gold mine in the world up until the Second World War. The tailings were deposited adjacent to the mine, providing for a breakwater that Juneau enjoys today, which protects the area from the severe southeast winds that blow in the winter and fall and provides an ideal harbor. Those tailings extend into several hundred feet of water and have provided a huge landfill.

However, when the proposal was made to obtain a permit for underwater disposal in connection with the reopening of that mine, they were advised EPA would not even consider approving tailings disposal of ore, even though it was the best environmental solution. So now, after $1 million of planning costs, the question of where the tailings are going to go must be reconsidered, adding more delay, more cost, more loss of jobs.

This is not something new. Mining is not new. Tailings are not new. It is there. We have done it before. We have fish hatcheries on either side of the tailings pile that are successful in Juneau, AK. But it is an absolutely closed mine. No, because they do not want the Juneau Douglas mine open—because it is internal.

I think it is fair to say that most of my colleagues, if asked the question directly, would acknowledge the Environmental Protection Agency, as a matter of policy, is against mining. They do not bear any responsibility for jobs. They do not bear any responsibility for having a dynamic economy that can afford to address its responsibility in the environmental area, which can only come from prosperity, jobs, taxes. If we were to listen to the Environmental Protection Agency dictates today, you would not have a new mine in the United States.

So what does that mean? We simply import our minerals and export our jobs and export our dollars. We have had enough of that, Madam President.

Unresponsiveness. In 1991 and 1992, Alaskans and Federal and State agencies worked thousands of hours to design an Arctic offshore type of burner to test oilspill response capability. The idea was from the lessons of the *Exxon Valdez*. There was a necessity to improve the spill-response plans. Despite repeated efforts, pleas from the Coast Guard, the EPA simply did not respond until after the summer was over. The ice moved in. It was gone. The project never went ahead.

Last year, in my State, when the Environmental Protection Agency went to enforce new Clean Air Act requirements against Alaska's two largest cities, Anchorage and Fairbanks, it was noted that the Agency had never, done any studies of the health effects of the mandated oxygenated fuels in extremely cold climates like Fairbanks and, to a degree, Anchorage. As a consequence, nowhere in the country had they added toxins—and that is what oxygenated fuels are; there is a toxin that is added—and seeing what the results would be in extreme cold.

Well, I will tell you what the results were. People got sick, I have pictures in my office of people temporarily disfigured by the fumes, the toxicity. You are putting toxins in the air at 40 and 50 degrees below zero. Now, that does not mean much to the other 49 States, but to the State of Alaska, where we have those temperature extremes, we find that our Governor had to declare an emergency and mandate that oxygenated fuels be terminated in Fairbanks, AK, for health and safety reasons.

The other consideration, of course, was the moisture added to the fuel. And in an ice fog condition, which we have in Fairbanks when it is 40 or 50 below, it created a safety hazard to drivers.

Here is an Agency of the Federal Government mandating a policy in my State where they have not even tested—have not even tested—and we had to have our Governor issue an emergency. We pleaded with region 10 in Seattle. I am not going to make too many friends down there; probably do not have too many left. But they have a responsibility and they hide behind the shield of distance and authority, and it is a tragedy.

Conflicting laws. Parts of the EPA, with regard to its nonregulatory side, such as pollution prevention and environmental risk assessment, do a responsible job in my State. It is the regulatory arm that can be so irrational, so frustrating, so impossible.

There have been industries in my State, pulp mills—we only have two, I might add, the only two year-round manufacturing plants we have in the State, in the southeastern part—that have been targeted for enforcement in one area, such as wastewater disposal, simply because their discharges changed as a result of meeting other EPA requirements, because they installed air-pollution equipment and so forth.

The Agency is divided into serfdoms that seldom take a comprehensive or rational approach to pollution prevention through mitigation. They do not really care. They are not concerned with what the other side is doing. As a consequence, the responsibility, of course, is on the industry, not the EPA. They say, "Well, that other Agency, we do not have any authority for them." They do not have a responsibility for them.

Another area is avoidance. Finally, the Agency, in many cases, is inconsistent. Sometimes it seems like problems that are out of sight are out of mind. In our villages in Alaska, for example, we have some of the poorest sanitary situations probably in the world, because we have permafrost. We do not have water and sewer. We have honey buckets. You have a honey bucket man that comes around and picks up the sewage. The honey bucket in the house is a bucket under a hole. It is tough.

What do we do about it? What does EPA do to help us about it? The agency simply says, "That's your problem."

You know, we are looking at the role of the EPA in some of the international issues, to fight radiation contamination as a consequence of some of the extraordinary disposals of nuclear reactors by the Russians as they break down their nuclear submarine fleet, things that can threaten the North Pacific that I live in, that much of the world lives in, that the Presiding Officer lives in, as well. We have the uniqueness of Arctic haze—pollution—that flows in the Arctic and stays, and the haze is associated with European industry.

Sometimes, of course, the Agency is overzealous. Some of their requirements are on secondary water treatment for urban systems when the greater need is to bring all of our rural areas in the United States into the 20th century for water and sewer and sanitation.

We had a case, Madam President, the other day, with regard to wetlands. EPA has often denied permits for development of small areas in Alaska, a school site, a homeless shelter in Juneau, a tract in Wrangell. As I indicated, only Alaska enjoys the uniqueness of permafrost. One-half of our State is wetlands. Only one-half of 1 percent of our State's wetlands have been developed. That is only roughly 80,000 acres out of 365 million.

But the Agency's concerns out of Seattle, more often than not, are misplaced. We had a case in a school in Juneau where the permit was denied because it was determined to be a wetland, yet it was on the side of a hill. We could not figure out how it could conceivably be included in a wetland category.

Well, it was rather interesting to hear the definition. The definition almost seemed to be made up to ensure that the school would not be built. It was explained that, if there was drainage within so many hundred feet of the school, not coming from the area around the school but from the hill behind, and that drainage flowed into a creek and that creek, within so many hundred feet, flowed into salt water and that creek could support salmon, then it met the criteria of being a wetland.

The terminology specifically was anadromous fish as opposed to salmon, fish that live in the salt water and come up and spawn in the fresh water. It was an extraordinary combination of circumstances relative to making the point.

We explained the realities. This was on a hill. The school was needed. It was private land owned by the Borough of Juneau. And we went on and on and on and finally, after a year and a half of dialog, considerations were made if a bridge were designed in such a way as to be a foot bridge, and so forth and so on—and the permit was issued.

But the purpose of the Senator from Alaska making this rather extensive statement is to simply sound an alarm that as we address the issue of setting the EPA to Cabinet level, we have to give them the guidelines and intent—even though we are sensitive to the environment and we want environmental protection—that we want enforcement of the law.

We had an issue not so long ago where we had a person in an administrative capacity in Alaska who was expressing his own opinions relative to the obligation that he had as a top Federal environmental regulator. He was critical of the development—not addressing his responsibility that what action he took had to comply with law—but insinuating that pressure was brought to bear to bring about the permitting process.

This kind of dialog perpetuates an atmosphere that pits individuals against governmental authority. His responsibility was to simply see that the law was complied with. If in the development scenario the law was not complied with, then he had not been doing his job.

We see this time and time again, as people in the Environmental Protection Agency who have an agenda and want to promote that agenda, use their positions, use their soapbox, as an extension, if you will, of their own particular beliefs.

So I urge my colleagues to recognize, as we address this legislation and go into the details, the necessity that EPA has to make decisions based on sound science in a prompt manner, befitting of the reality that as they ad-

dress environmental scenarios such as issuing a national pollution discharge permit, whether it be for petroleum development in my State, or the State of California, that they make it in a timely manner.

I am told that in region 10 there is one person—one person out of some hundreds of people—who has the authority to do this. This is a priority in my State—it is a priority in California—to ensure whether or not we are going to have responsible oil exploration development.

Well, it is said, "We really do not like oil." No, you may not like oil, but today the United States is consuming 16 million barrels of oil. Half of that oil is being imported into this country and the other half we are producing ourselves. How is it imported? It is coming in in foreign ships. That is how it comes in. Maybe we would like to have less dependence on imported oil, less dependence on the Arab States for our oil. Maybe we could keep some of those jobs at home. Maybe we could stop sending our dollars over to the Arab countries.

How do we do it? We need the cooperation of Government. We need the cooperation of the private sector utilizing public land, utilizing sound science, and utilizing the expertise of our agencies that are designed and set up for responsible protection—not set up to block responsible development.

The reality of where we are is perhaps a little unique. All the rest of the States represented in this body with the exception of my colleagues from Hawaii, have been around 100 years or so. We have not. We became a State in 1959. We are all by ourselves. We are trying to create an economy. We are trying to create land use patterns. But 70 percent of our State is owned by Uncle Sam. So we are in a constant battle with Federal agencies relative to the responsible development of our State.

We have a mining industry, and we have already seen the ramifications of the suggestion by the administration, and some in this body, that would put a 12.5-percent or an 8-percent royalty on their gross production. It would simply eliminate new mines in the United States. We would be dependent on South Africa. We would send those jobs overseas and send those dollars overseas.

I think we owe the American people a real obligation here. As we look at the merits of elevation of the EPA to Cabinet level, I think we should reflect on the comments that were made by the new head of the Environmental Protection Agency, Carol Browner, in a recent release. If I do not quote it exactly, I am certainly close enough: It is a mess; it is out of control.

This is the agency that we are talking about elevating to Cabinet status. We, and they, have an obligation collectively to work to get it in control, make it responsible, make sure the administrative officials are willing and able to be objective and to accept the responsibility for making decisions under the law. It is up to us to ensure that the laws that we pass are passed with a legislative intent that we understand, because so often we are frustrated with what comes out of the pipeline, where we say: Gee, that was not the intent when we passed that. We wanted to protect the environment, but it came out that it strangled development, it strangled jobs, and it strangled the ability of this economy to be prosperous enough to afford the environmental responsibilities that we have.

In my State, responsibility development is stymied, strangled, held up, buried—because the EPA, through its interpretations, refuses in the most part to act in a timely manner. They simply are not able. They are neither geared, nor of the mentality, to make decisions in a sound manner relative to limited time.

They have one excuse after another. If you attempt to rattle their cage, you might as well walk into a stone wall.

I am not through talking about the EPA, Mr. President. I may be through for today. But I am going to refine these horror stories. I am going to share them with each of my colleagues because I want each of you to know what we are taking on here. All of us want it done right, all of us want it done responsibly, but they have to get the message, and that message is they have an obligation, too, to make it work. And their record to date has not shown the degree of responsibility that, in all honesty, is deserving of an agency that is contemplating Cabinet level.

(Mr. WOFFORD assumed the chair.)

Mr. GLENN. Will the Senator yield?

Mr. MURKOWSKI. I will be happy to yield.

Mr. GLENN. If I can make a comment, we have written into this study commission—it was put in deliberately to address some of the things you bring up. I have some of the same concerns as you do on this. We have held several hearings over the last several years as we had this EPA bill in committee. Some of the management problems they have had have been enormous. Some of the examples that you brought out today I think are valid and very good and should be addressed.

We also found that some of the environmental concerns are all over Government. They are everywhere. There is hardly a department or agency of Government that does not address some part of the environmental problem. A lot of these things should be folded under one umbrella and end all this silly duplication we have all over the lot, which is very expensive and very cumbersome. Nobody knows where they stand or what agency is liable to come at them next, EPA or someone else, with some environmental restriction.

We started trying to get into this problem in setting up the EPA bill. We were going to take all these things and study them ourselves and see what should come in and what should not, and how we are going to make EPA function more efficiently than it has in the past and to correct some of the things you talked about today. It got beyond our ability to do it staffwise, and it got so complex that it was bigger than any effort we could put into it.

What we did—and I started out my remarks earlier today by saying I am the last Senator in the United States who wants to stand up here and say we have to have another committee, commission, advisory group, whatever; in this case I think we really do—is two things: To look at this Government-wide, but the other is to bring some semblance of management sense to EPA so we can get on with addressing some of the very things you talked about. That is really what was at the heart of creating this commission. I did not want a commission, frankly. When the staff first suggested it, I went through the roof, another commission or advisory group. Then we talked about it, and I do not know how else to address the problems you are talking about. I think this can be a very good group and can address some of the things you are talking about.

Mr. MURKOWSKI. I thank my friend from Ohio for the assurance and sensitivity he expressed. As we reflect on our obligation, if we cannot fix it, who can? That is a burden that we have to carry because it is extraordinarily complex. The laws and the agencies and the overlap—I find in my own State more often than not, there are two permits required for anything of a marine nature. It may be logging, it may be a few pilings put up. It requires a Corps of Engineers' permit and an EPA permit. It would be great if there could be one-stop shopping. We do not want to get around the law, but there is the duplication and the cost to the Government. I hope that the steps taken by the floor leader are meaningful and responsive because I think we all sense a frustration out there, not to circumvent the law, but to get on with a responsible process.

So I assure you this Senator from Alaska is most anxious to work in accord with the intention of the floor leader. I thank the Chair.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Would the Chair announce the parliamentary status presently before the Senate?

The PRESIDING OFFICER. The bill, S. 171, is pending for debate.

Mr. REID. Mr. President, I take this opportunity to speak about this bill, being a member of the Environment and Public Works Committee to which certain portions of this bill were referred and on which we held hearings. It was reported favorably to this floor.

I think it is important that the American public recognize that we, as a Congress, are going to elevate the Environmental Protection Agency to a Cabinet level. That is important for a number of reasons. The first reason being that in Nevada, as I think most States in the Union, there is nothing that people feel more fervently about than the environment. Second only perhaps to having a good job, people are concerned about what is happening to the environment around them.

Therefore, elevating this Environmental Protection Agency to Cabinet status gives to that agency the notoriety and the dignity that it deserves. And second, I think as a result of the work done by the Governmental Affairs Committee, the Environmental Protection Agency will be able to do more and do it more quickly.

I want to talk today, though, Mr. President, about a matter of philosophy, about something on this Earth today that I think deserves some attention, in addition to the fact that we are beginning debate on the important issue of elevating the Environmental Protection Agency to Cabinet status.

It seems that as the weeks go by, we take for granted the fact that we are going to have oilspills, whether in our oceans or on our lands. Oilspills are just part of modern day America. It reminds me of the treatise written by our colleague, Senator MOYNIHAN, the senior Senator from the State of New York, where he talked about how we are driving deviancy down; that we no longer recognize certain things for what they really should be. We are beginning to accept the unacceptable. Even though he did not write about how we are accepting the unacceptable in the environment, he could just as well have done that.

We recently were all watching our television sets as the ship which had gone aground off the Shetland Islands stood as the waves crashed over it, wondering if there could be some relief in removing that cargo from that ship. The weather was bad and the cargo was not removed, and oil far in excess of what spilled out at the *Exxon Valdez* spilled all over those beautiful islands.

What has happened to those islands as a result of that huge amount of oil spilling we do not know yet; it is too early. We do not know what has happened in Alaska as a result of the *Exxon Valdez* oilspill. We do not know what these spills all over the world have done. They do not even make the newspaper or the news anymore.

In Nevada, we have had our own oilspill. Now you may ask, how could Nevada have an oilspill? We have had an oilspill because we have to pump in to Nevada millions and millions of gallons of fuel to handle the millions and millions of people that traverse Nevada.

In northern Nevada, not the heavily populated southern Nevada area, but in northern Nevada, I was involved in something that has come to be known as the Helms pit, a huge gravel pit, Mr. President. And we started noticing in this gravel pit a black ring around this huge pit that had been excavated for gravel.

To make a long story short, this site was declared a Superfund site, and right now, this oil that leaked from this underground piping, is being pumped out of the Earth around Reno, NV. We did not know at the time how much oil was in the ground. Some estimated 40 million gallons—four times more than the *Exxon Valdez* spill—leaked into the ground in Reno, NV.

Had it not been for this gravel pit, which in effect changed the flow of gravity—because of this huge hole in the ground, the flow of gravity changed and the oil that was in the ground traveled away from the Truckee River, the only water for that area, and in effect saved the river and the people of Reno.

Well, there are Helms pits all over the United States. You do not have to be on the oceans or on the coast to suffer an oilspill. They can even happen in the deserts of Nevada.

You read the papers here in the Washington area. Colonial Pipeline made headlines because oil was spewing into waters around the area. It is interesting to note that oilspills like the Helms pit and the Colonial Pipeline cause four times the amount of oil-related products spilling into the Earth than spills that occur in our oceans and seas around the world.

Let me repeat that. Oilspills like the Helms pit and the Colonial Pipeline here in the area of the District of Columbia cause four times the amount of pollution than happens in our oceans. We can see it better in our oceans. The oil leaking at the Helms pit is underground. You cannot see it. But it is degrading the environment just the same.

Now, this spill in the Washington, DC, area, the Colonial Pipeline spills is the fourth such spill that Colonial has experienced in the last 4 years.

What are we going to do as a nation to establish a policy to prevent these environmentally disastrous occurrences?

I believe, Mr. President, that we have to recognize that we have to get away from fossil fuels. I have stated in the last several weeks that we need to develop hydrogen, we need to develop solar power. We can do that. We have sent a man by hydrogen fuel to the Moon. When, then, can we not use hydrogen fuel to power motor vehicles and our industrial plants in the United States? There is no reason other than that it is not the public policy of this country to move away from our dependence on fossil fuel.

As a member of the Environment and Public Works Committee and chairman of the subcommittee that is in charge of research and development, we held a hearing on hydrogen fuel, and for the first time we received cooperation from a lot of different agencies and people that we had not received help from before.

We received testimony from Dr. John Gibbons, the President's chief scientific adviser who was the Director of the Office of Technology Assessment advising the Congress for many years; Dr. Robert Williams from Princeton University, one of the foremost experts in the world on hydrogen and hydrogen fuel cells; Dr. James Lents of the South Coast Air Quality Management District in Los Angeles—not a very impressive name, South Coast Air Quality Management District, but they testified that last year it cost $9 billion to continue efforts to address air quality in the Los Angeles area as a result of the continued use of hydrocarbon. He testified that this Government has done almost nothing to assist the private sector in developing and demonstrating new technologies such as hydrogen and hydrogen fuel cells.

We had witnesses from Texaco, Atlantic Richfield, Ford Motor Co., McDonnell Douglas, and Lockheed. Why were they testifying? Because we are going to move to hydrogen fuel. It is only a question of when.

But look at what the policy of this Government is, Mr. President. Last year we spent $4 million in the area of hydrogen research and development, $4 million. We, as a Federal Government, recognizing what is going on around this country and what damage is being done by fossil fuel, spent $4 million in the area of hydrogen research and development. We spent only $12 million on the fuel cell transportation program.

Ballard Power Systems of Canada sold a fuel cell to be used in an experimental bus program that the Department of Energy, our Department of Energy, is developing. We have another experimental bus program between the DOE and the DOT, and they are using a fuel cell developed by Japan.

What makes this truly sad is that it is the U.S. technology that has been relied on to develop these technologies and under patent provisions of the United States. But the Federal Government has not been willing to assist in the research and development so it is going offshore.

Now, I mentioned we are spending $4 million in the area of hydrogen research and $12 million in fuel cell development. What are we spending, Mr. President, on nuclear fission research? $700 million. What are we spending on fossil fuel research? $500 million. That

as compared to $4 million in hydrogen research.

Japan has a 27-year program to develop fuel cells and other hydrogen-related technologies at a cost of $2.5 billion—a 27-year program. Germany, Belgium, Canada, Japan are forging ahead with these programs. They will be relying on hydrogen as a fuel source and doing it very soon, a clean, renewable source of energy that is going to take these other countries, and I hope our country, into the next century.

Texaco representatives, among other things, testified at the hearing that they expect a shortage of hydrogen to occur within the next 10 years, hydrogen we are not even using. We need to be developing massive sources of hydrogen energy. It is easy to do. All you need is water and some power source.

What if we had a hydrogen fuel tanker run aground in the Shetland Islands? What would happen? You would spill water vapor, mist, not black, murky oil that would destroy those islands.

So, Mr. President, what does this add up to? It adds up to the fact that we as a country must spend more than $4 million on hydrogen research.

Where are we going to get the money? Well, let us take a few dollars from nuclear fission research, let us take a few dollars from fossil fuel research and put it into hydrogen where it will do some good.

I went to the opening of a facility right off the Hill where they are going to stress alternative energies, and they said if we did what we should do in alternate fuel development, hydrogen, we could create 300,000 new jobs in America.

We need to keep pace with foreign competition. We need to recognize that this Government has made no comment for alternate fuels, and we need to make a commitment for alternate fuels. Hydrogen and solar is the name of the game.

I am holding a hearing next month on solar because solar and hydrogen are a great match.

So on this Earth Day, Mr. President, I believe that we as a Congress must become united in developing alternate energy sources.

We cannot wish it upon us. We can only do it by putting our money where our mouth is. We do not need to look for vast resources of money. I have no problem taking $100 million that we spend on nuclear fission research and putting it in hydrogen. I have no problem in taking some of the $500 million for fossil fuel research and putting it in hydrogen. We need to do what is good for my children and my children's children so that they can breathe pure, fresh air.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

THE SO-CALLED ENHANCEMENT PACKAGE

Mr. SPECTER. Mr. President, I consider it unfortunate that the legislative proposal on the so-called enhancement package was not passed, and that only $4 billion was finally appropriated for extension of unemployment insurance. As to that aspect, in and of itself, I think it is desirable that we face up to that responsibility because it is an intolerable situation to have people unemployed and without unemployment insurance. That aspect was desirable. It is too bad we were unable to work out a compromise on the balance of the legislation.

The President's bill had been reduced, as I understand it, to $12.9 billion, including the $4 billion in unemployment compensation. Senator DOLE had taken a compromise proposal late yesterday afternoon to Senator MITCHELL consisting of $4 billion for unemployment insurance and $2.55 billion for other matters, with the $2 billion proposed by Senator HATFIELD, which included $450,000 for summer jobs. That figure was later increased to $1 billion.

Regrettably, Senator MITCHELL and Senator DOLE could not come to terms and the bill failed. I know that there is widespread concern around the country that there is gridlock and that important legislation was not enacted.

My own view of the situation, as I have articulated on this floor, is that there was no occasion for an emergency bill; that all of the accounts requested by the President had funds in them. Community development block grants, for example, had some $8.8 billion. Summer jobs had some $700 million, with only 5 percent having been obligated or expended.

Down the line, there were funds available for the executive branch to accelerate expenditures.

Notwithstanding that, it was my sense that it was highly desirable to work out a compromise. That was so the American people would see that Republicans could work with Democrats, Democrats with Republicans, and the executive branch with the Congress. It is my hope yet, Mr. President, that we will be able to work out a compromise.

As I said briefly on the floor yesterday, I had placed a call to the President and talked to him yesterday morning, urging him to call Senator DOLE and Senator MITCHELL in to try to work out the compromise. That did not occur. But there are many in this Chamber who would like to see a compromise worked out.

Some Senators had worked through bills in the range of $8 billion to $9 billion, and it is my intention to work with my colleagues on this side of the aisle and on the other side of the aisle to try to put through a compromise proposal to introduce legislation, with special emphasis on summer jobs, highways, inoculations, and small business, so we can produce a bill which will meet the needs of the American people.

SENATORIAL TRIP TO AFRICA

Mr. SPECTER. Mr. President, from April 7 to April 18, we visited central African countries to look at the U.S. trade opportunities, their human rights policies, and the issue of future trade in those areas.

We visited eight countries: Senegal, Cameroon, Kenya, Uganda, Central African Republic, Congo, Nigeria, and Mauritania. We saw a breathtakingly beautiful continent with vast underdeveloped resources.

The one distinguishing experience that I had was in Masai Mara, in Kenya, where I saw an anxious guard and asked him if there was a security problem. Finally, he flashed his light into the rear of the encampment. We slept in tents there. There was an enormous elephant, which indicated we had kind of a security problem.

While in the Cameroon, I saw a man totally naked walking down the street, and was told that the local authorities could not control that kind of a problem, different from the kinds of homeless problems we have in the United States.

While we were not there long enough to form firm conclusions, we did reach some preliminary observations: That it is a region in transition, struggling to bring democracy to their countries with multipolitical parties; that there is a background of colonization, military dictatorships, and a lack of education, which makes it difficult to have a smooth or easy transition to the democracy or the eradicate longstanding corrupt practices.

We saw numerous human rights violations everywhere, and those have to be addressed and have to be corrected. We found enormous potential for foreign investment and trade, providing that there are stable, corruption-free governments.

We believe that increased involvement by Members of the Senate and House, such as visits, studies and exchange, will be very productive. We were surprised to find how few Members have visited Africa, especially central Africa.

We found that, with respect to the Central African Republic, we were the first Senators ever to visit that country, and that no Senator had visited the Congo, Mauritania, or Cameroon since 1985.

Africa is going to be very important in the future, and I commend to my colleagues activities and trips there.

I found, Mr. President, in my own travels, that for the U.S. Senators to talk to foreign leaders and tell them what goes on in our country, and what our expectations are is very productive.

Mr. President, I ask unanimous consent that a full text of a statement on our trip be printed in the RECORD following these introductory remarks, and that it appear in the CONGRESSIONAL RECORD as if read in full on the Senate floor.

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

STATEMENT OF SENATOR ARLEN SPECTER REGARDING APRIL 7–18 TRIP TO AFRICA

From April 7 through April 18, Sen. Larry Pressler and I visited East, Central, and West African countries to assess U.S. trade opportunities, the African countries' human rights policies and the potential for future U.S. air which now exceeds $1 billion annually. We traveled from the Indian Ocean to the Atlantic Ocean directly across the heart of Africa. Our trip was delayed because the Senate adjournment was delayed, so we missed the Aspen Conference in Capetown.

Our visits to Senegal, Cameron, Kenya, Uganda, Central African Republic, Congo, Nigeria, and Mauritania disclosed a breathtaking continent with fascinating people, complex political structures and vast underdeveloped resources. At Masai Mara in Kenya, I saw an anxious guard and asked if there was a security problem. Finally, when our language differences were overcome, he flashed his light showing an elephant in the midst of our encampment. In Cameroon, I was startled to see a nude man, obviously deranged, walking down the street and was told the local authorities could not adequately deal with that problem.

In Kenya and Uganda, we saw vast numbers of wild animals including lions, zebras, elephants, giraffes, topiis, cheetahs, water buffalo, elands, warthogs, wildebeests, gnus, baboons, gazelles, vultures, eagles, and a wide variety of other birds. We saw reasonably well developed capital cities such as Nairobi, Kampala, Yaounde, and Lagos/Abuja, and we saw very under developed capitals such as Bangui and Nousachott.

While we could not master the complexities of these countries in a few days, we did reach some preliminary conclusions:

First, the region is in transition struggling to bring democracy to their countries with multi political parties;

Second, the background of colonization, military dictatorships and lack of education make it difficult to have a smooth or easy transition to democracy and to eradicate long-standing corrupt practices;

Third, numerous human rights problems exist everywhere;

Fourth, there is enormous potential for foreign investment and trade provided that stable, corruption-free governments could be established; and

Fifth, increased involvement by Members of the House and Senate (visits, study, exchange) would be very productive.

Senator Pressler and I were surprised to note how few Members of Congress had visited these countries. For example, we were told we were the first Senators ever to visit the Central African Republic. I have since been advised that no Senator had visited the Congo, Mauritania, or Cameroon since 1985. And while Senatorial delegations have visited Kenya, Nigeria, Senegal, and Uganda within the past two years, such delegations have amounted only to a handful of Senators. I believe that in view of the democratization process that all of these countries are undergoing and the amount of money the United States invests in these countries, it is very important that more members of Congress visit African countries.

Everywhere we traveled we found active and cooperative Embassies. We should be proud of the dedicated Embassy personnel who go to these hardship posts and serve their country well.

There is enormous potential for foreign investment and trade with the African countries which are rich in oil, precious minerals, agricultural products, and energetic people. I was pleased, for instance, that President Musevini of Uganda was in complete agreement. When I raised with him the issue of U.S. financial aid, President Musevini stated he was far more interested in attracting foreign investment by business interests than he was in attracting funds from the U.S. government. It was refreshing to hear an African leader with such perspective. In my judgment, if President Musevini is successful in attracting such capital investment, Uganda will again live up to Winston Churchill's characterization of that country—namely, that it is the "jewel of Africa."

Incidentally, on May 18 President Musevini is scheduled to visit the United States. As I believe it is important for the United States and for Uganda, I will be joining Senator Pressler in writing to President Clinton and to the leadership here in the Congress encouraging them to meet directly with President Musevini.

A significant problem, however, is posed by human rights problems as noted in the State Department's "Country Reports on Human Rights Practices for 1992." Everywhere we travelled we confronted reports of human rights violations. In Kenya, for instance, we heard from opposition party representatives and media persons critical of the government. They represented to us that opposition party members of Parliament needed to obtain a permit from the government to address their own constituents. They also spoke of detainment by the Kenyan government of opposition representatives for expressing views critical of the government.

Throughout our trip we pressed the four heads of state with whom we met—President Kolingba of the Central African Republic, President Lissouba of the Congo, President Musevini of Uganda, and President Biya of Cameroon—as well as the transition head of the government in Nigeria, Chief Shonekan, and other government and political officials in Senegal, Kenya, and Mauritania of the importance to the United States on respect for basic human rights.

Discussions with the presidents of Cameroon and the Central African Republic are illustrations of the human rights problems. In the meeting with President Biya of Cameroon, we raised with him the State Department report of politically motivated extrajudicial killings by the military and the subjection of civilians to sustained cruel and degrading treatment. He responded that his government is educating security forces and the military to change their practices of brutality and that he is ordering the discipline of those who do not change. In addition, President Biya committed to notifying our Ambassador in Cameroon, Ambassador Harriet Isom, of those members of the security forces who have been so disciplined.

President Kolingba of the Central African Republic, however, seemed less forthcoming in addressing our concerns expressed about human rights violations. When I presented him with a copy of the State Department report concerning his country, President Kolingba said that he would respond through our Embassy if there was something to respond to.

Our conversations regarding human rights were also illustrative of the progress these countries are making towards democratization. I believe that with the fall of the former Soviet Union, many African leaders are witnessing that single-party, central government or military rule will ultimately fail. Thus, they are moving—some more slowly than others—towards democratization.

In the Congo, for instance, we were confronted by the symbolism of the change in their flag. Our briefing materials showed a red Communist flag. The new flag, however, is a green, yellow, and red. In my judgment, this is an important improvement, albeit symbolic, as that country moves away from a centralized Marxist state to a multi-party form of government.

In Uganda, President Musevini stated that the constitutional process is moving forward, that nothing will stop it and that presidential and legislative elections will be held in 1994. In Nigeria, the head of the transitional government, Chief Shonekan, stated that their two party system is moving forward with a series of elections having already been conducted at the lower level, party conventions having been concluded and elections for president being scheduled for June 12 of this year. He said that the military head of state, Babangida, will be retiring from the military following the elections. He also said that the transitional government is taking steps to implement important policy measures to eliminate the daunting problem of corruption within the government.

An additional matter that I raised with Chief Shonekan was that of the plight of three American children from Minnesota who were abducted by their Nigerian father and taken to a village in Nigeria where they are said to be unhappy and in ill health. Chief Shonekan expressed much concern in this matter and gave his commitment that he would pursue the matter immediately with the Nigerian Attorney General. We are hopeful, therefore, that we will be able to obtain the return of the children to their mother in Minnesota in relative short order.

To be sure, Mr. President, democratization of these countries will be slow in coming. The scars of colonialism and post-colonial control by European countries must still be overcome. With the fall of communism in the Eastern Block and the former Soviet Union, I am hopeful that democracy will take hold in these and other countries. The African continent has much to offer. Unfortunately, it has been neglected.

There is an opportunity for us to further the development of democracy in these countries. I urge each of my colleagues, however, to make their own determination by directing more of their personal attention to these countries.

Mr. SPECTER. I thank the Chair.

I note no other Senator on the floor. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MESSAGES FROM THE HOUSE

At 4:43 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 38. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes.

H.R. 328. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico.

H.J. Res. 127. A joint resolution to authorize the President to proclaim the last Friday of April 1993 as "National Arbor Day."

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 62. A joint resolution to designate the week beginning April 25, 1993, as "National Crime Victims' Rights Week."

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1335) making emergency supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 66. A joint resolution to designate the weeks beginning April 18, 1993, and April 17, 1994, each as "National Organ and Tissue Donor Awareness Week."

The message further announced that pursuant to the provisions of section 4(a) of the Technology Assessment Act of 1972, the Speaker appoints Mr. SUNDQUIST, Mr. HOUGHTON, and Mr. OXLEY to the Technology Assessment Board on the part of the House.

The message also announced that pursuant to the provisions of Public Law 84–372, the Speaker appoints as members of the Franklin Delano Roosevelt Memorial Commission the following Members on the part of the House: Mr. DARDEN, Mr. HINCHEY, Mr. FISH, and Ms. MOLINARI.

ENROLLED JOINT RESOLUTION

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 30. Joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous consent and referred as indicated:

H.R. 38. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.J. Res. 127. A joint resolution to authorize the President to proclaim the last Friday of April 1993 as "National Arbor Day"; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 328. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that he had presented to the President of the United States the following enrolled bills:

On April 22, 1993:

S. 326. An act to revise the boundaries of the George Washington Birthplace National Monument, and for other purposes.

S. 328. An act to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway Recreation Area in the State of New Jersey, and for other purposes.

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–747. A communication from the Interim Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report regarding the affordable housing disposition program for the period between July 1, 1992 and December 31, 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC–748. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Federal Reserve System for calendar year 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC–749. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC–750. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a report of the Capital Improvement and Leasing Program for fiscal year 1994; to the Committee on Environment and Public Works.

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. MITCHELL (for himself, Mr. KENNEDY, Mr. MOYNIHAN, Mr. FORD, Mr. DECONCINI, Mr. GRAHAM, Mr. DODD, Mr. BIDEN, Mr. WELLSTONE, Mrs. BOXER, Mrs. FEINSTEIN, Mr. HELMS, Ms. MIKULSKI, Mr. LEVIN, Mr. LEAHY, Mr. SASSER, and Mr. SARBANES):

S. 806. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment provided certain conditions are met; to the Committee on Finance.

By Mr. WOFFORD:

S. 807. A bill to amend the Harmonized Tariff Schedule of the United States to correct the rate of duty on certain mixtures of caseinate; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. KOHL, and Mr. BOREN):

S. 808. A bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

By Mr. DORGAN:

S. 809. A bill to amend title 23, United States Code, relating to open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FORD:

S. 810. A bill to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking, to permit savings associations to branch interstate to the extent authorized by State law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:

S. 811. A bill to incorporate environmental concerns into technology programs established in the National Institute of Standards and Technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 812. A bill to designate the Federal Courthouse in Denver, Colorado, as the "Byron White Federal Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURENBERGER:

S. 813. A bill to suspend temporarily the duty on Bisphenol AF; to the Committee on Finance.

By Mr. DURENBERGER:

S. 814. A bill to suspend temporarily the duty on capillary membrane material; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 815. A bill to amend the Federal Water Pollution Control Act to provide special funding to states for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 816. A bill to amend title 10, United States Code, to establish within the Office of the Secretary of Defense the position of Director of Special Investigations; and for other purposes; to the Committee on Armed Services.

By Mr. GLENN:

S. 817. A bill to encourage the acquisition and use of resource efficient materials in construction, repair, and maintenance of Federal buildings; to the Committee on Environment and Public Works.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. MITCHELL, Mrs. BOXER, Mr. JEFFORDS, Mr.

LIEBERMAN, Mr. KENNEDY, Mr. METZENBAUM, Mr. KERRY, Mr. LEVIN, Mr. HARKIN, Mr. LEAHY, and Mr. RIEGLE):

S. 818. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 819. A bill to extend the temporary suspension of duty on Trifluoromethylaniline; to the Committee on Finance.

By Mr. HELMS:

S. 820. A bill to extend the existing suspension of duty on machines designed for heatset, stretch texturing of continuous manmade fibers; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 821. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare program, and for other purposes; to the Committee on Finance.

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 (for himself and Mr. DOLE):

S. Res. 100. A resolution to authorize testimony of Senate employees; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. KENNEDY, Mr. MOYNIHAN, Mr. FORD, Mr. GRAHAM, Mr. DODD, Mr. BIDEN, Mr. WELLSTONE, Mrs. BOXER, Mrs. FEINSTEIN, Mr. DECONCINI, Mr. HELMS, Ms. MIKULSKI, Mr. LEVIN, Mr. LEAHY, Mr. SASSER, and Mr. SARBANES):

S. 806. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment provided certain conditions are met; to the Committee on Finance.

THE UNITED STATES-CHINA ACT OF 1993

Mr. MITCHELL. Mr. President, today I am introducing a bill to condition the renewal of nondiscriminatory most-favored-nation trade status to the People's Republic of China on demonstrated progress by Chinese leaders in adhering to commitments they have made regarding human rights, fair trade practices and the nonproliferation of missile and nuclear technologies.

This is a reasonable bill. It does not revoke MFN status for China. On the contrary, it renews that favorable trade status for China until July 1994.

It does not restrict the growth of American business in China, nor does it discourage the spread of free enterprise.

The bill does not impose arbitrary or unattainable conditions on extending most-favored-nation trade status to China. It merely requires that the Communist Chinese leaders live up to the commitments they have made to respect international standards of human rights, fair trade practices and missile, nuclear and chemical weapons agreements. It supports fundamental American principles and values.

At the same time, it gives the administration a useful diplomatic tool for the coming year to encourage China's Communist leaders to make meaningful progress on resolving human rights and trade concerns.

President Clinton has said he wants to maintain our partnership with China, but that we have a right to expect, as well, that China will move forward in a positive way on human rights as her economy expands.

This bill will help the President achieve that growth in the United States-China partnership.

This bill puts Chinese leaders on notice that we expect them to live up to their own freely made commitments or risk losing favorable MFN tariffs on the products of state-owned enterprises exported to the United States.

China's leaders know that the loss of MFN tariff rates would seriously affect the future of these already ailing industrial enterprises, and jeopardize the $19 billion plus trade surplus they enjoy with the United States.

Under the provisions of this legislation, most-favored-nation status would be renewed for China until July 1994.

It could be renewed for another 12-month period after that date, if the President indicates that China's leaders have:

Taken appropriate action to adhere to their signed commitment to the U.N. Universal Declaration of Human Rights in China and Tibet and allowed unrestricted emigration of political and religious refugees;

Provided an acceptable accounting and release of citizens imprisoned for the nonviolent expression of their political beliefs;

Fully complied with the bilateral 1992 Memorandum of Understanding regarding export of forced labor products to the United States; and

Made overall significant progress in granting religious freedom, ceasing unfair trade practices and adhered to international agreements concerning sales of missiles, chemical arms and nuclear technology.

If such indications are not made by July 3, 1994, then after that date, favorable MFN tariff rates would not apply to products—such as AK-47 assault rifles—exported to the United States by Chinese state-owned enterprises.

MFN tariff rates would continue in force for products exported by private and joint venture enterprises. The consequently lower tariff rates for these export products would competitively favor the spread of such private and joint ventures.

This is a modest, limited and carefully crafted bill. It is virtually identical to the measure that I proposed last year. It is not an unwarranted incursion on Executive powers, and it serves to forward the Nation's stated foreign policy goal of encouraging China to honor its international commitments while maintaining the economic relationship between our two countries.

Since the massacre in Tiananmen Square in June 1989, the governing regime in China has thumbed its nose at the world. It has gambled that the nations of the world will continue to do business as usual with China, regardless of how China treats its own citizens, how China behaves in Southeast Asia, how it treats the people of Tibet, whether it disregards international agreements on weapons proliferation, regardless, even, of China's failure to adhere to international trade law.

Recent actions by China's Communist leaders give little indication that they are changing this attitude.

There have been continued arrests of members of prodemocracy groups, and hundreds, perhaps even thousands, of political prisoners remain in jail or labor camps.

China has failed to comply with a 1992 agreement to prevent the importation into the United States of goods made by prison labor.

The United States Custom Service reported in January of this year that fraudulent labeling and transshipment practices may hide as much as $5 billion a year in unreported Chinese exports to the United States.

Early economic estimates have predicted that our trade deficit with China last year may well exceed $20 billion—and this without counting the additional billions the Chinese gain from illegal transshipment and false labeling.

It is very probable that China has not eliminated its biological warfare weapons, despite having become a signatory to the Biological and Toxin Weapons Convention in 1984.

There is continuing concern that China is helping Pakistan develop a nuclear weapons program in violation of the Chinese commitment made last year to abide by the International Non-Proliferation Treaty barring such assistance.

Most recently, the Chinese Government announced it opposed the imposition of international sanctions against North Korea for its renunciation of the nuclear nonproliferation treaty and refusal to allow international inspection of Korean nuclear weapons laboratories.

China's trade surplus with the United States, both the legal surplus and the one derived through illegal trade practices, constitutes a major resource for the modernization of the Chinese military forces.

This year, for the fourth year in a row, China's defense budget increased

in double digit percentages. China's military spending has risen 50 percent overall since Tiananmen Square.

There is increasing international concern over China's hard currency purchases of sophisticated weapons and advanced military technology from Russia. These modern weapons and advanced missile technology, bought mainly with money earned from the huge trade surplus with the United States, are rapidly transforming China into a major military power in Asia.

Such a threatening military transformation raises serious long-term national security concerns for the United States and our Asian allies.

President Clinton has indicated that he is pleased that America is making a major contribution to the astonishing revitalization of the Chinese economy, which is growing at 10 percent a year. He has said he wants to continue our partnership with China, but that he thinks we have a right to expect progress in human rights and democracy as we support that Chinese economic progress.

I fully agree with President Clinton.

It is time to set a new policy toward China, a policy which recognizes the historic friendship between our two countries, but is based on a reciprocal understanding of international principles and standards of fair play.

I believe the bill I am introducing today sets the framework for exactly that sort of new policy toward China.

It conditions the granting of future most-favored-nation trading status with China on demonstrated actions—not continued empty promises—in adhering to international standards on human rights, preventing the export of forced labor products to the United States, ceasing unfair trade practices and controlling arms proliferation.

It is a measured and reasonable bill. It supports fundamental American values while giving the administration a year in which to establish a new policy toward China.

I urge my colleagues to support this effort to assist in fashioning a new policy toward China.

Mr. MOYNIHAN. Mr. President, two anniversaries are fast approaching. On June 4, nearly 4 years ago the aging leaders in Beijing snuffed out the flame of democracy that had flared in Tiananmen Square. Defying world opinion, the octogenarian Communist cadres proclaimed that totalitarianism was alive and well in China, however loudly its death rattle was being heard throughout Eastern Europe.

The other anniversary is June 3, which marks the date by which the President must decide whether to extend most-favored-nation [MFN] treatment to China for another year.

This year the decision on MFN status is particularly important because it will signal to the Congress and, more importantly, to Beijing what the new administration's policy toward China will be.

For the past 4 years, it has been business as usual. The Bush administration chose to look the other way, over the strong opposition of the Congress. It has been the Congress, under the leadership of the majority leader, that has forced the debate on our trade relations with China.

Twice last year, the Finance Committee reported out bills conditioning the continuation of MFN on progress on human rights, religious freedom, trade, and arms control. Twice last year, those bills passed the Senate and the House by substantial margins. And twice last year, former President Bush vetoed them.

This year, we have a new administration and an opportunity to initiate a new policy toward China. That is why the bill that the majority leader has introduced is so important. I am pleased to cosponsor this bill, as I did last year.

I am deeply troubled by Chinese Government policies. Let me mention just a few concerns.

First, Tibet. Make no mistake. The totalitarian government in Beijing has continued the genocidal policies which reached such a ferocious height during the Cultural Revolution. The campaign to utterly destroy Tibetan culture continues unchecked. In the 40 years following the Chinese invasion of Tibet in 1949–50, 1 million Tibetans have been slaughtered. Without question, the cultural genocide of the Tibetan people is still very much a conscious goal of the Chinese Government. Which they are vigorously pursuing to the present day.

Indeed. China's illegal population transfer program is well on its way to obliterating one of the richest cultures in the world. Already, Tibetans are a minority in the Lhasa Valley and eastern Tibet.

Appalling, yes. But more to the point, illegal. China's actions in this regard are a clear violation of Article 49 of the Fourth Geneva Convention.

Let us be clear. Population transfer to Tibet violates international law because Tibet is not a part of China. It is a sovereign nation which was seized by force and is today occupied by China. The 102d Congress declared that Tibet is an occupied country under international law. The legislation the majority leader is introducing today reiterates that elemental fact. The bill finds specifically that—

> The Government of the People's Republic of China continues to use military and police forces to intimidate and repress the Tibetan people seeking political and religious freedom, and continues to violate the provisions of the Fourth Geneva Convention by encouraging the resettlement of large numbers of Chinese in occupied Tibet.

For too long, successive administrations—despite the protests of Congress—have condoned China's blatant violations of international law. Just 8 months ago, a State Department official made the manifestly untrue statement before the Foreign Relations Committee that there was no conscious Chinese Government policy to sinocize Tibet. I trust that the new administration will make a clean break with this policy of implicit appeasement.

Population transfer is not the only instrument by which China seeks to deprive Tibetans of their rights. Asia Watch reported to the Finance Committee last July that hundreds of men and women in Tibet have been imprisoned and often subjected to torture and ill-treatment for "spreading counterrevolutionary propaganda" and for such crimes as displaying the outlawed Tibetan flag, writing slogans on stones or walls, or compiling information about prisoners and talking to foreigners about repression.

Just 4 weeks ago, the distinguished chairman of the Foreign Relations Committee, Senator PELL, and I wrote President Clinton to urge him in the strongest possible terms to make Tibet an integral part of his China policy. And this bill states clearly that MFN will depend upon whether the Chinese Government takes steps to stop providing incentives that encourage the transfer of non-Tibetans to Tibet.

President Clinton has an opportunity to set U.S. policy on the right course. And I urge him to seize that opportunity.

This leads to my second major concern: the human rights of the Chinese people. Every year Freedom House publishes a survey of freedom in the world, including a map listing states as "free," "partly free," and "not free." Over the past 5 years that map has been transformed. The Iron Curtain has been swept away and hundreds of millions have been freed from totalitarian rule. And yet, we too often forget that all the peoples of the defunct Warsaw Pact amount to far less than half the population of China. And today more than a billion persons in China suffer under what Asia Watch has called the "relentless repression" meted out by Beijing. The legislation introduced by the distinguished majority leader mandates that the Chinese Government must end that repression before it can be considered—in any sense—a nation which is most favored by the United States.

Third, trade. It is with some alarm that I look at the pattern of our trade with China since we first granted MFN status to the People's Republic of China in 1980. In theory, MFN should pave the way for a reciprocal growth in trade. In fact, the growth has been lopsided. In 1992, our exports to China totaled $7.5 billion, double their value in 1980. Cumulatively, from 1980 through 1992, our exports to China totaled $55.3 billion. That is not bad.

But over that same period, our imports from China have grown

exponentially. Cumulatively, we imported from China $105.9 billion in goods over that 12-year period. In 1992 alone, our imports were $25.7 billions—24 times higher than they were in 1980.

The market access agreement we negotiated last year may help put our trade on more even footing. But that agreement must be fully honored.

Meanwhile, the President's 1993 trade policy agenda lists a host of continuing trade problems: high tariffs, licensing problems, quotas, lack of transparency in the drafting and issuance of trade laws and regulations, very little liberalization in the services sector. And the Treasury Department reported in December that China manipulates its exchange rate in order to guarantee for itself a favorable balance of trade. These problems need to be resolved.

Another major concern involves arms sales. In March, the Washington Post reported that, between 1989 and 1991, the Chinese armed forces exported to this country 1.92 million firearms and thousands of tons of ammunition. It was reportedly a Chinese-made AK-47 semiautomatic weapon that was used to kill two people and wound three others in front of the CIA headquarters in January. Earlier this year, I introduced legislation that would ban the importation of semiautomatic assault weapons such as the ones we apparently are buying in bulk from China. That bill would make headway in solving the problem.

But Chinese sales of arms to this country pale in comparison to the torrent of arms China is pouring into its sister totalitarian state, Burma. Over the last several years, Beijing has supplied the State Law and Order Restoration Council—or the SLORC as it is universally known—with over 1 billion dollars' worth of arms. Weapons which are being used to wage war against the people of Burma.

These sales are but a part of a larger pattern. Namely, the willingness of the Chinese government to sell any weapon to any government anywhere—no matter how destabilizing, no matter how dangerous. This of course includes selling ballistic missiles to states in the Middle East.

Moreover, it has been widely reported that the Chinese are using the proceeds of their expanding trade to upgrade their own army and replace outmoded equipment with state-of-the-art technology. Their security—and their neighbors' insecurity—at our expense.

Frankly, Mr. President, these are not new issues. These sores festered under past administrations. Now, President Clinton has an opportunity to formulate a new United States policy toward China. This bill gives him the tools to do so.

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. 805

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 "United States-China Act of 1993".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) On June 4, 1989, thousands of Chinese citizens courageously demonstrated that they were prepared to risk their lives and futures in pursuit of democratic freedom and respect for human rights.

(2) The People's Republic of China, as a member of the United Nations Security Council, is obligated to respect and uphold the United Nations Charter and Universal Declaration of Human Rights.

(3) Despite the massive demonstration for self-determination and fundamental principles of human rights and despite the People's Republic of China's membership in the United Nations, the Government of the People's Republic of China continues to flagrantly violate internationally recognized standards of human rights, and engages in—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

(B) arbitrary arrest, unacknowledged detention without charges and trial, and jailing of persons solely for the nonviolent expression of their political views; and

(C) use of prison labor to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(4) The Government of the People's Republic of China continues to deny Chinese citizens and others, who have supported the prodemocracy movement, the right of free emigration despite having pledged to do so in 1991.

(5) The Government of the People's Republic of China continues to use military and police forces to intimidate and repress the Tibetan people seeking political and religious freedom, and continues to violate the provisions of the Fourth Geneva Convention by encouraging the resettlement of large numbers of Chinese in occupied Tibet.

(6) The Government of the People's Republic of China continues to engage in unfair trade practices against the United States by raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of certain items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles and other items to the United States through Hong Kong and third countries.

(7) Although the Government of the People's Republic of China has pledged to adhere to the guidelines and parameters of the Missile Technology Control Regime, there are continuing reports of Chinese transfers of military technology covered by such Regime to the Middle East, Africa, and Asia.

(8) The Government of the People's Republic of China continues to unjustly restrict and imprison religious leaders and members of religious groups who do not adhere to the dogma and control of state-sponsored religious organizations.

(9) It is the policy and practice of the Government of the People's Republic of China's Communist Party to control all trade unions and suppress and harass members of the independent labor union movement.

(10) The Government of the People's Republic of China continues to harass and restrict the activities of accredited journalists and to restrict broadcasts by the Voice of America.

(b) POLICY.—It is the sense of the Congress that—

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices, the President should take such action as is necessary to achieve the purposes of this Act, including—

(A) urging the Communist Chinese leaders to release all political and religious prisoners in China and Tibet, and to cease forcing the large-scale influx of Chinese settlers into Tibet which is threatening the survival of the Tibetan culture;

(B) conducting diplomatic negotiations with the Government of the People's Republic of China to encourage them to allow international human rights and humanitarian organizations access to prisoners in China and Tibet;

(C) directing the United States Trade Representative to take necessary and appropriate action pursuant to section 301 of the Trade Act of 1974 and the Memorandum of Understanding between the Governments of the United States and People's Republic of China concerning market access, signed October 10, 1992, with respect to the continuing unfair trade practices of the People's Republic of China that are discriminatory and unreasonably restrict United States commerce; and

(D) encouraging members of the Missile Technology Control Regime and other countries to develop a common policy concerning the People's Republic of China's transfer of missile technology to other countries;

(2) sanctions being applied against the People's Republic of China on the date of the enactment of this Act should be continued and strictly enforced; and

(3) the President should direct the Secretary of Commerce to consult with American business leaders, having significant trade with or investments in the People's Republic of China, to encourage them to adopt a voluntary code of conduct that—

(A) follows internationally recognized human rights principles;

(B) ensures that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief;

(C) refrains from knowingly using prison labor;

(D) recognizes workers right to organize and bargain collectively; and

(E) discourages mandatory political indoctrination on business sites.

SEC. 3. MINIMUM STANDARDS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA MUST MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.

Notwithstanding any other provisions of law, the President may not recommend continuation of a waiver for the 12-month period beginning July 3, 1994, under section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)) for the People's Republic of China, unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has taken appropriate actions to begin adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet;

(2) is allowing unrestricted emigration of the citizens who desire to leave China for reasons of political or religious persecution to join family members abroad, or for other valid reasons;

(3) has provided an acceptable accounting and release of—

(A) Chinese citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs in relation to events which occurred during and after the violent repression of demonstrations in Tiananmen Square on June 4, 1989; and

(B) other citizens detained, accused, or sentenced for the nonviolent expression of their political beliefs or for peacefully exercising their internationally guaranteed rights of freedom of speech, association, and assembly;

(4) has taken effective, verifiable action to prevent export of products to the United States manufactured wholly or in part by convict, forced, or indentured labor and has complied with the terms of the Memorandum of Understanding signed on August 7, 1992, by allowing, without limitation or restriction, United States Customs officials to visit places suspected of producing such goods for export; and

(5) has made overall significant progress in—

(A) ceasing religious persecution and lifting restrictions on freedom of religious belief in the People's Republic of China and Tibet;

(B) releasing leaders and members of religious groups detained, imprisoned, or under house arrest for expression of their religious beliefs;

(C) ceasing financial and other incentives to encourage non-Tibetans to relocate in Tibet, including development and other projects which bring in substantial numbers of non-Tibetan workers;

(D) ceasing unfair and discriminatory trade practices which restrict and unreasonably burden American business;

(E) providing United States exporters fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services;

(F) adhering to the guidelines and parameters of the Missile Technology Control Regime and the controls adopted by the Nuclear Suppliers Group and the Australian Group on Chemical and Biological Arms;

(G) adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China;

(H) cooperating with United States efforts to obtain an acceptable accounting of United States military personnel who are listed as prisoners of war or missing in action as a result of their service in—

(i) the Korean conflict; or

(ii) the Vietnam conflict;

(I) ceasing the jamming of Voice of America broadcasts; and

(J) providing international human rights and humanitarian groups access to prisoners, trials, and places of detention.

SEC. 4. REPORT BY THE PRESIDENT.

If the President recommends in 1994 that the waiver referred to in section 3 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has complied with the provisions of section 3, during the period covered by the document.

69-059 O—97 Vol. 139 (Pt. 6) 25

SEC. 5. NONDISCRIMINATORY TREATMENT FOR PRODUCTS FROM NONSTATE-OWNED ENTERPRISES.

(a) IN GENERAL.—Notwithstanding any other provisions of law, if nondiscriminatory treatment is not granted to the People's Republic of China by reason of the occurrence of an event described in subsection (b), nondiscriminatory treatment shall—

(1) continue to apply to any good that is produced or manufactured by a person that is not a state-owned enterprise of the People's Republic of China, but

(2) not apply to any such good that is marketed or otherwise exported by a state-owned enterprise of the People's Republic of China.

Nondiscriminatory treatment under this section shall be in effect for the same period of time the waiver referred to in section 3 would have been effective had it taken effect.

(b) EVENTS.—An event described in this subsection means—

(1) the President fails to request the waiver referred to in section 3 and reports to the Congress that such failure was a result of the President's inability to report that the People's Republic of China has met the standards described in such section; or

(2) the President requests the waiver referred to in section 3, but a disapproval resolution described in subsection (c)(1) is enacted into law.

(c) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in section 3 of the United States-China Act of 1993", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b) of such section) and 402(d)(2) (as modified by this subsection) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(d) DETERMINATION OF DUTY STATUS OF ENTERPRISES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Treasury shall determine which persons are state-owned enterprises of the People's Republic of China for purposes of this Act and compile and maintain a list of such persons.

(2) DEFINITIONS AND SPECIAL RULES.—For purposes of making the determination required by paragraph (1), the following definitions apply:

(A)(i) The term "state-owned enterprise of the People's Republic of China" means a person affiliated with or wholly owned, controlled, or subsidized by the Government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A person shall be considered to be state-owned if—

(I) the person's assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of the person's profits are required to be submitted to a central or provincial government authority;

(III) the person's production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the person as state-owned.

(ii) Any person that—

(I) is a qualified foreign joint venture or is licensed by a governmental authority as a collective, cooperative, or private enterprise; or

(II) is wholly owned by a foreign person,

shall not be considered to be state-owned.

(B) The term "qualified foreign joint venture" means any person—

(i) which is registered and licensed in the agency or department of the Government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, contractual joint venture, or joint stock company with foreign investment;

(ii) in which the foreign investor partner and a person of the People's Republic of China share profits and losses and jointly manage the venture;

(iii) in which the foreign investor partner holds or controls at least 25 percent of the investment and the foreign investor partner is not substantially owned or controlled by a state-owned enterprise of the People's Republic of China;

(iv) in which the foreign investor partner is not a person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 to have repeatedly provided support for acts of international terrorism; and

(v) which does not use state-owned enterprises of the People's Republic of China to export its good or services.

(C) The term "person" means a natural person, corporation, partnership, enterprise, instrumentality, agency, or other entity.

(D) The term "foreign investor partner" means—

(i) a natural person who is not a citizen of the People's Republic of China; and

(ii) a corporation, partnership, enterprise, instrumentality, agency, or other entity that is organized under the laws of a country other than the People's Republic of China and 50 percent or more of the outstanding capital stock or beneficial interest of such entity is owned (directly or indirectly) by natural persons who are not citizens of the People's Republic of China.

(e) PETITION FOR CHANGE IN DUTY STATUS.—Any person who believes that a person should be included on or excluded from the list compiled by the Secretary under subsection (d)(1) may request that the Secretary review the status of such person.

SEC. 6. AFFECT OF GATT ENTRY ON MFN STATUS.

Notwithstanding the entry of the People's Republic of China into the General Agreement on Tariffs and Trade, most-favored-nation treatment with respect to the products of the People's Republic of China shall continue to be governed by title IV of the Trade Act of 1974 and the provisions of this Act.

SEC. 7. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1994 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, the President shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such a waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(2) ACCEPTABLE ACCOUNTING.—The term "acceptable accounting" includes—

(A) providing information regarding the location of any person being held,

(B) the legal status of such person,

(C) if convicted, the sentence of such person, and

(D) if released, when and with what restrictions.

(3) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict, forced, or indentured labor" has the meaning given such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(4) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(6) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3, means the implementation of measures that will meaningfully reduce, or lead to the end of, the practices identified in such section.

(B) With regard to section 3(5)(E), progress may not be determined to be "significant progress" if, after the date of the enactment of this Act, the President determines that the People's Republic of China has transferred—

(i) ballistic missiles or missile launchers for the M-9 or M-11 weapons systems to Syria, Pakistan, or Iran; or

(ii) material, equipment, or technology that would contribute significantly to the manufacture of a nuclear explosive device to another country and that the material, equipment, or technology is to be used by such country in the manufacture of such device.

By Mr. DECONCINI (for himself, Mr. KOHL, and Mr. BOREN):

S. 808. A bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

VOLUNTEER PROTECTION ACT

• Mr. DECONCINI. Mr. President, I rise today with Senator KOHL and Senator BOREN to introduce the Volunteer Protection Act of 1993. This legislation encourages States to provide protection from litigation to volunteers, acting in good faith, who donate their time for thousands of nonprofit organizations. It is identical to the bill I introduced last Congress (S. 1343). I am committed to providing safeguards to these selfless volunteers while they donate their time and energies for so many worthwhile causes.

Volunteers have always been an integral part of the American society. There are over 250 national voluntary organizations representing millions of volunteers across America. From large private nondenominational nationwide organizations to small local civic groups, these workers guide our young people, work in our hospitals and medical care facilities, protect our neighborhoods, feed and care for the homeless, and assist in providing our communities with a multitude of services—all this with no financial compensation. Without their contributions, many community needs would not be met because of the cost. In 1987 for example, 80 million adults volunteers 19.5 billion hours of their time which would have cost $150 billion in public employee salaries. In the city of Los Angeles, 740 reserve officers in the LAPD, for the price of a clean uniform, save the city and county between $6 and $11 million a year by donating their time to protect the San Fernando and neighboring valleys.

Yet the reality is that these valuable human resources are decreasing at an alarming rate because of the fear of litigation, which could rob them of their personal assets. A 1991 poll of volunteer organizations at the national, State, and local levels revealed that over 60 percent of those polled were concerned about such litigation. A 1988 Gallop Poll showed that one out of every seven nonprofit agencies had eliminated one or more of their valuable programs because of their exposure to lawsuits. Sixteen percent of volunteer board members surveyed reported withholding their services to an organization out of fear of liability. They are no longer willing to accept the risks associated with becoming involved.

At a time when fiscal constraints are necessary at all levels of the private and public sectors, volunteers are critical for nonprofit organizations. Without legislation to provide liability protection to these individuals, they will not be participating. This will result in fewer services at greater costs to our communities.

A related concern grows out of the drastic increases in insurance premiums for nonprofit organizations. Between 1984 and 1988 alone the average increase in insurance premiums to nonprofit organizations was 155 percent. Operating under severe fiscal constraints, nonprofit organizations are faced with reducing the amount of services they can provide. While a majority of associations can afford to insure their board of directors—many individuals carry their own personal coverage for liability—less than half can afford to indemnify their volunteers. They need our help. Enactment of this legislation will help curb their rising costs.

The Volunteer Protection Act I am introducing today would provide financial incentives to States who grant volunteers, acting in good faith and within the scope of their duties as volunteers, immunity from civil liability. Those who have been injured would continue to have recourse against the organization for financial redress. At the same time, individual volunteers would remain accountable for harmful acts done in a willful or wanton manner. For those States which enact volunteer protection legislation, a 1-percent increase in social service block grant funds would be made available. By providing incentives for States to grant immunity to volunteers, the Volunteer Protection Act will help to stabilize insurance costs for nonprofit organizations. An identical bill, H.R. 911, was introduced in the House of Representatives by Congressman PORTER on February 16, 1993.

While most States provide some statutory protection for the directors and board members for nonprofit organizations, almost half make no provision to safeguard the general volunteer population from litigation. This bill would encourage expansion of coverage to the entire volunteer population.

Mr. President, I ask unanimous consent that the entire text of the bill I am submitting today be included in the RECORD.•

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

S. 808

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 "Volunteer Protection Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) within certain States, the willingness of volunteers to offer their services has been increasingly deterred by a perception that they thereby put personal assets at risk in the event of liability actions against the organization they serve;

(2) as a result of this perception, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, local governments, foundations, and other civil programs, have been adversely affected through the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating; and

(4) because Federal funds are expended on useful and cost effective social service programs which depend heavily on volunteer participation, protection of voluntarism through clarification and limitation of the personal liability risks assumed by the vol-

unteer in connection with such participation is an appropriate subject for Federal encouragement of State reform.

(b) PURPOSE.—It is the purpose of this Act to—

(1) promote the interests of social service program beneficiaries and taxpayers; and

(2) sustain the availability of programs and nonprofit organizations and governmental entities which depend on volunteer contributions

by encouraging reasonable reform of State laws to provide protection from personal financial liability to volunteers serving with nonprofit organizations and governmental entities for actions undertaken in good faith on behalf of such organizations.

SEC. 3. NO PREEMPTION OF STATE TORT LAW.

Nothing in this Act shall be construed to preempt the laws of any State governing tort liability actions.

SEC. 4. STATE STATUTES PROVIDING FOR LIMITATIONS ON LIABILITY FOR VOLUNTEERS.

An allotment may be increased for a State under the provisions of section 5, if the State statute referred to under subsection (a) of such section includes the following provisions:

(1) Except as provided in paragraphs (2) and (4), any volunteer of a nonprofit organization or governmental entity shall incur no personal financial liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization or entity if—

(A) such individual was acting in good faith and within the scope of such individual's official functions and duties with the organization or entity; and

(B) such damage or injury was not caused by willful and wanton misconduct by such individual.

(2) Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(3) Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to injury caused to any person.

(4) The following conditions on, and exceptions to, the granting of liability may be imposed for protection to any volunteer of an organization or entity required under paragraph (1):

(A) The organization or entity shall adhere to risk management procedures, including mandatory training of volunteers.

(B) The organization or entity shall be liable for the acts or omissions of its volunteers to the same extent as an employer is liable, under the laws of the State, for the acts or omissions of its employees.

(C) The protection from liability shall not apply if the volunteer was operating a motor vehicle or was operating a vessel, aircraft, or other vehicle for which a pilot's license is required.

(D) The protection from liability shall not apply in the case of a suit brought by an appropriate officer of a State or local government to enforce a Federal, State, or local law.

(E) The protection from liability shall apply only if the organization or entity provides a financially secure source of recovery for individuals who suffer injury as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

SEC. 5. CERTIFICATION REQUIREMENT AND ADJUSTMENT OF SOCIAL SERVICES BLOCK GRANT ALLOTMENTS.

(a) CERTIFICATION AND BLOCK GRANT ALLOTMENTS.—In the case of any State which certifies, not later than 2 years after the date of the enactment of this Act, to the Secretary of Health and Human Services that it has enacted, adopted, or otherwise has in effect State law which substantially complies with section 4, the Secretary shall increase by 1 percent the fiscal year allotment which would otherwise be made to such State to carry out the Social Services Block Grant Program under title XX of the Social Security Act.

(b) CONTINUATION OF INCREASE.—Any increase made under subsection (a) in an allotment to a State shall remain in effect only if the State makes a certification to the Secretary of Health and Human Services, not later than the end of each 1-year period occurring successively after the end of the 2-year period described in subsection (a), that it has in effect State law which substantially complies with section 4(a).

SEC. 6. DEFINITIONS.

For purposes of this Act—

(1) the term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive compensation, or any other thing of value in lieu of compensation, for such services (other than reimbursement for expenses actually incurred or honoraria not to exceed $300 per year for government service), and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer;

(2) the term "nonprofit organization" means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(3) the term "damage or injury" includes physical, nonphysical, economic, and noneconomic damage; and

(4) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.●

By Mr. DORGAN:

S. 809. A bill to amend title 23, United States Code, relating to open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles, and for other purposes; to the Committee on Environment and Public Works.

ALCOHOL CONTAINER ACT

Mr. DORGAN. Mr. President, morning business today is reserved for 1 hour—60 minutes. During this 60 minutes, which will move by rather quickly, on average three people will be killed in this country because someone was driving drunk.

I am introducing in the Senate today a bill designed to combat drunk driving. It is some legislation that I introduced previously for the past several years in the U.S. House of Representatives.

I have not yet gotten this legislation enacted, but I am determined to keep trying until it is done. I know when you mention drunk driving, some will roll their eyes and say "not another one of those." Mothers Against Drunk Drivers and so many others in this country, organizing to try to defeat this epidemic of drunk driving, understand the heartbreak and the toll imposed on this country by drunk drivers. It is not something to roll our eyes about. It is something to roll up our sleeves and get something done about.

Twenty-thousand people will die in this country this year from traffic accidents caused by drunk drivers. This week, we mourned the death of a family member of a Member of this body, a beautiful young woman, killed in an accident in which there was alleged to have been someone driving who was drunk.

I thought back this week, when I heard the news, to one evening some years ago when I received a telephone call that my mother had been killed in an auto accident, a manslaughter incident, perpetrated by a drunk driver. If you ask a group of people in this country, do you know of someone, or do you have a loved one, a neighbor, a relative, who has been affected, who lost a loved one by a drunk driving accident, you will see a room full of hands go up. Despite the fact that drunk driving is almost epidemic in this country, we do not have a national effort to deal with it in a very effective way.

I remember hearing the news about my mother, and I was not only heartbroken and sad and full of mourning, but I was also very angry. Then I discussed it with friends. Over the years, I decided, more than being angry about that, I had to do something about it. When somebody is drunk driving 100 miles an hour down a city street and kills innocent people, then something must be done. It is outrageous that in this country, we have not yet separated, as a national policy, alcohol from automobiles.

Mr. President, do you know that in seven States in this country, it is still legal for you to get in the car, put your key in the ignition, put one hand on the steering wheel and the other on a bottle of whiskey and drive off and drink, and you are perfectly legal? In seven States, you can drink and drive and it is fine. In 24 States, it is fine if the rest of the people in the car are having a party, driving down the road drinking whiskey, wine, and beer. There is no prohibition against that; 24 States in America do not have prohibitions against open containers in the car, and seven States do not have State prohibitions against people who drive and drink.

That is a fundamental outrage in this country. You can meander yourself most of the way across America and either drink yourself as you drive, or

have the other people in the car having a party with a six-pack of beer or a fifth of Wild Turkey. I am saying that is nuts.

We ought to have a policy in this country in which we say we segregate alcohol from automobiles, and you cannot be in an automobile with an open container of alcohol, period. My legislation simply says that the States who have refused to act on this kind of policy, despite incentives we put in place asking them to act, my legislation says: You shall act to have a uniform prohibition against open containers of alcohol in your vehicle, or you lose 5 percent of our highway funds. It is exactly the same policy we used to require a uniform 21-year-old drinking age across this country for the American people. It was successful then. It would be successful now.

Drunk driving knows no boundaries. It does not know State boundaries. It is not cute. It is not funny. It is deadly. A decision to drive drunk is not a personal decision that affects only you. It is a decision that may also—and increasingly also does—affect somebody else walking down the side of the road, somebody else innocently driving home from a hospital at 9 o'clock at night; and all too often, it results in innocent victims.

Mr. President, I say with my legislation, and I say to all State and local authorities and to my colleagues here in Congress, it is time for us in this country to do what many other countries have already done. If we were to follow the European model and say to people, "You shall not drive drunk because the penalties are far too severe," we would have far fewer drunk driving fatalities in this country today. We must be serious about this issue and decide to take action against this scourge called drunk driving, and passage of my legislation is the first step in doing that.

Mr. President, one of the most senseless crimes in our society is drunk driving. The mixture of drinking and driving is more than dangerous—it is deadly. In 1989, over 22,000 people died on our Nation's roads in alcohol-related accidents. That figure was about half of the total number of traffic fatalities for that year. In addition to the lost lives and despair that are attendant to the carnage on the highways, drunk driving costs this country an estimated $24 billion a year. According to the National Commission Against Drunk Driving, alcohol-related traffic fatalities hit the youth more than any other group. In 1989, youths were killed at a rate of 16 alcohol-related traffic fatalities per 100,000 license drivers compared to 10 per 100,000 for adult drivers.

Despite this frightening reality about alcohol-related traffic accidents, the States and the Federal Government have done little to effectively curb this serious problem. The National Highway Traffic Safety Administration tells me that it is still legal in 24 States in this country for passengers in a vehicle to be drinking while the vehicle is in operation. In seven States it is perfectly legal for a driver of a car to put one hand on the steering wheel and with the other, grab a bottle of whisky and drive off drinking. That is outrageous, and I want to stop it.

I believe that we in the Congress must do something at the Federal level to urge States to adopt open container laws. That is why I have introduced legislation today that would require States to enact laws that would prohibit open containers of alcohol in vehicles. This legislation would withhold 5 percent of the State's highway funds if the State fails to enact laws prohibiting open containers in vehicles.

Drinking and driving cannot be seen as a personal moral decision. When someone decides to drink and drive, that person is not simply putting himself in danger. That person is a threat to innocent drivers, passengers, and pedestrians. The odds are that 2 out of every 5 Americans will be involved in an alcohol-related traffic accident, regardless of their drinking habits. The fact is that every third drunk driving fatality is an innocent victim—a nondrinking driver, passenger, or pedestrian.

Under the Intermodal Surface Transportation Efficiency Act of 1991, the Federal Government is requiring States to enact laws requiring the use of seat belts and helmets, which are matters of personal safety, in the interest of traffic safety. Allowing individuals to mix drinking and driving is not just a matter of personal safety—it is a matter of public safety with serious public concerns. All the more reason, I believe, for the congress to require States to address this concern.

Mr. President, we have heard a great deal of tough talk about attacking the drug problem in this country. The country seems poised to mobilize the fight drugs and the crimes associated with the narcotics trade. However, America also has a very serious problem with alcohol and drunk driving, and we seem to be taking a vacation from our responsibilities in that area.

My proposed legislation takes a positive step and makes good public policy. This bill provides a strong incentive for States to enact laws prohibiting the insane behavior of drinking in a moving vehicle. If States fail to comply, they would be subject to the same penalty that was utilized when the Federal Government enacted legislation requiring States to raise the minimum drinking age to 21 years of age—namely, withholding of 5 percent of Federal highway funds. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 809

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

SECTION 1. OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 161. Open Container Limitations

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—

"(1) GENERAL RULE.—Beginning with fiscal year 1997, and for each fiscal year thereafter, the Secretary shall withhold 5 percent of the amount required to be apportioned to a State under paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year, if, for any period during the immediately preceding fiscal year, the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway, or the right-of-way of a public highway, in the State is lawful.

"(2) LIMITATION OF APPLICATION TO CHARTER BUSES.—If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with paragraph (1) with respect to the motor vehicle for each fiscal year during which the law is in effect.

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1997.—

"(A) PERIOD OF AVAILABILITY.—Any funds withheld under this section from apportionment to any State on or before September 30, 1997, shall remain available for apportionment to the State as follows:

"(i) If, but for this section, the funds would otherwise have been apportioned under section 104(b)(5)(A), the funds shall remain available until the end of the fiscal year for which the funds are made available.

"(ii) If, but for this section, the funds would otherwise have been apportioned under section 104(b)(5)(B), the funds shall remain available until the end of the second fiscal year following the fiscal year for which the funds are made available.

"(iii) If, but for this section, the funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b), the funds shall remain available until the end of the third fiscal year following the fiscal year for which the funds are made available.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1997.—No funds withheld under this section from apportionment to a State after September 30, 1997, shall be available for apportionment to the State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1), the State brings into effect a law that is in compliance with subsection (a), on the day following the effective date of the law, the Secretary shall apportion to the State the withheld funds remaining available for apportionment to the State pursuant to paragraph (1).

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

"(A) IN GENERAL.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(i) Funds apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year for which the funds are apportioned.

"(ii) Funds apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED SUMS.—Sums that are not obligated on the termination of the period referred to in subparagraph (A) shall—

"(i) lapse; or

"(ii) in the case of funds apportioned under section 104(b)(5), lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) EFFECT OF NONCOMPLIANCE.—If, on the termination of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State does not have in effect a State law that is in compliance with subsection (a)—

"(A) the funds shall lapse; or

"(B) in the case of funds withheld from apportionment under section 104(b)(5), the funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) DEFINITIONS.—As used in this section:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided the term in section 158(c).

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided the term in section 154(b).

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided the term in section 410.

"(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"161. Open container limitations.".

By Mr. FORD:

S. 810. A bill to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking, to permit savings associations to branch interstate to the extent authorized by State law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

INTERSTATE BANKING ACT OF 1993

Mr. FORD. Mr. President, I rise today to introduce the Interstate Banking Act of 1993. This legislation represents an attempt to build on past efforts to draft a compromise proposal in the very complex area of interstate banking and branching. I believe my bill strikes a reasonable balance where there is a need to update Federal statutes while still respecting the rights of States and the legitimate franchise interests of small community-based lending institutions. The legislation is substantially similar to my interstate banking and branching amendment which passed the Senate in November, 1991, during debate on comprehensive banking-reform legislation.

We have a dual banking system in this country, and I believe most American wish to see this continue. Dual Federal and State systems provide consumers with choice and competition. I believe there is a great need to protect this balance while allowing certain market trends to progress.

Interstate banking has been a growing trend in recent years. In general, interstate banking refers to the acquisition of lending institutions by out-of-State bank holding companies, and requires that a separate charter be maintained in the new State. This means separate capital requirements, a separate board of directors, and separate regulatory requirements. Current Federal law authorizes this activity if a State chooses to permit it. Forty-eight States currently allow some form of interstate banking, with 34 permitting the practice on a nationwide basis and 14 States plus the District of Columbia allowing interstate banking on a regional basis. States can limit certain terms and conditions of entry, but nearly every State has some form of this activity.

Interstate branching does not involve a separate charter. Rather, it refers to situations where a lending institution chartered in one State sets up and operates a branch in another State. We currently have a varied and somewhat contradictory set of Federal and State laws in this area. Current Federal law does not provide authority for bank holding companies to convert bank subsidiaries in one State into branches of other out-of-State bank subsidiaries. Nor does it allow federally chartered banks or State Federal Reserve member banks to branch directly across State lines.

However, an Office of Thrift Supervision regulation approved last year now allows federally chartered thrifts to branch across State lines without any regard for State law. This regulation was approved and has been implemented notwithstanding an amendment which passed the Senate last year providing for a moratorium on the implementation of this regulation. Fifty-six branching applications have already been approved under this new regulation by OTS. So we now have the unusual situation under our laws and regulatory interpretations where federally chartered banks may not branch across State lines, but federally chartered thrifts may do so, regardless of State law. In addition, a few States allow their State-chartered lending institutions to branch across State lines under certain circumstances. So there are a variety of laws and regulations currently in place as it relates to interstate branching.

My bill attempts to bring order to this area by reforming certain provisions of current Federal law. In my view, it is appropriate that we update our laws in this area. But it must be done in a manner which respects State law and does not trample the legitimate franchise interests of smaller, community-based lending institutions.

Mr. President, in order to understand the need for compromise in the area of interstate banking and branching, it is important to define the parameters of this debate. In recent years, some have suggested that we move toward interstate banking and branching in a wide-open manner, by authorizing interstate banking and branching and imposing certain conditions upon States unless they opt-out of the Federal scheme within a certain period of time, usually up to 3 years. Others have suggested a more restrictive approach, providing authority but allowing interstate banking and branching only if a State specifically opts-in to a permissive Federal scheme.

In addition, some have advocated limiting interstate banking and branching to situations involving acquisition only, so that an out-of-State institution would have to acquire an existing in-State institution as the only means of entering that State. This limitation protects the franchise interests of existing lending institutions by assuring that there will not be a flood of new banking or branching activity in their State. Others have suggested that out-of-State institutions be allowed to branch directly into a State by establishing and maintaining new operations. This is called de novo banking or branching.

Mr. President, my legislation seeks to balance the varied options on this issue by adopting a middle-ground approach. This legislation provides for a phasing in of interstate banking. It then essentially allows for interstate branching by acquisition on an opt-out basis, and interstate branching de novo on an opt-in basis. Other provisions further protect the rights of States to determine certain terms and conditions of entry. Let me explain in greater detail.

First, the bill I am introducing today provides for nationwide interstate banking by acquisition. It allows adequately capitalized bank holding companies to acquire out-of-State banks 1 year after the enactment of the legislation. These acquisitions are subject to certain concentration limits on lending institution assets and statewide deposits. They are also subject to State laws which may require that a bank to be acquired must have been in existence for a period of up to 5 years.

Second, the legislation allows bank holding companies, 1 year after enactment, to combine previously acquired banks in more than one State into a single bank, in effect establishing interstate branches. This allows interstate branching by acquisition within the bank holding company structure.

However, States would have up to 3 years after enactment to opt-out of this branching by acquisition arrangement. If a State does not opt-out, any resulting interstate branches remain subject to the laws of the host State, but would exist as a branch of an out-of-State institution.

Third, the legislation also allows States to opt-in to interstate branching de novo by allowing States to enact laws expressly permitting this activity by all out-of-State national or State banks. And Federal law relating to thrift institutions, which has already been interpreted by the Office of Thrift Supervision to allow interstate branching de novo by federally chartered thrifts, is amended to make this activity subject to authorization under State law. In other words, States must opt-in to allowing any future interstate branching by thrifts.

Last, Mr. President, this bill includes provisions to protect the rights of States with respect to regulation and enforcement of its laws, and the ability to apply State tax laws in a nondiscriminatory manner to interstate branches. The tax language, for instance, permits State tax authorities to review the books and records of national banks which are physically located in that State, to assure compliance with State and local tax laws. I believe that progress was made during the last Congress to carefully draft these provisions, and I am including the same language, which passed the Senate in 1991, in my legislation today. I will continue to invite and entertain suggestions on how to refine these provisions in the best interest of protecting States' rights.

It is important to understand the benefits and burdens of this proposal. If a State takes no action during the 3 years after enactment of this legislation, a middle-ground approach to interstate banking and branching would exist in that State. It will have interstate banking by acquisition after 1 year, and interstate branching by acquisition through bank holding company combinations. Existing State laws establishing a minimum age of banks eligible to be acquired will continue to apply, up to an age requirement of 5 years. And State laws in such areas as intrastate branching, consumer protection, fair lending, community reinvestment, and taxation will continue to apply. A State which takes no action will have no interstate banking de novo unless it was previously authorized, no interstate branching de novo by banks, and no additional interstate branching de novo by thrifts.

Of course, States have every opportunity to take action and allow a more open structure for interstate banking and branching, or to prohibit interstate branching altogether. But in my view, this is a debate where we should respect the dual banking structure and allow flexibility at the State level.

So Mr. President, I look forward to the debate on this important issue in the months ahead. Interstate banking is a growing trend across the country. Some believe that we should remain neutral and allow this trend to proceed without further changes in Federal law. Others have suggested that our Federal laws on interstate banking and branching are outdated and should be reformed. In my view, if we take the latter view, our laws must be reformed in a manner which respect States' rights and offers some degree of protection to the legitimate franchise interests of small community based lending institutions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 810

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Banking Act of 1993".

SEC. 2. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE ACQUISITIONS.—

"(1) ACQUISITION OF EXISTING BANKS.—Beginning 1 year after the date of enactment of the Interstate Banking Act of 1993, the Board may approve an application under this section to permit a bank holding company that is adequately capitalized and adequately managed to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of an existing bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later. For purposes of this section, the State in which the operations of a bank holding company's banking subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest.

"(2) EXISTING BANKS.—For purposes of paragraph (1), a bank that does not open for business and has been chartered solely for the purpose of acquiring any voting shares of, interest in, or all or substantially all of the assets of an existing bank shall be deemed to be an existing bank and to have been in existence for the same period of time as the bank to be acquired.

"(3) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under paragraph (1), the Board shall consider the applicant's record of compliance with applicable Federal and State community reinvestment laws.

"(4) STATE LAW.—A transaction approved under paragraph (1) may occur without regard to whether such transaction is permitted under the law of the State in which the bank to be acquired is located.

"(5) CONCENTRATION AND OTHER LIMITS.—

"(A) IN GENERAL.—The Board may not approve an application under paragraph (1) if—

"(i) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of insured depository institution assets of the United States, as determined under regulations of the Board;

"(ii) the applicant controls, or upon completion of the acquisition would control, 25 percent or more of the insured depository institution deposits in the State in which the institution to be acquired is located, as determined under regulations of the Board, except that a State may waive the applicability of this subparagraph; or

"(iii) the acquisition will result in the applicant directly or indirectly controlling a bank that has been in existence for a shorter period of time than is prescribed by the law of the State in which such bank is located in effect on the date the application is filed with the Board, only if such State law does not prescribe a period of more than 5 years.

"(B) NO EFFECT ON ANTITRUST LAWS.—Nothing in this paragraph shall be construed to affect the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act; and

"(B) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 3. CONVERSION OF BANKS TO BRANCHES.

(a) IN GENERAL.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) INTERSTATE COMBINATIONS.—

"(1) IN GENERAL.—

"(A) COMBINATIONS AUTHORIZED.—Subject to paragraphs (6) and (7), 1 year after the date of enactment of the Interstate Banking Act of 1993, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single, resulting bank by means of a merger, consolidation, or other transaction.

"(B) SURRENDER OF CHARTER AFTER COMBINATION.—On the date on which a combination authorized by this paragraph becomes effective, the charters of the banks (other than that of the resulting bank) that have been combined in accordance with subparagraph (A) into the resulting bank shall be surrendered to the regulatory authority that issued the charters.

"(C) EFFECT OF STATE PROHIBITION OF COMBINATIONS.—If, during the period beginning on the date of enactment of the Interstate Banking Act of 1993 and ending on the expiration of 3 years after such date of enactment, a combination authorized by subparagraph (A) is effected in a State that thereafter elects to prohibit interstate combinations under paragraph (6), then that State may require such branch to be promptly converted back into a bank as it existed prior to such combination.

"(2) APPLICABILITY.—A combination under paragraph (1) may only be effected in the case of a merger, consolidation, or other transaction that is undertaken by a bank holding company that is adequately capitalized and adequately managed.

"(3) ACTIVITIES OF THE RESULTING BANK.—

"(A) ADDITIONAL BRANCHES.—Following any combination effected under paragraph (1), the resulting bank may establish, acquire, and operate additional branches at any location where the resulting bank or a

combined bank could have established or acquired and operated a branch under the applicable Federal or State law if it had not been a party to such combination.

"(B) INTRASTATE BRANCHING.—Except as expressly provided in this paragraph, nothing in this paragraph shall be deemed to amend, repeal, or preempt, either expressly or by implication, any Federal or State law relating to the establishment, acquisition, or operation of intrastate branches by national or State banks.

"(C) CONDITIONS.—Prior to granting approval to effect a combination under paragraph (1), the appropriate Federal banking agency shall consider the bank's rating under the Community Reinvestment Act of 1977 and the views of the appropriate State bank regulatory authorities regarding the bank's compliance with applicable State community reinvestment laws.

"(D) IMPOSITION OF SHARES TAX BY HOST STATES.—In order to assure that an out-of-State bank contributes a fair share to a host State's revenues, if any branch of an out-of-State bank established pursuant to paragraph (1) or subparagraph (A) of this paragraph continues in operation, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by any host State or political subdivision thereof based upon an allocation of net income, capital or net worth, and other factors employed in computing such value pursuant to an allocation method adopted by the host State's taxing authorities, if such method does not unconstitutionally discriminate against out-of-State banks or bank holding companies.

"(4) ACTIVITIES OF BRANCHES.—A State bank that establishes a branch or branches in accordance with paragraph (1) or paragraph (3)(A) of this subsection may not conduct any activity at such branch or branches located in the host State that is not permitted for banks chartered by the host State.

"(5) APPLICABLE LAW.—

"(A) IN GENERAL.—

"(i) NATIONAL BANK BRANCHES.—Any branch of a national bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a national bank having its main office in that State.

"(ii) STATE BANK BRANCHES.—Any branch of a State-chartered bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State with respect to intrastate branching, consumer protection, fair lending, and community reinvestment as if it were a branch of a bank chartered under the laws of such State and having offices only in such State.

"(B) FILING REQUIREMENTS.—

"(i) IN GENERAL.—A host State may require any bank having its main office in another State that wishes to establish a branch within the host State as a result of a combination authorized by paragraph (1) or paragraph (3)(A) to comply with filing requirements that—

"(I) are not discriminatory in nature; and

"(II) are similar in their effect to those that are imposed on a corporation having its main office in another State that is not engaged in the business of banking and that seeks to engage in business in the host State.

"(ii) FAILURE TO COMPLY.—The host State may preclude any bank referred to in clause (i) from establishing or operating a branch within the host State as the result of a combination authorized by paragraph (1) if that bank or its branch materially fails to comply with the filing requirements established by the host State.

"(6) STATE ELECTION TO PROHIBIT INTERSTATE COMBINATIONS.—

"(A) IN GENERAL.—A combination authorized by paragraph (1) shall not be effective with respect to banks located in a State that has enacted, at any time prior to expiration of 3 years after the date of enactment of the Interstate Banking Act of 1993, a law that applies equally to national and State banks and that expressly prohibits interstate combinations authorized under paragraph (1) as the result of which a bank located in that State would be combined with, and made a branch of, an out-of-State bank.

"(B) EFFECT OF PROHIBITION.—If a State has in effect a prohibition described in subparagraph (A), a combination under paragraph (1) may not be effected which results in an out-of-State bank being combined with and made a branch of a bank located in that State.

"(7) STATE ELECTION TO PERMIT INTERSTATE COMBINATIONS.—

"(A) COMBINATIONS PRIOR TO EFFECTIVE DATE.—A combination under paragraph (1) may be undertaken before 1 year after the date of enactment of the Interstate Banking Act of 1993, if each of the States in which 1 or more banks that are to be combined into a single, resulting bank is located has in effect a law expressly permitting interstate combinations by national and State-chartered banks. A State described in the preceding sentence may impose other conditions on the branch of the resulting bank located in that State if—

"(i) the conditions do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies; and

"(ii) the imposition of the conditions is not preempted by Federal law regarding the same subject.

"(B) COMBINATIONS AFTER EFFECTIVE DATE.—A State that originally elected to prohibit interstate combinations as described in paragraph (6) may elect at any later time to permit interstate combinations authorized under paragraph (1) if such State enacts a law expressly permitting interstate combinations by national and State-chartered banks.

"(8) LIMITATIONS.—Nothing in paragraph (1) affects the applicability of Federal or State antitrust laws that do not discriminate or have the effect of discriminating against out-of-State banks or bank holding companies.

"(9) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection limits in any way the right of a State to—

"(A) determine the authority of State banks chartered in that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'adequately capitalized' has the meaning given such term by section 38 of the Federal Deposit Insurance Act;

"(B) the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(C) the term 'combined bank' means any bank participating in a combination under paragraph (1), other than the resulting bank;

"(D) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank has its main office and is engaged in the business of banking;

"(E) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

"(F) a bank shall be deemed to be 'located' in the State in which it was chartered or, in the case of a national bank, the State in which its main office is located; and

"(G) the term 'resulting bank' means a banking subsidiary of a bank holding company that has resulted from a transaction effected under paragraph (1) involving the combination of 2 or more subsidiary banks of the bank holding company located in 2 or more States.".

(b) TAXATION.—

(1) STATE FRANCHISE OR OTHER NONPROPERTY TAXES.—The amendments made by this section and section 2 do not in any way affect, limit, impair, or preclude the right of any State or political subdivision of a State to impose a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax as provided by section 3124 of title 31, United States Code.

(2) STATE METHODS OF TAXATION.—Subject to the provisions of section 3(h)(3)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(h)(3)(D)), as added by this section, nothing in this section or section 2 shall be construed to either—

(A) prohibit or restrict any State or political subdivision of a State from applying any tax or method of taxation to a State bank or a national bank or branch thereof when such tax or tax method is otherwise permitted by or permissible under either the Constitution of the United States or any other Federal law; or

(B) allow any State or political subdivision of a State to apply any tax or method of taxation to a State bank or national bank or branch thereof when such tax or tax method is otherwise prohibited or restricted by either the Constitution of the United States or any other Federal law.

(c) CONFORMING AMENDMENT TO THE NATIONAL BANK ACT.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended in the first sentence by striking "a national banking association" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, a national banking association".

SEC. 4. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS".

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) in the first sentence of paragraph (1), by striking "No State" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, no State";

(2) by adding at the end of section 18(d) the following:

"(3) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—A host State bank supervisory or regulatory authority may examine a branch established in the host State by a bank chartered by a State other than that host State that resulted from a combination effected under section 3(h) of the Bank Holding Company Act of 1956 for the purpose of determining compliance with host State laws regarding banking, community reinvestment, fair lending, consumer protection,

and permissible activities and to ensure that the activities of the branch—

"(i) are conducted in a manner that is consistent with sound banking principles; and

"(ii) do not constitute a serious risk to the safety and sound operation of the branch.

"(B) ENFORCEMENT.—In the event that a host State bank supervisory or regulatory authority determines that there is a violation of the law of the host State concerning the activities being conducted by the branch of a State bank or that such branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such host State bank supervisory or regulatory authority may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch in question were a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENT.—The State bank supervisory or regulatory authorities from 1 or more States are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) FEDERAL REGULATORY AUTHORITY.—

"(i) INTERSTATE AGREEMENTS.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(ii) REVIEW OF INTERSTATE AGREEMENTS.—If the appropriate Federal banking agency determines that the States have failed to reach an agreement under subparagraph (C), or that such an agreement fails to adequately protect the Federal Deposit Insurance Fund, the appropriate Federal banking agency shall not defer to State examinations of the out-of-State branches.

"(4) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a bank establishes or maintains a branch, other than the State in which the bank is chartered and is engaged in the business of banking.".

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act To provide for the consolidation of national banking associations", approved November 7, 1918, (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting after "located in the same State" the following: ", or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(1) or 3(h) of the Bank Holding Company Act of 1956 is located,";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate acquisition or interstate combination undertaken in accordance with section 3(d)(1) or 3(h) of the Bank Holding Company Act of 1956 shall be determined in accordance with the provisions of those sections";

(3) in the first sentence of section 2(a), by inserting after "located within the same State," the following: "or in any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(1) or 3(h) of the Bank Holding Company Act of 1956 is located,";

(4) in the sixth sentence of section 2(d), by inserting before the period ", except that the applicability of State law to the transaction undertaken pursuant to section 3(d)(1) or 3(h) of the Bank Holding Company Act of 1956 shall be determined in accordance with the provisions of those sections"; and

(5) in paragraph (4) of section 3, by inserting after "within the same State" the following: ", or within any State in which a bank involved in an interstate acquisition or interstate combination authorized by section 3(d)(1) or 3(h) of the Bank Holding Company Act of 1956 is located,".

SEC. 5. ESTABLISHMENT OF NEW INTERSTATE BRANCHES BY NATIONAL AND STATE BANKS.

(a) ESTABLISHMENT OF NEW INTERSTATE BRANCHES BY STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)), as amended by section 4(a), is further amended by adding at the end the following:

"(5) ESTABLISHMENT OF NEW INTERSTATE BRANCHES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a host State may, expressly by statute and not merely by implication, permit all out-of-State national or State banks that are adequately capitalized and adequately managed to establish a branch in the host State other than by merger, consolidation, or other similar transaction. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956 and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(B) DEFINITION.—For purposes of this paragraph, the term 'host State' means the State in which a bank establishes a branch under subparagraph (A).".

(b) ESTABLISHMENT OF NEW INTERSTATE BRANCHES BY NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

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

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) APPROVALS AUTHORIZED.—Notwithstanding any other provision of law, the Comptroller of the Currency may approve an application under this section for a national bank to establish a branch in a State other than the State in which its principal place of business is located if the host State expressly permits, by statute and not merely by implication, all out-of-State national banks that are adequately capitalized and adequately managed to establish such a branch. Such branch shall be operated in accordance with section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section.

"(2) DEFINITION.—For purposes of this subsection, the term 'host State' means the State in which a national bank establishes a branch under paragraph (1).".

SEC. 6. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency may prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c) of this section. If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) of this section separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(4) DEFINITIONS.—For purposes of this section:

"(A) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution with the ability to accept deposits located in any State.

"(B) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency.

"(C) STATE.—The term 'State' has the same meaning as provided in section 3(a) of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended by adding at the end the following sentence: "A written evaluation shall contain the information required by subparagraphs (A) and (B) presented separately for each metropolitan area in which an insured depository institution maintains one or more domestic branch offices.".

SEC. 7. STATE TAX COMPLIANCE.

Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended by adding after subparagraph (B) the following new subparagraph:

"(C) Notwithstanding subparagraph (A), lawfully authorized auditors, examiners, and other representatives acting on behalf of the State agency or agencies charged with the administration and collection of taxes imposed by a State or political subdivision

thereof, may, to the extent necessary, review the books, records, and accounts of a depository institution, chartered under Federal law and located in that State, to determine any State or local tax liability and to ensure compliance with the tax laws of the State or political subdivision thereof.".

SEC. 8. INTERSTATE BRANCHING BY FEDERAL SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5(r) of the Home Owners' Loan Act (12 U.S.C. 1464(r)) is amended by adding at the end the following new paragraph:

"(4) APPROVAL OF DIRECTOR REQUIRED.—

"(A) IN GENERAL.—No Federal savings association described in paragraph (1) may establish, acquire, or operate a branch outside such association's home State without the prior written approval of the Director.

"(B) LIMITATIONS ON THE DIRECTOR'S AUTHORITY.—The Director may not approve the establishment, acquisition, or operation of any branch of any Federal savings association in any State other than such association's home State, unless—

"(i) the establishment, acquisition or operation of such branch would, if the Federal savings association were a savings association chartered by the home State of the Federal savings association, be expressly permitted under both the law of the State in which such branch is to be located and the law of the home State of the Federal savings association, by statutory language to that effect and not merely by implication;

"(ii) the establishment, acquisition or operation of the branch is carried out in accordance with all requirements, conditions, and limitations established under or pursuant to the law of the State in which the branch is (or is proposed to be) located; and

"(iii) such association is an adequately capitalized depository institution (as defined under section 38 of the Federal Deposit Insurance Act) which maintains capital that exceeds the required minimum ratio for each relevant capital measure.

"(C) HOME STATE DEFINED.—For purposes of this paragraph, the term 'home State' means the State in which the home office of the Federal savings association is located.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5(r)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(r)(3)) is amended by striking "this subsection" and inserting "paragraph (1)".

(c) APPLICABILITY.—Section 5(r)(4) of the Home Owners' Loan Act (as added by subsection(a)) shall not apply to the establishment, acquisition, or operation of a branch of a Federal savings association approved by the Director of the Office of Thrift Supervision on or before June 30, 1993.

By Mr. KERRY:

S. 811. A bill to incorporate environmental concerns into technology programs established in the National Institute of Standards and Technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ENVIRONMENTAL COMPETITIVENESS ACT OF 1993

Mr. KERRY. Mr. President, as the distinguished majority leader said, today is Earth Day, and we hope that Americans do not need to be reminded that it is indeed Earth Day, though probably in too many parts of the country the reality is that they do.

Certainly, we need to change our behavior to reflect the realities of what Earth Day means. I was privileged to engage in one of my first political efforts when I was younger as an organizer of the first Earth Day back in 1970—I was the New England chair of Earth Day—and to participate in the 20th anniversary in 1990, by serving on the national board. Now, gratefully, I have a number of different positions within the Senate that allows me to continue some important environmental efforts and to work with other concerned people, such as the distinguished chair of the Environmental Committee, the Senator from Montana, Mr. BAUCUS, who is here on the floor now.

I think that all across the country, as people think about what Earth Day means, it is appropriate also that the leader has announced that we will begin debate today on a question of a Cabinet position for EPA, which I fully support. I will say more about that in a moment.

Earth Day provides us also with an opportunity to reflect and evaluate our progress in protecting the environment, on where we are, and where we have been.

Shortly, I will discuss my Earth Day initiative, an environmental competitiveness bill that I am introducing today and which I hope will provide a greater link between protecting the environment and promoting economic growth, two concepts that, for regrettable reasons, had been put at odds with each other by the previous administrations.

I think, if you look at where we are today, there is obviously an enormous challenge ahead, despite progress made. The fact is progress—significant progress—has been made, Mr. President. In the past two decades, we passed the Clean Air Act and Clean Water Act; we created EPA; we created legislation to regulate solid waste, drinking water, and toxic chemicals; we created a Superfund to clean up hazardous waste; we enacted an endangered species act to protect diversity, of which the majority leader has just spoken.

But anybody who makes a dispassionate, neutral, candid assessment of all of those acts will have to conclude that we have been better at putting the laws on the books than we have in carrying out those laws or in meeting the goals that we set. Throughout the 1980's and until this year, many of our efforts to advance policies to conserve our natural resources and ecosystems were stymied by the Reagan and Bush administrations.

The Superfund is a huge amount of money locked up in a morass of administrative bureaucracy and lawyers and lawsuits, with far more money spent in that effort than in cleaning up.

Regarding the Clean Air Act, we saw the Competitiveness Council, under former Vice President Quayle, ripping away at the capacity to develop the regulations that would enforce it. In fact, many had promoted a terrible process of pitting business interests against environmental interests, dividing people instead of promoting the goals put forward by these efforts. For 12 long years, we really lost some opportunity to do things.

During the past two decades, we also spent much time and money on cleaning up pollution and toxic waste, and far too little effort on preventing the pollution in the first place.

We learned about cleaning up. But it just does not make much sense to be spending billions of dollars cleaning up toxic dump sites if, at the same time, we continue to make the very same mess all over again and asking taxpayers to give us more money for more cleanups. This is absurd and we are smarter than that. We need to reorder our priorities to focus on the prevention and reduction of toxic waste generation.

We just came from a meeting with EPA Administrator Carol Browner who will be, I hope, the new Secretary of the Environment. She pointed out the new administration's shift from end-of-the-pipe controls to environmental pollution prevention, which is a major shift we need to make.

Yesterday, many of us were very gratified to be down at the Botanical Gardens to listen to the President and Vice President of the United States emphasize changing the course of this country by, for the first time in many years, not just uttering platitudes about the environment but taking positions to protect it. We witnessed a President use the power of his office to issue Executive orders and proclaim that we will sign treaties that will positively and generally improve the life on our planet—pledging to sign the biodiversity treaty stalled by the Bush administration; pledging to meet the 1990 target by the year 2000 for the reduction of carbon dioxide emissions; pledging to sign Executive orders for Federal agencies to purchase energy-efficient computers, alternative fuel vehicles, and ozone-friendly products.

Personally, I am gratified that the President is including an Executive order of pollution prevention at Federal facilities—an action which I and 53 other Senators asked the President to take in a letter we sent to him last month. This Executive order would require all Federal facilities to engage in pollution prevention planning, reporting, and procurement practices in an effort to greatly reduce the kind of waste that clogs our landfills and requires more incinerators.

These are new steps, and they are important steps. But what I think is most important is the shift in attitude. The basic fact is, Mr. President, we are now a population of 5.3 billion people on

this planet. It took us 130 years to go from 1 billion to 2 billion on this planet. It will take us just 10 years to go now from the 5.3 billion up to 6.3 billion and most experts will tell you we will double the population in the span of the next century.

We, as an industrial nation, have an obligation to ask ourselves, as do other industrial nations, what is our responsibility with respect to the rest of humankind on this planet? We cannot afford to export our way of life—and I purposely do not say our standard of living. We can export our standard of living if we begin to employ new technologies, but we do not have to export our way of life, the wastefulness, the energy use, the profligate destruction around us. It is clear that if we are only 6 percent of the world's population and we are using 35 percent of the world's energy and 65 percent of its resources, there just are not enough resources to go around for China, Africa, Latin America, and countless other continents and nations to develop exactly as we have.

So there is a simple reality, and that reality is that we must begin to apply the ingenuity that we used in this Nation to build missiles and aircraft carriers and other types of defensive mechanisms or offensive mechanisms to defend ourselves against a threat, the cold war communism. Now we should use that ingenuity and some of that pot of gold to defend ourselves against this new threat, which in many ways is no less dangerous.

The Senator from North Dakota [Mr. DORGAN] just spoke about people dying. In America, 350,000 people a year die of lung-related diseases, many of those deaths instigated as a consequence of the air quality that people breathe in cities all across our Nation, because we have not been tough enough in requiring reductions of CO_2, SO_2 and NO_X emissions from our automobiles and trucks.

I can go on at great length, but I do not have time now. However, I think it is clear that we must change the way we think and respond.

When Vice President AL GORE, then Senator GORE, and I and others were at the Earth Summit in Rio last year, we were astounded to see that there were less than 50 American companies represented while the Japanese delegation included over 700 Japanese businesses. The Japanese made a strategic decision to have their companies there to sell their environmental technology all over the world.

We need to make that same kind of decision; one that will put people back to work in this country. I believe that the environmental technology industry is an industry that will have an enormous impact in creating American jobs. Already in Massachusetts we have 35,000 people working in this industry. It is growing at 20 to 25 percent a year. Current estimates are it is a $200 billion-a-year industry, and it will become, in the next 5 to 10 years, a $400 billion-a-year industry with the capacity to export our technology all over the world. Make our businesses more competitive, put our people to work, develop intelligently, and you wind up cleaning up the environment in the process.

Today as one small effort in the many steps necessary—and there are many necessary—I am sending to the desk a bill called the Environmental Competitiveness Act, and I ask that it be referred to the appropriate committee.

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

Mr. KERRY. Mr. President, the bill I am introducing today—and I say it is really only one small step in this—attempts to take one of the creative approaches and charges our Government with the responsibility of helping small- and medium-sized manufacturers to make use of innovative environmental technologies which promote cleaner manufacturing and which then helps them to promote that into the export markets to sell abroad and take abroad to help other developing countries.

In a sense, this bill allows us to have our cake and eat it, too. We make our businesses more competitive by helping them to reduce costs; we make our environment cleaner by reducing the waste created during the manufacturing process; and we help create new markets for environmental technologies, all for the price of changing our attitude.

The approach itself is not revolutionary. People have been talking about and demonstrating different ways that this can be done. Private consultants have already shown large companies can save enormous amounts of money by rooting out waste-creating practices and adapting innovative environmental technologies at the early stage. Let me give you an example. I know of a company that recently was threatening to move to Mexico. They were ready to pull up stakes and go south because of environmental requirements that they reduce toxics in their waste-water discharges. Then someone in the company suggested an internal environmental assessment to see if they could reduce or eliminate the amount of toxic waste through preventive measures as many other companies were doing. They saw that the other companies were not moving to Mexico, were making a profit, and somehow were meeting the environmental standard. What did they find? Through a source reduction and energy efficiency assessment this company found amazing examples of waste—leaking pipes spilling chemicals into drains. Effluents just flowing into the river. Through simple process and manufacturing changes they found enough ways to curb the spillage inside the factory. Then this company was able to reduce costs, save money, and not have to move.

Mr. President, I found another example of prevention technology in a visit to Fall River, MA last week. The Molten Metal Company developed a new technology that is totally contained within a metal container, a source reduction technology called "closed-loop recycling" where no waste is ever generated. It literally bathes all kinds of elements, any kind of product—wood, paper, plastic—put it in this molten metal technology and it breaks it down to its original elements, separates them so that they can literally be resold in their original form. Not only does this technology not produce waste but it is 10 times cheaper than incineration costs.

While I was there, executives from Exxon were all over the place and the Japanese will be visiting next week. The company is now on the public exchange and the stock is worth $300 million. People are working and more will be working.

This is the kind of example of pollution prevention technology that we need to engage in. America is struggling to create jobs. Here is a need. Here is the job-creation capacity.

We have the ingenuity. The question is, do we have the will to begin to make some of the choices that we need to make here to make these things happen?

Studies have shown that businesses can eliminate at least one-third to one-half of their waste generation by implementing source reduction techniques. Further, one recent study showed that 25 percent of all source reduction activities require no capital investment for implementation and, of those that require capital, 50 percent of the investments are recouped in savings, on average, in less than 18 months.

My legislation, the Environmental Competitiveness Act will simply give small- and medium-sized companies the information about pollution prevention and environmental technologies that large companies get from consultants.

The Department of Commerce's Hollings Centers created by Senator HOLLINGS, chairman of the Senate Commerce Committee are ideally suited to provide this assistance since they are designed to deploy modernization technology to small- and medium-sized manufacturers. The Hollings Center employees can help companies identify opportunities to reduce their waste and their costs as part of the centers' mission to make these companies more competitive.

Doing so will help meet the Hollings Centers' goal of modernizing manufacturing since it will reduce disposal

costs, reduce manufacturing costs, reduce liability costs, and reduce raw material costs as well as reduce risks to worker health and safety.

The Environmental Competitiveness Act will take advantage of the expertise EPA already has in the conduct of source reduction assessments by having EPA train the Hollings Center employees to perform assessments of client companies. EPA has conducted source reduction assessments for over 200 businesses. A survey of 38 of these companies found that they had achieved cost savings of $2.5 million as a result of the assessments.

In order to facilitate the assessments, the Commerce Department will develop an interactive software package in consultation with EPA and DOE which will help to identify ways for businesses to reduce pollution and energy waste at the source.

In the continued spirit of banishing the adversarial relationship between environmental and economic policies, the act will also establish a commission to study which industries are the most at risk from increased environmental regulation and can most benefit from Government technical assistance in the area of pollution prevention. It directs the Hollings Centers to focus assistance on these industries.

In addition, it creates a program of grants to the States to pay some of the costs faced by States in using their own offices of technology assistance to spread word of the benefits of pollution prevention and energy efficiency technologies, and the means of taking advantage of those.

This bill attempts to put our country on the road to sustainable development by giving our small companies the tools they need to reduce the environmentally harmful effects of their manufacturing processes. It does this by charging Government to work alongside business to simultaneously improve competitiveness and to protect the environment.

Let me add here that the bottom line of my comments is that this is all a strong argument to why we need a Cabinet Secretary for the environment so that whenever there are talks about exports, foreign policy, any of the aspects of development, environmental concerns will be represented at that table. We need to set the example to these other nations that want to develop and live like we do that we are going to be helpful in the process of their making this transition.

I hope that my legislation is one small contribution to do that. I certainly look forward to working with the distinguished chairman of the Environment Committee and others who have jurisdiction over many of these issues in an effort to make this happen.

In closing, let me say that while the celebration of the anniversary of the first Earth Day gives us a wonderful opportunity to evaluate our environmental efforts, we should strive to make every day an Earth day in our approach to life.

I do not plan to stop here in my efforts to promote environmental initiatives, but will work year round to promote sustainable development in a broad range of environmental arenas. In the coming months I expect to introduce and vigorously pursue the passage of legislation that would promote environmental technology exports abroad; legislation that would reauthorize the Fisheries Conservation and Management Act which regulates our commercial fishing industries; legislation to reform our national flood insurance program in order to protect the Nation's taxpayers and our valuable coastal regions; and legislation to reauthorize the Marine Mammal Protection Act which would protect from exploitation an array of marine mammals such as whales, sea lions, seals, and manatees.

Working with our new Democratic administration I anticipate that we in Congress who are committed to environmental protection will make great things happen for the environment and I look forward with high hopes to next year's Earth Day celebration as an opportunity to assess our progress.

Mr. President, I ask unanimous consent that a copy of the text of the bill and an explanatory paper follow my remarks in the RECORD.

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

S. 811

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 shall be referred to as the "Environmental Competitiveness Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The national policy of the United States declares that pollution should be prevented or reduced at the source whenever feasible, prior to environmentally sound recycling, treatment, or landfilling.

(2) There are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use.

(3) Such changes offer industry substantial savings in reduced raw material, pollution control, and liability costs, and help to protect the environment and reduce risks to worker health and safety.

(4) Federal Government estimates indicate that businesses can reduce their waste generation 33 percent to 50 percent by implementing source reduction techniques, and private sector studies suggest that some industry sectors can reduce their waste by up to 80 percent through the use of such techniques.

(5) In most cases, source reduction and energy efficiency techniques do not require the purchase of new equipment, but merely a better understanding of how to use equipment currently available.

(6) In fact, one recent study indicated that 25 percent of all source reduction activities require no capital investment for implementation and, of those that require capital, 50 percent of the capital expenditures were recouped in savings in, on average, less than 18 months.

(7) The private sector must take the lead in reducing the production of waste by manufacturing companies and, in fact, many large companies have contracted with consultants or performed internal audits to find methods for reducing pollution in their own processes.

(8) Source reduction is fundamentally different from, and more desirable than, waste management and pollution control and should be promoted by Federal agencies, particularly the Department of Commerce in its role in assisting businesses.

(9) The Federal Government can assist small- and medium-sized companies that often are unaware of the techniques available for pollution prevention and the possible savings from employing them, and such Government assistance will help meet the dual goals of modernizing manufacturing and improving the environment.

(10) The Environmental Protection Agency and the Department of Energy can provide the Manufacturing Technology Centers with technical expertise in this area.

(11) The Environmental Protection Agency has conducted over 200 source reduction assessments for manufacturers and the Department of Energy has conducted over 4100 energy audits which have saved companies $419 million and 77 trillion Btu's of energy.

(12) Assisting small- and medium-sized companies to reduce the waste products created during the manufacturing process will reduce the companies' costs, and thus improve the competitiveness of such companies, by—

(A) reducing their costs of disposal;

(B) reducing their costs of complying with environmental regulations;

(C) reducing their raw material costs;

(D) reducing liability costs associated with transport and disposal; and

(E) assisting these companies in identifying areas where their production processes are inefficient.

SEC. 3. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new title:

"TITLE III—MANUFACTURING TECHNOLOGIES

"SEC. 301. DEFINITIONS.

"As used in this title—

"(1) ADVANCED MANUFACTURING TECHNOLOGY.—The term 'advanced manufacturing technology' includes—

"(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production that advances the state-of-the-art; and

"(B) novel techniques and processes designed to improve manufacturing quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

"(2) DIRECTOR.—The term 'Director' means the Director of the Institute.

"(3) INSTITUTE.—The term 'Institute' means the National Institute of Standards and Technology.

"(4) MODERN TECHNOLOGY.—The term 'modern technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of manufacturers.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(6) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Technology.

"(7) SOURCE REDUCTION.—The term 'source reduction' has the same meaning as in section 6603 of the Pollution Prevention Act of 1990.

"SEC. 302. TWENTY-FIRST CENTURY MANUFACTURING INFRASTRUCTURE PROGRAM.

"(a) ESTABLISHMENT.—There is established within the Institute a Twenty-First Century Manufacturing Infrastructure Program, which shall include—

"(1) the Advanced Manufacturing Technology Development Program established under section 303; and

"(2) the National Manufacturing Outreach Program established under section 304 and the associated programs established under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k–1).

"(b) PROGRAM FUNDING.—The Secretary, through the Under Secretary and the Director, may accept the transfer of funds from any other Federal agency and may use those funds to implement the Twenty-First Century Manufacturing Infrastructure Program and support its activities.

"SEC. 303. ADVANCED MANUFACTURING TECHNOLOGY DEVELOPMENT PROGRAM.

"(a) PROGRAM DIRECTION.—The Secretary, through the Under Secretary and the Director, shall establish an Advanced Manufacturing Technology Development Program which shall include advanced manufacturing systems and networking projects.

"(b) PROGRAM GOAL.—The goal of the Advanced Manufacturing Technology Development Program is to create collaborative multiyear technology development programs involving United States industry and, as appropriate, other Federal agencies, the States, worker organizations, universities, and other interested persons, in order to develop, refine, test, and transfer design and manufacturing technologies and associated applications, including advanced computer integration and electronic networks.

"(c) PROGRAM COMPONENTS.—The Advanced Manufacturing Technology Development Program shall include—

"(1) the advanced manufacturing research and development activities at the Institute; and

"(2) one or more technology development testbeds within the United States, selected in accordance with procedures, including cost sharing, established for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), whose purpose shall be to develop, refine, test, and transfer advanced manufacturing and networking technologies and associated applications through a direct manufacturing process.

"(d) ACTIVITIES.—The Advanced Manufacturing Technology Development Program, under the coordination of the Secretary, through the Director, shall—

"(1) test and, as appropriate, develop the equipment, computer software, and systems integration necessary for the successful operation within the United States of advanced design and manufacturing systems and associated electronic networks;

"(2) establish at the Institute and the technology development testbed or testbeds—

"(A) prototype advanced computer-integrated manufacturing systems; and

"(B) prototype electronic networks linking manufacturing systems;

"(3) assist industry to develop, and implement voluntary consensus standards relevant to advanced computer-integrated manufacturing operations, including standards for networks, electronic data interchange, and digital product data specifications;

"(4) help to make high-performance computing and networking technologies an integral part of design and production processes where appropriate;

"(5) conduct research to identify and overcome technical barriers to the successful and cost-effective operation of advanced manufacturing systems and networks;

"(6) facilitate industry efforts to develop and test new applications for manufacturing systems and networks;

"(7) involve in the Advanced Manufacturing Technology Development Program, to the maximum extent practicable, both those United States companies that make manufacturing and computer equipment and a broad range of company personnel from those companies that buy the equipment;

"(8) identify training needs, as appropriate, for company managers, engineers, and employees in the operation and applications of advanced manufacturing technologies and networks, with a particular emphasis on training for production workers in the effective use of new technologies;

"(9) work with private industry, universities, and other interested parties to develop standards for the use of advanced computer-based training systems, including multimedia and interactive learning technologies;

"(10) involve small- and medium-sized manufacturers in its activities;

"(11) exchange information and personnel, as appropriate, between the technology development testbeds and the electronic network created under this section; and

"(12) incorporate and experiment with source reduction techniques and technologies, through consultation with the Administrator of the Environmental Protection Agency, at the technology testbed or testbeds.

"(e) TESTBED AWARDS.—(1) In selecting applicants to receive awards under subsection (c)(2) of this section, the Secretary shall give particular consideration to applicants that have existing computer expertise in the management of business, product, and process information such as digital data product and process technologies and customer-supplier information systems, and the ability to diffuse such expertise into industry, and that, in the case of joint research and development ventures, includes both suppliers and users of advanced manufacturing equipment.

"(2) An industry-led joint research and development venture applying for an award under subsection (c)(2) of this section may include one or more State research organizations, universities, independent research organizations or Regional Centers for the Transfer of Manufacturing Technology (as created under section 25 of the National Institute of Standards and Technology Act) and other organizations as the Secretary considers appropriate.

"(f) ADVICE AND ASSISTANCE.—(1) Not later than 6 months after the date of enactment of this title, and before any request for proposals is issued, the Secretary shall hold one or more workshops to solicit advice from United States industry and from other Federal agencies, particularly the Department of Defense, regarding the specific missions and activities of the testbeds.

"(2) The Secretary shall, to the greatest extent possible, coordinate activities under this section with activities of other Federal agencies and initiatives relating to computer-aided acquisition and logistics support, electronic data interchange, flexible computer-integrated manufacturing, and enterprise integration.

"(3) The Secretary may request and accept funds, facilities, equipment, or personnel from other Federal agencies in order to carry out responsibilities under this section.

"(g) APPLICATION OF ANTITRUST LAWS.—Nothing in this section shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"SEC. 304. NATIONAL MANUFACTURING OUTREACH PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—There is hereby established a National Manufacturing Outreach Program (hereafter in this section referred to as the 'Outreach Program'). The Secretary, acting through the Under Secretary and the Director, shall implement and coordinate the Outreach Program in accordance with an initial plan to be prepared and submitted to Congress not later than 6 months after the date of enactment of this title and a 5-year plan for the Outreach Program to be submitted to the Congress not later than 12 months after the date of enactment of this title and to be updated annually. The purpose of the Outreach Program is to link and strengthen the Nation's manufacturing extension centers and activities in order to assist United States manufacturers, especially small- and medium-sized firms, to expand and accelerate the use of modern manufacturing practices, and to accelerate the development and use of advanced manufacturing technology.

"(b) COMPONENTS.—The Outreach Program shall be a partnership of the Department of Commerce, the States, the private sector, and, as appropriate, other Federal agencies to provide a national system of manufacturing extension centers and technical services to United States companies, particularly small- and medium-sized manufacturers. The Outreach Program shall include the following components:

"(1) Manufacturing Outreach Centers, as provided for under subsection (c) of this section.

"(2) Regional Centers for the Transfer of Manufacturing Technology, as established under section 25 of the National Institute of Standards and Technology Act, and the State Technology Extension Program, as established under section 26 of the National Institute of Standards and Technology Act.

"(3) An organization, coordinated and funded by the Institute, which links and supports Manufacturing Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology, and which operates the Technology Extension Network and Clearinghouse established under subsection (d) of this section.

"(4) Such technology and manufacturing extension centers supported by other Federal departments and agencies as the Secretary may deem appropriate for inclusion in the Outreach Program.

"(c) MANUFACTURING OUTREACH CENTERS.—(1) Government and private sector organizations, actively engaged in technology or manufacturing extension activities, may apply to the Secretary to be designated as Manufacturing Outreach Centers. Eligible organizations may include Federal, State, and local government agencies, their extension programs, and their laboratories; small business development centers; and appropriate programs run by professional societies, worker organizations, industrial organizations, for-profit or nonprofit organizations, universities, community colleges, and technical schools and colleges, including, where appropriate, vendor-supported demonstrations of production applications.

"(2) The Secretary shall establish terms and conditions of participation and may provide financial assistance, on a cost-shared basis and through competitive, merit-based review processes, to nonprofit or government participants throughout the United States to enable them to—

"(A) join the Outreach Program and disseminate its technical and information services to United States manufacturing firms, particularly small- and medium-sized firms; and

"(B) strengthen their efforts to help small- and medium-sized United States manufacturers to expand and accelerate the use of modern and advanced manufacturing practices.

"(3) Each Manufacturing Outreach Center shall have the option of affiliating or not affiliating with one or more Regional Centers for the Transfer of Manufacturing Technology. If such a Manufacturing Outreach Center chooses to make such an affiliation, the Secretary, through the Director, shall take such steps as appropriate to ensure a productive working partnership between such center and the Regional Center or centers with which it affiliates.

"(d) DISSEMINATION OF SOURCE REDUCTION AND ENERGY EFFICIENCY TECHNOLOGIES.—(1) Each Regional Center for the Transfer of Manufacturing Technology shall designate at least one employee who shall conduct or assist in the conducting of energy efficiency and source reduction assessments of client companies of the Regional Centers and the Manufacturing Outreach Centers. These assessments shall assist such client companies (especially companies in those industries identified by the Environmental Competitiveness Commission under section 5(d) of the Environmental Competitiveness Act of 1993) in identifying opportunities for energy efficiency conservation and source reduction through improvements in manufacturing processes or the purchase of new equipment.

"(2) In order to facilitate these energy efficiency and source reduction assessments—

"(A) the employees designated under paragraph (1) shall receive training, at the expense of the Department of Commerce, from the Department of Energy and the Environmental Protection Agency, concerning the conducting of energy efficiency and source reduction assessments; and

"(B) not later than 12 months after the date of enactment of this section, the Institute, in consultation with the Environmental Protection Agency and the Department of Energy, shall make available a software assessment package to the Regional Centers and the Manufacturing Outreach Centers for the purpose of assisting client companies in identifying opportunities for improved energy efficiency and source reduction.

"(e) TECHNOLOGY EXTENSION COMMUNICATIONS NETWORK.—The Department of Commerce shall provide for an instantaneous, interactive communications network to serve the Outreach Program, to facilitate interaction among Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology, and Federal agencies and to permit the collection and dissemination in electronic form, in a timely and accurate manner, of information described in subsection (f). Such communications infrastructure shall, wherever practicable, make use of existing computer networks, databases, and electronic bulletin boards. Communications infrastructure arrangements, including user fees and appropriate electronic access for public and private information suppliers and users shall be addressed in the 5-year plan prepared under subsection (a) of this section.

"(f) CLEARINGHOUSE.—(1) The Secretary shall develop a clearinghouse system, using the National Institute of Standards and Technology, the National Technical Information Service, and private sector information providers and carriers where appropriate to—

"(A) identify expertise and acquire information, appropriate to the purpose of the Outreach Program stated in subsection (a), from all available Federal sources, and where appropriate from other sources, providing assistance where necessary in making such information electronically available and compatible with the electronic network;

"(B) ensure ready access by United States manufacturers and other interested private sector parties to the most recent relevant available information and expertise; and

"(C) inform such manufacturers of the availability of such information, to the extent practicable.

"(2) The clearinghouse shall include information available electronically on—

"(A) activities of Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology, the State Technology Extension Program, and the users of the electronic network;

"(B) domestic and international standards from the Institute and private sector organizations and other export promotion information, including conformity assessment requirements and procedures;

"(C) the Malcolm Baldrige Quality Program, and quality principles and standards;

"(D) manufacturing processes minimizing waste and negative environmental impact;

"(E) federally funded technology development and transfer programs;

"(F) responsibilities assigned to the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation under section 102;

"(G) how to access databases and services; and

"(H) other subjects relevant to the ability of companies to manufacture and sell competitive products throughout the world.

"(g) PRINCIPLES.—In carrying out this section, the Department of Commerce shall take into consideration the following principles:

"(1) The Outreach Program and the electronic network shall be established and operated through cooperation and co-funding among Federal, State, and local governments, other public and private contributors, and end users.

"(2) The Outreach Program and the electronic network shall utilize and leverage, to the extent practicable, existing organizations, databases, electronic networks, facilities, and capabilities, and shall be designed to complement rather than supplant State and local programs.

"(3) The Outreach Program should, to the extent practicable, involve key stakeholders at all levels in the planning and governance of modernization strategies; concentrate on assisting local clusters of firms; promote collaborative learning and cooperative action among small and large manufacturers; link industrial modernization programs tightly to existing and future Federal training initiatives, including those for youth apprenticeship programs; encourage small firms to seek modernization services by working with major manufacturers to strengthen and coordinate their supplier assessment, certification, and development programs; identify and honor best practices by firms and the programs that support them; provide funding based on performance and ensure rigorous evaluation of extension services; as appropriate, coordinate Federal programs that support manufacturing modernization; and work with Federal, State, and private organizations so that Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology can provide referrals to other important business services, such as assistance with financing, training, and exporting.

"(4) The Outreach Program shall work with other Federal agencies, including the Environmental Protection Agency, to develop training programs and materials for the employees of the Regional Centers for the Transfer of Manufacturing Technology and the Manufacturing Outreach Centers. The purposes of these training programs and materials shall include—

"(A) to assure that the centers can provide a standard of quality suitable to the purposes of the Outreach Program;

"(B) to familiarize employees with industry best practices and modernization standards in crucial areas, including energy efficiency and source reduction; and

"(C) to train employees to perform client company assessments in order to identify opportunities for modernization.

"(5) The Outreach Program and the electronic network and communications infrastructure provided for under subsection (d), shall be subject to all applicable provisions of law for the protection of trade secrets and confidential business information.

"(6) Local or regional needs should determine the management structure and staffing of the Manufacturing Outreach Centers. The Outreach Program shall strive for geographical balance with the ultimate goal of access for all United States manufacturers.

"(7) Manufacturing Outreach Centers should have the capability to deliver outreach services directly to manufacturers; actively work with, rather than supplant, the private sector; and to the extent practicable, maximize the exposure of manufacturers to demonstrations of modern technologies in use.

"(8) Manufacturing Outreach Centers shall focus, where possible, on the development and deployment of flexible manufacturing practices applicable to both defense and commercial applications.

"(9) The Outreach Program shall, in addition to deploying advanced manufacturing technology, help client companies identify opportunities for modernization, including improving source reduction and energy efficiency techniques and technologies.

"(10) The Department of Commerce shall develop mechanisms for—

"(A) soliciting the perspectives of manufacturers using the services of the Manufacturing Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology; and

"(B) evaluating the effectiveness of the Manufacturing Outreach Centers.".

SEC. 4. GRANTS PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce is authorized to award grants to State technology assessment offices for the purpose of deploying source reduction and environmental technologies to companies in the States.

(b) REGULATION.—The grants awarded pursuant to subsection (a) shall be in such amounts, and subject to such conditions and restrictions as the Secretary of Commerce shall prescribe by regulation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 5. ENVIRONMENTAL COMPETITIVENESS COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Environmental Competitiveness Commission (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members which shall include the following:

(A) Three representatives of the Environmental Protection Agency.

(B) Two representatives of the Department of Commerce.

(C) Two individuals appointed by the Administrator from among representatives of the United States environmental technology industry.

(D) Two individuals appointed by the Administrator from among representatives of nonprofit, consumer protection, or environmental conservation organizations.

(2) APPOINTMENT.—The members of the Commission shall be appointed by the Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") not later than 30 days after the date of enactment of this Act.

(3) CHAIRPERSON.—The Administrator shall designate one member of the Commission to serve as the Chairperson of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(c) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(3) OPEN MEETINGS.—The meetings of the Commission shall be open to the public and timely public notice shall be provided in advance of each regular meeting of the Commission.

(d) DUTIES OF THE COMMISSION.—The Commission shall—

(1) identify the 10 small business industries that would benefit the most from source reduction technical assistance provided by the Federal Government; and

(2) submit a list of the 10 industries identified in paragraph (1) to the Administrator, the Secretary of Commerce, and the Congress not later than 6 months after the date on which all members of the Commission have been appointed by the Administrator under subsection (b)(2).

(e) STAFF AND ADMINISTRATION.—

(1) SUPPORT SERVICES.—The Administrator shall provide to the Commission such administrative and technical support services as are necessary for the effective functioning of the Commission.

(2) OTHER SUPPORT.—The Administrator of General Services shall furnish the Commission with such offices, equipment, supplies, and services as the Administrator of General Services is authorized to furnish to any other agency or instrumentality of the United States.

(3) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(4) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(f) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) SUNSET.—The Commission shall terminate 30 days after the date on which the Commission submits its list under subsection (d).

ENVIRONMENTAL COMPETITIVENESS ACT

PROBLEM

Recent studies show that there are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use. Federal government agencies have estimated that businesses can eliminate one-third to one-half of their waste generation by implementing source reduction techniques, while there are private sector studies that suggest some industry sectors can cut their waste by up to 80 percent. Further, one recent study showed that 25 percent of all source reduction activities require no capital investment for implementation and of those that require capital, 50 percent of the investments were recouped in savings, on average, in less than 18 months.

The private sector must take the lead in reducing the production of waste by manufacturing companies and, in fact, many large companies have contracted with consultants or performed internal audits to find methods for reducing pollution in their own processes. However, the federal government has a role to play in deploying waste prevention techniques to small- and medium-sized companies who are unaware of the cost savings they can achieve by using environmental technology. Helping these companies will assist in meeting the public goals of: increasing the competitiveness of small- and medium-sized companies; protecting the environment; and creating a market for environmental technologies.

PROPOSAL SUMMARY

President Clinton's technology initiative and S. 4 will create and expand a number of programs whose purpose is to enhance the development and deployment of manufacturing technologies. These programs include, among other programs:

The Manufacturing Outreach Program, which will expand the number of Centers for the Transfer of Manufacturing Technology and Manufacturing Outreach Centers administered by the National Institute of Standards and Technology (NIST) to deploy modern manufacturing technology to small- and medium-sized manufacturers; and

The Advanced Manufacturing Technology Development Program, which will create technology development testbeds.

The Environmental Competitiveness Act will ensure that these programs include environmental technology among the manufacturing technologies they seek to develop and deploy.

PROGRAM

I. The Manufacturing Outreach Program:

The Regional Centers for the Transfer of Manufacturing Technology will make available pollution prevention and energy assessments to client companies by designating at least one employee who will either perform assessments him or herself or train others in the performance of assessments.

The designated employee will be trained by the Environmental Protection Agency (EPA) and the Department of Energy (DOE) which have extensive technical expertise in the conduct of source reduction and energy efficiency assessments. EPA has conducted source reduction assessments for over 200 businesses, of which a sample of 38 companies found cost-savings of $2.5 million as a result of the assessments. DOE has conducted 4,100 audits which have resulted in savings of $419 million and 77 trillion Btus of energy.

In order to facilitate either form of assessment, Commerce will make available an interactive software package developed in consultation with EPA and DOE that will assist companies to identify opportunities to eliminate pollution and energy waste at the source.

The Act establishes a public-private commission to develop a list of those industries most "risk" from increased environmental regulations as well as most likely to benefit from government source reduction technical assistance. The Act instructs NIST to focus pollution prevention and energy efficiency assistance on these industries.

II. The Advanced Manufacturing Technology Development Program:

The testbeds will incorporate pollution prevention techniques by, for example incorporating electronic waste detection technologies into factory automation systems or evaluating how advanced design and manufacturing systems might address the problems of waste prevention.

III. Additional Provisions:

A grants program will give money to the states to pay some of the costs faced by states in using their own offices of technology assistance to spread word of the benefits of pollution prevention and energy efficiency technologies, and the means of taking advantage of those.

By Mr. DURENBERGER:

S. 813. A bill to suspend temporarily the duty on Bisephenol AF; to the Committee on Finance.

BISEPHENOL AF DUTY SUSPENSION ACT

• Mr. DURENBERGER. Mr. President, today I am introducing legislation to suspend the duty on the chemical Bisephenol AF or BF 6.

The 3M Corp., a Minnesota constituent of mine, utilizes the compound Bisephenol AF as a curative in the production of Fluorel Brand Fluoro elastomers which are materials providing chemical resistance and extreme temperature tolerance for gaskets, tubing and seals. 3M's production of fluoroelastomer material occurs in Decatur, AL. Approximately 40 persons are employed in the manufacturing process. About 10 percent of the production is exported from the United States, contributing positively to the U.S. trade balance.

Bisephenol AF is classified under the Harmonized Tariff Schedule at 2908.10.5000 and is subject to duty of 19.4 percent plus 1.5 cents per kilogram.

The U.S. duty rate applicable to Bisephenol AF is 19.4 percent plus 1.5 cents per kilogram. It is presently produced outside the United States by Central Glass of Japan and Riedel de Haen of Germany and inside the United States by DuPont. DuPont produces Bisephenol AF for its own use but does not offer it on a commercial basis at competitive prices.

The high duty cost incurred on importation of the product is a material cost factor for the 3M business unit involved. Those duties could be avoided by establishment of a foreign trade zone—subzone at the production facility in Decatur, AL. The Bisephenol AF could be imported to the subzone without payment of duty and the finished product could be introduced in the U.S. market duty free because it has a zero percent duty rate. Suspension of the duty on Bisephenol AF would achieve the same result but without the administrative cost that would be incurred by both 3M and the U.S. Customs Service.

3M's use of Bisephenol AF is approximately 57,000 pounds and it is the only significant purchaser in the United States. Annual duties are about $285,000. The duty suspension should be viewed as revenue neutral because the foreign trade zone benefits will be sought by 3M if the suspension cannot be enacted.•

By Mr. DURENBERGER:

S. 814. A bill to suspend temporarily the duty on capillary membrane material; to the Committee on Finance.

CAPILLARY MEMBRANE MATERIAL DUTY SUSPENSION ACT

• Mr. DURENBERGER. Mr. President, today I am introducing legislation to suspend the duty on capillary membrane material until December 31, 1995.

This bill specifically suspends the duty on capillary membrane material classified under the heading 6002.20.6000, Harmonized Tariff Schedule of the United States, and further described as pre-positioned mat of microporous capillary membranes for oxygenation of blood during open heart surgery and having an outside diameter of .38 mm, plus or minus .03 mm, and having a wall thickness of .05 mm, plus or minus .01 mm.

The 3M Corp., a Minnesota constituent of mine, is a leading producer of heart-lung machines, blood pumps, membrane oxygenators and certain other products supportive of open heart surgery. One product, the turbo membrane oxygenator, is a component of the heart-lung system. It contains a component referred to as capillary membrane material. The capillary membrane material consists of 100 percent polypropylene hollow mono filaments having an outside diameter of .38 millimeters and an inside diameter of .28 millimeters. The monofilaments are joined together by filaments that are knotted in such a way that a precise distance is maintained between the capillary tubes. The arrangement allows blood to flow around the membranes but not to be damaged by them. The membranes are oxygen permeable, allowing the blood to become oxygenated upon contact with the outside wall.

The U.S. tariff rate of 8.6 percent is exceptionally high for something that is essentially a component material for medical equipment. Capillary membrane material does not compete in the U.S. market with ordinary textile included in the same tariff classification.

There is no U.S. manufacturer that currently produces the same or similar product. The importation of capillary membrane material is essential to the ongoing manufacture of the turbo membrane oxygenator which helps provide 45 to 50 production jobs in the United States. About one-half of 3M's total output is exported from the United States. Duty drawback would be available to the extent the goods incorporating the membranes are exported, and, therefore, the net cost to the U.S. Treasury is significantly less than the estimated duty amount.

3M imports the capillary membrane from AKZO, a German company, the only known producer in the world. It is estimated that imports will average about $3 to $4 million per year. At the present duty rate of 8.6 percent, the annual duty would be $260,000 to $345,000 per year. Duty drawback relief available on exports of the finished product would lessen the revenue loss by approximately 50 percent to about $130,000 to $175,000 per year.

I urge the Senate to approve this legislation.•

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 815. A bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Environment and Public Works.

THE WATER POLLUTION CONTROL AND ESTUARY RESTORATION FINANCING ACT OF 1993

• Mr. LIEBERMAN. Mr. President, I'm pleased to introduce the Water Pollution Control and Estuary Restoration Financing Act of 1993, and to welcome my colleagues Senator CHRIS DODD, Senator PAT MOYNIHAN, and Senator AL D'AMATO as original cosponsors. I commend my friends in the U.S. House of Representatives, Congresswoman ROSA DELAURO and Congresswoman NITA LOWEY, who also introduce this bill today, for their leadership and their commitment to solve one of the great environmental tragedies in our country, the degradation of our Nation's estuaries.

This bill does two things of importance. It continues one of the most successful programs for funding environmental cleanup in our Nation's history, the State Revolving Loan Fund Program for sewage treatment infrastructure, and it sets aside an increasing percentage of that fund for our coastal areas. In particular, it seeks to direct Federal dollars toward the cleanup of estuaries of national significance.

This bill is also timely. This year, the Clean Water Act is up for reauthorization. The State Revolving Fund Program, that States have relied upon for financial assistance in upgrading their sewage treatment plants, is due to be discontinued in 1994. While both the leadership of the Senate Environment and Public Works Committee and the President of the United States agree that the SRF should be continued, we do not have consensus on levels of funding or formulas of distribution. But one thing seems clear to me: Currently funded at approximately $2 billion per year, the SRF cannot begin to meet the $100 billion extant need for sewage treatment infrastructure in this country.

This problem is particularly acute in coastal areas and estuary States. In the case of Long Island Sound, for example, the estimated cost of upgrading the outdated and overburdened sewage treatment plants responsible for most of the Sound's pollution is estimated at between $6 to $8 billion. That's $6 to $8 billion for one estuary, while the Federal Government antes up to $2 billion a year for the entire country.

The bill I introduce today seeks to address this problem by increasing the

amount of money that goes into the State Revolving Fund Program to up to $5 billion per year by the year 2000. At the same time, this bill would set aside an increasing percentage of that fund especially for estuary States. These States would, however, have to submit a plan for the cleanup of their estuary to the Administrator of the U.S. Environmental Protection Agency. Upon approval of that plan, based on its meeting new criteria for such plans to be developed by the Administrator, eligible States would be required to match the extra estuary fund moneys by 20 percent.

The Water Pollution Control and Estuary Restoration Financing Act makes good ecological sense. By creating a set-aside incentive for States to participate in estuary cleanup, it rewards States committed to ecosystem restoration and watershed-based planning. In effect, it changes the funding formula of the existent State revolving fund to redirect Federal funds to the coastline, where the greatest stresses on some of our most valuable natural resources are occurring. According to the Center for Marine Conservation, by the year 2000, three out of four of us will live within an hour's drive from the coast. Coastal counties nationwide can expect to double in population by 2010. Approximately 10 percent of our Nation's population lives within 50 miles of Long Island Sound, alone.

And what is at stake here? The ecological importance of estuaries is well documented. The intermix of salt and freshwater and the enclosed nature of estuaries produce unique circumstances for the breeding of marine fishes, shellfish, and waterfowl. Estuaries wetlands provide important coastal habitat critical at the beginning of life for many animals.

Healthy estuaries underlie healthy coastal economies, as well. We depend on our bays and estuaries for the transportation of goods and the production of energy. But water-quality dependent uses of an estuary account also for economic benefit. Long Island Sound, for example, generates approximately $5 billion for the local economy—through fin and shellfish harvest, boating, fishing, hunting, beach-going activities, and so forth. This does not begin to estimate what a healthy sound adds to local property values, or even to the general quality of life of the residents of Connecticut and New York.

This bill answers another need—that of Federal investment in our Nation's infrastructure. Continuing our partnership with the States, we can invest in our sewage treatment and water infrastructure to keep our Nation's coastline clean for future generations. We can also create jobs—right away.

Apogee Research, Inc., conducted a study for the national Utility Contractors Association that found that every $1 billion invested in water infrastructure produces between 34,000 and 57,000 new jobs. The bill before us which would provide $33 billion over 7 years, could thus result in over 1 million new jobs.

I am thrilled to report that labor and environmental organizations in Connecticut and New York have joined together in a unique and strong coalition to support this bill. They realize their interests are not in conflict, and they're working in coastal States around the country to reproduce this coalition. Not only would this kind of Federal investment in infrastructure create traditional construction and engineering jobs, but if we structure it right, we could be supporting the development of new and critical water pollution treatment strategies which will have the double benefit of cleaning up our Nation's waters and securing our country a niche in the global marketplace for new and environmentally beneficial technologies.

We move to the coast for enhanced quality of life. Unfortunately, the more of us who move there, the more strain we place on its resources. I am proud of the work Connecticut and New York are doing with their National Estuary plan to try to plan long term for this growth and to reverse the hundred years of abuse we've heaped on Long Island Sound. It's clear, however, that we need help. If the Federal Government is to be perceived as serious about designating estuaries such as Long Island Sound of national significance, then it is going to have to target some of our national dollars toward returning those estuaries to health. The States which reap the benefits of cleaner estuaries must be willing to be full partners with the Federal Government in this endeavor. That, in brief, is what this bill proposes, and Senators DODD, MOYNIHAN, D'AMATO, and I invite all Senators representing coastal States to join us as cosponsors of this legislation.

Mr. President, I ask unanimous consent that the text of this bill be included in the REOCRD following the completion of my remarks.●

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

S. 815

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 "Water Pollution Control and Estuary Restoration Financing Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the estuaries of the United States are a vital natural resource to which many regional economies are closely tied;

(2) many of the estuaries of the United States are under a severe threat from point source pollution and polluted run-off (nonpoint source pollution) and from habitat alteration and destruction;

(3) only through expanded investments in waste water treatment and other water and sediment pollution control and prevention efforts can the environmental and economic values of the estuaries of the United States be restored and protected;

(4) the national estuary program created under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) has significantly advanced the understanding of the declining condition of the estuaries of the United States;

(5) the national estuary program has also provided precise information about the corrective and preventative measures required to reverse the degradation of water and sediment quality and to halt the alteration and destruction of vital habitat in the estuaries of the United States;

(6) the level of funding available to States, municipalities, and the Environmental Protection Agency for implementation of approved conservation and management plans is inadequate, and additional financial resources must be provided;

(7) funding for implementation of approved conservation and management plans should be provided under the State revolving loan fund authorized in title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.); and

(8) authorization levels for State revolving loan fund capitalization grants should be increased by an amount necessary to ensure the achievement of the goals of the Federal Water Pollution Control Act.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and strengthen efforts to combat the serious and growing water and sediment quality problems in estuaries of national significance identified under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(2) to provide significant levels of Federal assistance to States and municipalities seeking to implement comprehensive conservation and management plans for those estuaries;

(3) to reauthorize section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) in order to improve the development and implementation of comprehensive conservation and management plans for those estuaries; and

(4) to extend and increase Federal support for the State water pollution control revolving fund program in order to address various water and sediment quality problems in the waters of the United States.

SEC. 3. EXTENSION OF WATER POLLUTION CONTROL REVOLVING LOAN FUND PROGRAM.

(a) ALLOTMENT FORMULA.—Section 604(a) of the Federal Water Pollution Control Act (33 U.S.C. 1384(a)) is amended—

(1) by striking "Sums authorized" and inserting "Except as provided in section 608, sums authorized"; and

(2) by striking "and 1990" and inserting "through 1999".

(b) FUNDING.—Section 607 of such Act (33 U.S.C. 1387) is amended by striking "the following sums:" and all that follows through the end of the section and inserting the following: "$4,000,000,000 for each of fiscal years 1994 and 1995, and $5,000,000,000 for each of fiscal years 1996 through 2000.".

SEC. 4. FUNDING FOR IMPLEMENTATION OF ESTUARY CONSERVATION AND MANAGEMENT PLANS.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"SEC. 608. CAPITALIZATION GRANTS TO STATES FOR IMPLEMENTING ESTUARY CONSERVATION AND MANAGEMENT PLANS.

"(a) SET-ASIDE FOR IMPLEMENTING APPROVED PLANS.—

"(1) SET-ASIDE.—

"(A) IN GENERAL.—Of amounts appropriated under the authority of section 607 for each fiscal year, the applicable percentage under subparagraph (B) shall be used by the Administrator to make capitalization grants under this title to qualified States.

"(B) PERCENTAGE.—For purposes of subsection (A), the applicable percentage is—

"(i) 2.5 percent for fiscal year 1994;

"(ii) 5 percent for fiscal year 1995;

"(iii) 7.5 percent for fiscal year 1996;

"(iv) 10 percent for fiscal year 1997;

"(v) 12.5 percent for fiscal year 1998;

"(vi) 15 percent for fiscal year 1999; and

"(vii) 15 percent for fiscal year 2000.

"(2) ALLOCATION.—Of the amounts required under paragraph (1) to be used for grants to qualified States for a fiscal year, the Administrator shall allocate to each qualified State an amount equal to—

"(A) the total of the amounts required under paragraph (1) to be used for the grants for the fiscal year; multiplied by

"(B) the percentage specified by the Administrator for the fiscal year for the State under paragraph (3)(B).

"(3) DETERMINATION OF STATE NEEDS.—Not later than 120 days after the date on which all qualified States have submitted under paragraph (4)(A) estimates of the needs of the States for financial assistance for a fiscal year, the Administrator shall—

"(A) determine the needs of each qualified State for financing implementation of approved estuary plans in the fiscal year, based on the State estimates; and

"(B) submit to Congress a report describing the needs for all qualified States, including specifying for each qualified State a percentage for purposes of paragraph (2)(B) representing the needs of the qualified State relative to the needs of all qualified States.

"(4) STATE ESTIMATE OF NEEDS.—

"(A) SUBMISSION.—Not later than July 1 of each year, each qualified State shall submit to the Administrator an estimate of the needs of the State for financial assistance for implementing, monitoring, and enforcing approved estuary plans in the next fiscal year. The estimates may be included in the intended use plan of a qualified State under section 606(c), and shall maximize economical planning, design, and construction.

"(B) CONSULTATION.—In preparing an estimate of needs under this paragraph, a qualified State shall consult with each management conference that is implementing an approved estuary plan under section 320 and of which the State is a member.

"(C) APPROVAL REQUIRED.—A qualified State may not submit an estimate of need under this paragraph unless the estimate is approved by each management conference under section 320 that is implementing an approved estuary plan and of which the State is a member.

"(5) FAILURE TO SUBMIT ESTIMATE.—A qualified State that does not submit an estimate for a fiscal year in accordance with paragraph (4) shall not be eligible for any allocation under paragraph (2) for that fiscal year.

"(b) SEPARATE ACCOUNT.—

"(1) ESTABLISHMENT OF ACCOUNT.—A qualified State shall establish a separate account in the water pollution control revolving fund established by the State under this title, which shall be known as an 'Estuary Account'. Amounts of grants to a qualified State under subsection (a) shall be deposited into the Estuary Account established by the State.

"(2) USE.—A qualified State may use amounts in its Estuary Account of the State only for providing assistance for the purpose of implementing approved estuary plans that apply to the State.

"(c) TYPES OF ASSISTANCE.—

"(1) IN GENERAL.—Except as otherwise provided by State law and subject to paragraph (2), amounts in the Estuary Account of a qualified State may be used only for providing the types of assistance described in section 603(d).

"(2) SPECIAL RULES.—

"(A) EXTENDED AMORTIZATION PERIOD.—Notwithstanding section 603(d)(1)(A), a loan made by a qualified State with amounts in the Estuary Account of the State may be for a term of not to exceed 40 years or the useful life of any facility constructed with the loan, whichever is less, if the borrower demonstrates to the State that the borrower is experiencing financial hardship.

"(B) PRINCIPAL SUBSIDIES.—In addition to the types of assistance authorized by section 603(d), a qualified State may use amounts of interest earned on amounts in the Estuary Account of the State to subsidize up to 90 percent of the principal portion of the amount of debt service of an entity referred to in section 603(c)(1) that, notwithstanding the availability of interest free loans under section 603(d)(1)(A) and extended amortization under paragraph (1), the State determines is financially unable to carry out a project that is necessary for the implementation of an approved estuary plan.

"(d) STATE MATCHING FUNDS.—A qualified State shall deposit into the Estuary Account of the State an amount from State funds equal to at least 20 percent of amounts deposited into the account in the form of capitalization grants to the State under this section.

"(e) DEFINITIONS.—In this section:

"(1) APPROVED ESTUARY PLAN.—The term 'approved estuary plan' means a comprehensive conservation and management plan approved by the Administrator under section 320(h).

"(2) ESTUARY ACCOUNT.—The term 'Estuary Account' means a separate account established by a qualified State under subsection (b) in its water pollution control revolving fund of the State.

"(3) QUALIFIED STATE.—The term 'qualified State' means a State that—

"(A) is subject to an approved estuary plan;

"(B) has established an estuary account in accordance with subsection (b); and

"(C) has fulfilled the responsibilities of the State under section 320 with respect to each management conference under such section of which the State is a member.".

SEC. 5. DISCRETIONARY GRANTS FOR IMPLEMENTATION OF ESTUARY CONSERVATION AND MANAGEMENT PLANS.

(a) IN GENERAL.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k) GRANTS FOR IMPLEMENTATION OF CONSERVATION AND MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Administrator shall make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit agencies, institutions, organizations, Indian tribes, and individuals for implementation of conservation and management plans approved under this section.

"(2) PURPOSES.—Grants under this subsection shall be made to assist in the aspects of implementation of the plans that involve innovative technology, research and development, education, pollution prevention, comprehensive land use planning, and other activities not generally funded by the State under this title.

"(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the cost of implementation of the plans.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Environmental Protection Agency to carry out this subsection not to exceed $50,000,000 per fiscal year for each of fiscal years 1994 through 2000.".

(b) FUNDING FOR INTERIM ACTIONS.—Section 320(g)(2) of such Act (33 U.S.C. 1330(g)(2)) is amended by inserting before the period the following: ", and for appropriate interim actions that are adopted by the management conference and approved in accordance with subsection (h) to protect the water and sediment quality of the estuary that is the subject of such a plan".

(c) GRANT REPORTING.—Section 320(h) of such Act (33 U.S.C. 1330(h)) is amended by striking "subsection (g)" and inserting "subsection (i) and that receives a grant under subsection (k)".

(d) CONFORMING AMENDMENT.—Section 320(g) of such Act (33 U.S.C. 1330(g)) is amended by inserting "DEVELOPMENT" before "GRANTS.—".

SEC. 6. EXTENSION OF CONSERVATION AND MANAGEMENT PLAN DEVELOPMENT GRANT PROGRAM.

Section 320(i) of the Federal Water Pollution Control Act (33 U.S.C. 1330(i)) is amended—

(1) by inserting "and $28,000,000 per fiscal year for each of fiscal years 1992 through 2000" after "and 1991"; and

(2) by inserting "for fiscal years 1987 through 1991, and $8,000,000 per fiscal year of the sums authorized to be appropriated under this subsection for fiscal years 1992 through 2000," before "to the Administrator of the National".

SEC. 7. NATIONAL ESTUARY PROGRAM IMPROVEMENT.

(a) MANAGEMENT PLANS.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(b) PURPOSES OF CONFERENCE.—The purpose of any management conference convened with respect to an estuary under this section shall be to ensure, through a comprehensive planning process, full coordination, and full implementation of the requirements of sections 303, 304(l), 305(b), 319, 402 and 404 and the Coastal Zone Management Act of 1972 (42 U.S.C. 1451 et seq.), and to identify, plan, and ensure implementation of additional measures necessary to achieve compliance with water quality standards and to protect existing and designated uses of coastal waters. To achieve these purposes a management conference shall—";

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) in order as paragraphs (2), (3), (4), (6), (8), (10), and (11), respectively;

(3) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) conduct within one year after the convening of the conference a literature survey to identify existing information on the environmental health of the estuary;";

(4) by inserting after paragraph (4), as so redesignated, the following:

"(5) identify within 3 years after the convening of the conference the major environmental problems and priorities that the comprehensive conservation and management plan will address;";

(5) in paragraph (6), as so redesignated, by inserting after "plan" the following: ", within 5 years after the date on which the management conference is convened and in accordance with the applicable guidance document published under subsection (e),";

(6) in paragraph (6), as so redesignated, by inserting "(including policies enforceable under State law)" after "actions";

(7) by inserting after paragraph (6), as so redesignated, the following:

"(7) submit to the Administrator in the first year following the convening of the conference, an initial 5-year budget for the development of the conservation and management plan, and revise the budget on an annual basis;";

(8) by inserting after paragraph (8), as so redesignated, the following new paragraph:

"(9) conduct an analysis, within 3 years after the convening of the conference, of any changes to State statutory authority that will be required to implement the conservation and management plan, and update the analysis on an annual basis thereafter;";

(9) in paragraph (10), as so redesignated, by striking "and" after the semicolon;

(10) in paragraph (11), as so redesignated, by striking the period and inserting a semicolon;

(11) by inserting after paragraph (11), as so redesignated, the following new paragraph:

"(12) identify all Federal activities (including development projects, financial assistance programs, and licensing and permitting activities) that may affect the requirements and objectives of the conservation and management plan developed under this section, and ensure the coordinated implementation of the plan with respect to the activities;

"(13) identify all pollutants and water bodies for which development of maximum daily loads are necessary pursuant to section 303, and establish a schedule whereby all the total maximum daily loads and wasteload and load allocations shall be completed within 5 years of approval of a conservation and management plan pursuant to this section;

"(14) ensure that all permits issued under section 402 are current for significant dischargers within an estuary subject to a conservation and management plan, and that, if multiple dischargers affect a single segment of the estuary, the dischargers are placed on simultaneous permit issuance schedules to allow for efficient wasteload allocation;

"(15) ensure that if an estuary subject to a conservation and management plan is affected by combined sewer overflows, development and implementation of a combined sewer overflow abatement plan is included in the conservation and management plan; and

"(16) identify portions of the conservation and management plan developed under this section that should be included in a State coastal zone management program approved under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)) and make appropriate recommendations to the Governor and the Under Secretary for the inclusion."; and

(12) in the matter following paragraph (16) (as added by paragraph (11)) by striking "paragraph (7)" and inserting "paragraph (11)".

(b) FISHERIES AND WILDLIFE.—

(1) MEMBERS OF CONFERENCE.—Section 320(c) of such Act (33 U.S.C. 1330(c)) is amended—

(A) in paragraph (3), by inserting after "Federal agency," the following: "including those Federal agencies with responsibility for conserving and protecting living resources including fish, shellfish, and wildlife,"; and

(B) in paragraph (5), by inserting "including the agricultural industry," after "industries,".

(2) RESEARCH.—Section 320(j)(2) of such Act (33 U.S.C. 1330(j)(2)) is amended by inserting "and the Director of the United States Fish and Wildlife Service" after "Administration".

(c) PARTICIPATION OF MUNICIPALITIES.—Section 320(c)(4) of such Act (33 U.S.C. 1330(c)(4)) is amended by striking "local governments" and inserting "municipalities".

(d) PARTICIPATION OF ENVIRONMENTAL ORGANIZATIONS.—Section 320(c)(5) of such Act (33 U.S.C. 1330(c)(5)) is amended by inserting ", including environmental organizations" after "the general public".

(e) DUTIES OF MEMBERS OF CONFERENCE.—Section 320 of such Act (33 U.S.C. 1330) is amended—

(1) by redesignating subsection (d), (e), (f), (g), (h), (i), (j), (k), and (l) as subsection (f), (g), (h), (i), (j), (k), (l), (m), and (n), respectively; and

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

"(d) DUTIES OF MEMBERS.—

"(1) ADMINISTRATOR.—

"(A) IN GENERAL.—The Administrator shall provide necessary levels of funding and staff resources to carry out the functions of the Administrator related to the development, approval, implementation, and monitoring of a conservation and management plan under this section and of approved interim measures.

"(B) ANALYSIS OF FEDERAL NEEDS.—Not later than 120 days after the date of the enactment of this subsection, the Comptroller General of the United States shall submit to Congress and to the Administrator an analysis of the needs of the Environmental Protection Agency for additional personnel and administrative resources necessary to fully carry out the duties of the Environmental Protection Agency under this section. The analysis shall include recommendations regarding necessary additional authorizations and appropriations.

"(C) POLICY AND TECHNICAL LIAISON.—The Administrator or the designee of the Administrator shall, among other functions performed with respect to management conferences, serve as policy and technical liaison for all participants in management conferences.

"(2) UNDER SECRETARY.—The Under Secretary of Commerce for Oceans and Atmosphere shall provide the necessary levels of funding and staff resources to carry out the functions of the Under Secretary under this section, and shall coordinate the activities of the Under Secretary with each management conference convened under this section.

"(e) GUIDANCE DOCUMENT.—

"(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this subsection, the Administrator shall issue a guidance document that establishes requirements for—

"(A) management conferences to follow in developing, approving, implementing, and monitoring conservation and management plans; and

"(B) approving and implementing interim actions to protect the water quality of the estuary for which a conservation and management plan is developed.

"(2) PUBLICATION OF PROPOSED DOCUMENT.—The Administrator shall publish a proposed guidance document under this subsection by not later than 6 months after the date of the enactment of this subsection.".

(f) MANAGEMENT CONFERENCES.—Subsection (g) of section 320 of such Act, as redesignated by subsection (e)(1), is amended to read as follows:

"(g) PERIOD OF CONFERENCE.—A management conference convened under this section shall be convened for a period of at least 5 years. On approval of a plan under subsection (h), the Administrator shall, for purposes of implementing the plan, extend a conference for an additional 5 years if the affected Governor or Governors concur in the extension and the extension is necessary to meet the requirements of this section and section 608.".

(g) APPROVAL AND IMPLEMENTATION OF CONSERVATION AND MANAGEMENT PLANS; PUBLIC REVIEW AND COMMENT.—Subsection (h) of section 320 of such Act, as redesignated by subsection (e)(1), is amended to read as follows:

"(h) APPROVAL AND IMPLEMENTATION OF PLANS AND INTERIM ACTIONS.—

"(1) APPROVAL OF PLANS.—Not later than 120 days after the date of the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve the plan if—

"(A) the plan complies with any applicable guidance document published under subsection (c);

"(B) the plan meets the requirements of this section;

"(C) the plan specifies the implementation responsibilities, including funding responsibilities and implementation schedules, of the Federal Government and of State and local governments that participated in the development of the plan;

"(D) the affected Governor or Governors concur; and

"(E) the affected Governor or Governors certify that they have the authority to undertake the actions called for in the plan.

"(2) APPROVAL OF INTERIM ACTIONS.—The Administrator shall approve an interim action to protect the water quality of an estuary for which a conservation and management plan is being developed if it meets the requirements set forth in subparagraphs (A) through (D) of paragraph (1).

"(3) PUBLIC REVIEW AND COMMENT.—The Administrator shall, before approving a conservation and management plan, publish in the Federal Register a draft of the plan and provide an opportunity for public review and comment on the plan.

"(4) IMPLEMENTATION.—On approval of a conservation and management plan or interim actions under this section, the Administrator, as a nondiscretionary duty, shall ensure that the Federal responsibilities and commitments under the plan or interim action are complied with and implemented in accordance with the guidance document. The Administrator, in conjunction with and with the assistance of the management conference, shall—

"(A) provide assistance to the management conference, including administrative and technical assistance, for implementation of the plan or interim action;

"(B) coordinate Federal programs necessary for implementing the plan or interim action;

"(C) make recommendations to the management conference on enforcement and technical assistance activities necessary to ensure compliance with and implementation of the plan or interim action;

"(D) collect and make available to the public, publications and other forms of information relating to implementation of the plan or interim action; and

"(E) make grants under the authority provided by this title.

"(5) FUNDING.—Funds authorized to be appropriated under titles II and VI, section 319, and this section may be used in accordance with the applicable requirements of this Act to assist States with the implementation of conservation and management plans under this section. Funds authorized to be appropriated under section 319 and this section may also be used in accordance with the applicable requirements of this Act to assist States with the implementation of interim actions under this section.

"(6) CONSISTENCY.—On approval of a conservation and management plan or interim action under this section, each Federal agency activity identified pursuant to subsection (b)(10), with respect to the plan or interim action, shall be conducted in a manner that is consistent with the enforceable requirement of the plan or interim action.".•

• Mr. DODD. Mr. President, I join my colleague, Senator LIEBERMAN, in sponsoring legislation to address the comprehensive management of our Nation's estuaries. This measure is similar to legislation introduced last year and I am pleased that, once again, Congresswoman ROSA DELAURO and Congresswoman NITA LOWEY have provided leadership in the House on this issue.

It is impossible to calculate the economic or aesthetic value of our Nation's estuaries. Millions of Americans live on their shores and fish and swim in their waters. The Environmental Protection Agency [EPA] estimates that each year, estuaries support more than $19 billion in commerce at fisheries alone. Globally, an estimated two-thirds of all fish caught are hatched in estuaries. And yet, our Nation's estuaries are plagued by myriad problems.

The experiences of my home State of Connecticut provide a vivid illustration of the problems to which I refer. Last spring, for example, Connecticut was buffeted by the worst flooding in a decade. The damage that ensued forced beaches and shellfish beds across the shoreline to close. The flooding also pointed out how sorely out of date are Connecticut's wastewater treatment facilities. Unable to handle the excess water generated after a heavy rainfall, they typically overflow, permitting untreated sewage to spill into Long Island Sound, fouling the beaches and shellfish beds. And when it isn't raining, nutrients generated by treatment plants and runoff enter the Sound at such a high rate that algae grows unchecked, consuming ever increasing amounts of oxygen. Consequently, the levels of oxygen that remain are insufficient to enable fish to breathe.

Long Island Sound is not alone in facing these problems. From Puget Sound to Sarasota Bay, our estuaries are badly in need of help. In the Albemarle/Pamlico Sounds, bordering both Virginia and North Carolina, 50,000 acres of shellfish waters have been closed since 1970. In Massachusetts, sediment on the bottom of the Acushnet River near New Bedford is so contaminated from industrial discharge of PCB's that the area has been designated a Superfund hazardous waste site. Yet we must remember that the health of our estuaries is not simply an environmental concern. This is an issue that has a negative impact on our economy. When estuary systems are poorly managed, oystermen lose access to fertile oyster beds, fishermen are hard-pressed to earn a living in oxygen-poor waters, and closed beaches add up to fewer tourism dollars.

The problems confronting estuaries are not new, and some important steps have already been taken to begin to address them. In 1987, we approved the creation of the National Estuary Program administered by EPA under the Clean Water Act. Medical waste, a terrible problem in years past, no longer washes up on our shores because of an amendment I and others worked so hard for in 1988. Last year, EPA opened a new office on Long Island Sound, located in Stamford, CT. And, under the umbrella of the National Estuary Program, we have learned much about estuaries, how they work, what problems they face and how we can fix them.

The National Estuary Program [NEP] is built on a flexible structure of public/private and local/Federal partnerships to address the varied needs of each estuary. To accomplish specific restoration objectives, a comprehensive conservation and management plan is devised for each estuary. Management conferences, comprised of interested local groups and State and Federal officials, are convened to develop the plan and garner community support.

In Connecticut, the NEP has fostered a greater understanding of and concern about Long Island Sound. Nearly all shoreline communities boast an active Long Island Sound conservation group. Yet there is also a growing awareness across disparate segments of the population that the Sound is not merely an environmental concern to be brushed aside during challenging economic times. Rather, the restoration of Long Island Sound is recognized for what it truly is: an economic issue, an issue of jobs, of renewable natural resources and of the quality of life for so many in New York and Connecticut.

Here is a remarkable case in point. In January of last year, a meeting of the Long Island Sound Watershed Alliance was picketed by 1,200 union members concerned about environmental regulations and lost jobs. Unfortunately, such confrontations are not uncommon in these difficult economic times. And given the seemingly divergent interests of these groups, most would have declared a stalemate and headed home.

But that did not happen in this case. Instead, these environmental and labor representatives began a dialog about their concerns and found common ground on the very same issues that had at first glance divided them, the restoration of the Sound and jobs.

Mr. President, there are many problems that contribute to the overall health of the Sound, but what the Long Island Sound needs most is an investment in new wastewater treatment facilities—facilities that are up to code, that can handle a heavy rainfall, and that can remove nutrients from wastewater before it is released into the Sound. And the construction and repair of these facilities mean the creation of thousands of jobs. Against the backdrop of a prolonged recession, this powerful economic argument has brought these diverse groups together behind a common platform of jobs and clean water to support this bill. This is precisely the sort of renewed cooperation envisioned by our new President, who has reaffirmed his commitment to improving our Nation's environmental infrastructure and stimulating job creation.

The Water Pollution Control and Estuary Restoration Financing Act continues the State revolving loan fund program that has served as the mechanism through which communities across the Nation have rebuilt their wastewater treatment facilities and which is scheduled to expire in fiscal year 1994. States with approved estuary management plans are qualified to set up within their State revolving loan fund [SRF] a separate estuary account solely for use in implementing approved plans. The account is funded through a set-aside of authorized funds, beginning at 2.5 percent in fiscal 1995 and increasing to 15 percent by fiscal 2000. These set-aside funds will be provided in addition to a State's normal SRF allocation and will be matched with some State contributions. With the estuary account, States will have a more flexible tool at their disposal in addressing the problems of estuaries. States could amortize loans for periods of up to 40 years, provide no interest loans and subsidize debt service for communities that could not otherwise fund necessary projects.

The Federal Government, through the National Estuary Program, has assisted States in identifying problems within their estuaries and in developing the solutions. However, the Federal commitment has not gone far enough. We mandated clean water measures, but have not provided hard-pressed communities with adequate assistance

to meet the high costs of implementing these measures. Currently, communities in my State are under court orders, totalling $2.2 billion, to fulfill Clean Water Act requirements and update their sewage treatment facilities. The estuary management plans are nearly complete, and yet it is clear that there are not sufficient resources to implement them. We must renew the Federal commitment to these communities and provide them with the tools necessary to make these much-needed investments in our environmental infrastructure. Once again, I commend the efforts of President Clinton and Vice President GORE to further this goal.

Mr. President, I urge my colleagues to consider and support the Water Pollution Control and Estuary Restoration Financing Act.•

By Mr. DECONCINI:

S. 816. A bill to amend title 10, U.S. Code, to establish within the Office of the Secretary of Defense the position of Director of Special Investigations; and for other purposes; to the Committee on Armed Services.

DOD LEGISLATION

• Mr. DECONCINI. Mr. President, the Washington rumor mill indicates that at long last the Defense Department will be releasing information on the Tailhook investigation sometime tomorrow. It certainly won't be the whole story, but it will be a step in the right direction—a step toward open and honest government even if the disclosure brings dishonor upon our Government and those who defend it.

Mr. President, I do have some compassion for the measure of pain and embarrassment brought upon the military and the U.S. Government as a result of the Tailhook incident, but it frankly pales in significance compared to the horror experienced by the 36 women molested in that Las Vegas hotel and the brutal rape of between 400 women and 1,000 women each year on U.S. military bases around the world.

Mr. President, women in the U.S. Armed Forces are being subjected daily to sexual violence ranging from verbal abuse to forcible rape. And who does the harassing? Men whom these women trust as fellow comrades-in-arms or—even worse—superiors who use their authority to sexually coerce lower echelon military women and then intimidate them into silence.

Historically, when victims of such abuse attempt to report it to higher military officials, they find their experience discounted as of minor importance, or as "part of being in the military." The Tailhook scandal is only one example of the military's efforts to cover-up and discount the sexual abuse of military women. Hundreds of individual incidents are alleged to occur every year. Both the incidents themselves and the subsequent cavalier treatment the victims are unconscionable. We simply cannot allow such intolerable activity to continue.

Mr. President, it is very hard to address this problem given a glaring lack of reliable data on rape, other sexual assault, and sexual harassment against military personnel. The Pentagon has no records on rapes, convictions, and jail sentences. In fact, only one service branch, the Department of the Army, has ever compiled such records. The other branches reportedly do not bother even to collect these data or the data collected are not uniform enough to compare. Despite the lack of data, I believe it is fair to say that the little data we do have suggest military women may be more likely to be victimized than civilian women.

According to the Department of the Army, over 484 female soldiers were raped while on active duty from 1978 to 1991. The Army rate of 129 rape cases per 100,000 population in 1990 exceeds the nationwide rate for the same year compiled by the FBI of 80 rape cases per 100,000 population.

A 1990 survey of 202 women Vietnam veterans indicated that 29 percent had experienced forcible rape during military service. This is more than double the experience of American women as a whole. Not one of these women was raped by the enemy. It is true that the survey sample was small, but I am afraid this survey accurately reflects what is going on in the military and we must put a stop to it. The fact that no other data exist highlights the shocking indifference to this problem.

The aftermath of rape may become even more disabling than the incident itself. Fear, anxiety, and concern about personal safety are common immediately following an incident. Later, victims may become severely depressed, have suicidal thoughts, and experience social dysfunctions which affect not only personal quality of life, but also work performance.

Thirty-one percent of all rape victims develop rape-related post-traumatic stress disorder [RR-PTSD], similar to the PTSD experienced by combat veterans. These women re-live the trauma on an on-going and intrusive basis, through flashbacks. They are subject to daytime memories and nightmares accompanied by intense psychological distress. Many deliberately restrict contact with the outside world in order to avoid reminders of the trauma. Compared with women who have never been raped, those with RR-PTSD are 13.4 times more likely to have major alcohol problems and 26 times more likely to have major drug abuse problems.

Trauma and other psychological disorders resulting from rape itself are compounded by an apparently permissive environment which encourages—or at least does not adequately discourage—the sexual mistreatment of military women. On June 30, 1992, the Senate Committee on Veterans Affairs heard testimony from three women veterans who, after being forcibly raped, were further brutalized by the indifference of higher echelon officers to whom they had turned for help. One, in fact, was demoted while her abuser was promoted. Another woman, a career military person was raped on two separate occasions during her service to her country.

Obviously, something must be done.

Something will be done.

Today I am reintroducing legislation I offered late in the 102d Congress with Representative SCHROEDER to create an Office of Criminal Investigations in the Department of Defense. This new office will have oversight and audit jurisdiction over all reports of sexual harassment, abuse and assault, and other related offenses by active duty military personnel against other active duty personnel. The Secretary would also be empowered to direct the office to investigate or assist in the investigation of cases being conducted by any military investigation service. Military victims of sexual assault will also be able to address their complaints directly to this office, rather than through the military chain of command. Most victims I have talked with simply not to believe that their allegations will be taken seriously and/or pursued vigorously by their supervisors in a male dominated profession. We need to assure them that they will be.

The Office of Criminal Investigations will be staffed with seasoned professional, civilian criminal investigators who, to the extent possible, will also have professional expertise in sexual assault investigations. The unit will be totally independent, responsible only to the Secretary, and will have absolute authority to collect evidence and compel testimony, and to secure appropriate immediate medical treatment and psychological counseling for victims of sexual abuse. An important element of office will be the collection of data so we can get a better handle on the extent of the problem including the number of cases that go to prosecution.

This legislation would also establish a new Federal crime for failure by any commanding officer to promptly notify this new Office of Criminal Investigations of any report of sexual misconduct. The failure to report shall be a felony punishable by imprisonment for up to 10 years.

Mr. President, a greater number of women are choosing to serve their country through careers in the military. American service women should not be subject to humiliation. They should not experience a sense of vulnerability engendered by the current, permissive military environment. They

should not be subject to the terror and long-term incapacitation resulting from sexual assault. And they should not be subject to indifference from superiors who are responsible for their safety. We need to send a message to our military that such an environment and such behavior will not be tolerated. We can fix the problem by establishing an independent unit in the Department of Defense with jurisdiction over these offenses.

Mr. President, I ask unanimous consent that the full text of the bill as well as a brief bill summary 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. 816

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

SECTION 1. DIRECTOR OF CRIMINAL INVESTIGATIONS.

(a) ESTABLISHMENT.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 142. Director of Criminal Investigations

"(a) APPOINTMENT.—There is a Director of Criminal Investigations who is appointed by the Secretary of Defense from among civilians who have a significant level of experience in criminal investigations. The Director reports directly to the Secretary of Defense.

"(b) SENIOR EXECUTIVE SERVICE POSITION.—The position of Director of Criminal Investigations is a Senior Executive Service position. The Secretary shall designate the position as a career reserved position under section 3132(b) of title 5.

"(c) DUTIES.—Subject to the authority, direction, and control of the Secretary of Defense, the Director of Criminal Investigations shall perform the duties set forth in this section and such other related duties as the Secretary may prescribe.

"(d) DATA COMPILATION AND REPORTING.—(1) The Director shall obtain, compile, store, monitor, and (in accordance with this section) report information on each allegation of sexual misconduct of a member of the armed forces or of a dependent of a member of the armed forces against a member of the armed forces or against a dependent of a member of the armed forces that is received by a member of the armed forces or an officer or employee of the Department of Defense in the official capacity of that member, officer, or employee.

"(2) The information compiled pursuant to paragraph (1) shall include the following:

"(A) The number of complaints containing an allegation referred to in paragraph (1) that are received as described in that paragraph.

"(B) The number of such complaints that are investigated.

"(C) In the case of each complaint—

"(i) the organization that investigated the complaint (if investigated);

"(ii) the disposition of the complaint upon completion or other termination of the investigation; and

"(iii) the status or results of any judicial action, nonjudicial disciplinary action, or other adverse action taken.

"(D) The number of complaints that were disposed of by formal adjudication in a judicial proceeding, including—

"(i) the number disposed of in a court-martial;

"(ii) the number disposed of in a court of the United States;

"(iii) the number disposed of in a court of a State or territory of the United States or in a court of a political subdivision of a State or territory of the United States;

"(iv) the number disposed of by a plea of guilty;

"(v) the number disposed of by trial on a contested basis; and

"(vi) the number disposed of on any other basis.

"(E) The number of complaints that were disposed of by formal adjudication in an administrative proceeding.

"(3) The Director shall make the information obtained and compiled under this subsection available to the Secretary of Defense, the Secretaries of the military departments, Congress, any law enforcement agency concerned, and any court concerned.

"(e) DIRECT INVESTIGATIONS.—The Director shall investigate each allegation of sexual misconduct referred to in subsection (d) that—

"(1) is made directly, or referred, to the Director, including such an allegation that is made or referred to the Director by—

"(A) a commander of a member of the armed forces alleged to have engaged in the sexual misconduct or to have been the victim of the sexual misconduct;

"(B) an investigative organization of the Department of Defense; or

"(C) a victim of the alleged misconduct who is a member of the armed forces or a dependent of a member of the armed forces; or

"(2) the Secretary directs the Director to investigate.

"(f) OVERSIGHT AND QUALITY CONTROL OF OTHER INVESTIGATIONS.—(1) The Director shall monitor the conduct of investigations by units, offices, agencies, and other organizations within the Department of Defense regarding allegations of sexual misconduct.

"(2) In carrying out paragraph (1), the Director may inspect any investigation conducted or being conducted by any other organization within the Department of Defense, review the records of an investigation, and observe the conduct of an ongoing investigation.

"(3) The Director may report to the Secretary on any investigation monitored pursuant to in paragraph (1). The report may include the status of the investigation, an evaluation of the conduct of the investigation, and an evaluation of each investigator and the investigative organization involved in the investigation.

"(g) POWERS.—In the performance of the duties set forth or authorized in this section, the Director shall have the following powers:

"(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available in the Department of Defense which relate to the duties of the Director.

"(2) To request such information or assistance as may be necessary for carrying out the Director's duties from any Federal, State, or local governmental agency or unit thereof.

"(3) To require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the Director's duties, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

"(4) To serve subpoenas, summons, and any judicial process related to the performance of any of the Director's duties.

"(5) To administer to or take from any person an oath, affirmation, or affidavit whenever necessary in the performance of the Director's duties, which oath, affirmation, or affidavit when administered or taken by or before an employee designated by the Director shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(6) To have direct and prompt access to the Secretary of Defense, the Secretary of a military department, and any commander when necessary for any purpose pertaining to the performance of the Director's duties.

"(7) To obtain for any victim of sexual misconduct referred to in subsection (d)(1), from any facility of the uniformed services or any other health care facility of the Federal Government or, by contract, from any other source, medical services and counseling and other mental health services appropriate for treating or investigating—

"(A) injuries resulting from the sexual misconduct; and

"(B) other mental and physiological results of the sexual misconduct.

"(h) REFERRALS FOR PROSECUTION.—(1) The Director may refer any case of sexual misconduct described in subsection (d)(1) to—

"(A) a United States Attorney, or another appropriate official in the Department of Justice, for prosecution; or

"(B) to an appropriate commander within the armed forces for action under chapter 47 of this title (the Uniform Code of Military Justice) or other appropriate action.

"(2) The Director shall report each such referral to the Secretary of Defense.

"(i) STAFF.—(1) The Director shall have—

"(A) a staff of investigators who have extensive experience in criminal investigations;

"(B) a staff of attorneys sufficient to provide the Director, the criminal investigators, and the Director's other staff personnel with legal counsel necessary for the performance of the duties of the Director;

"(C) a staff of counseling referral specialists; and

"(D) such other staff as is necessary for the performance of the Director's duties.

"(2) To the maximum extent practicable, the staff of the Director shall be generally representative of the population of the United States with regard to race, gender, and cultural diversity.

"(j) REPORTS TO DIRECTOR.—Each Member of the Armed Forces and each officer or employee of the Department of Defense who, in the official capacity of that member, officer, or employee, receives an allegation of sexual misconduct shall submit to the Director a notification of that allegation together with such information as the Director may require for the purpose of carrying out the Director's duties.

"(k) ANNUAL REPORT ON SEXUAL MISCONDUCT.—The Secretary of Defense shall submit to Congress an annual report on the number and disposition of cases of sexual misconduct by members of the Armed Forces and officers and employees of the Department of Defense.

"(l) DEFINITIONS.—In this section:

"(1) The term 'sexual misconduct' includes the following:

"(A) Sexual harassment, including any conduct involving sexual harassment that—

"(i) in the case of conduct of a person who is subject to the provisions of chapter 47 of this title (the Uniform Code of Military Jus-

tice), comprises a violation of a provision of subchapter X of such chapter (relating to the punitive articles of such Code) or an applicable regulation, directive, or guideline regarding sexual harassment that is prescribed by the Secretary of Defense or the Secretary of a military department; and

"(ii) in the case of an employee of the Department of Defense or a dependent subject to the jurisdiction of the Secretary of Defense or of the Secretary of a military department, comprises a violation of a regulation, directive, or guideline referred to in clause (i) that is applicable to such employee or dependent.

"(B) Rape.

"(C) Sexual assault.

"(D) Sexual battery.

"(2) The term 'complaint', with respect to an allegation of sexual misconduct, includes a report of such allegation.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 of such title is amended by adding at the end the following:

"142. Director of Special Investigations.".

SEC. 2. CRIMINAL FAILURE TO REPORT SEXUAL MISCONDUCT.

(a) OFFENSES.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246;

(2) by inserting after section 2244 the following new section:

"§ 2245. Failure to report sexual misconduct

"(a) FAILURE TO ACT ON ALLEGATION OF CRIMINAL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of criminal sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States or against a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Criminal Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 10 years, fined under this title, or both.

"(b) FAILURE TO ACT ON ALLEGATION OF CIVIL SEXUAL MISCONDUCT.—An officer or employee of the Department of Defense or a member of the Armed Forces of the United States who, in the official capacity of the officer, employee, or member—

"(1) receives an allegation of civil sexual misconduct of a member of the Armed Forces of the United States or of a dependent of a member of the Armed Forces of the United States against a member of the Armed Forces of the United States or against a dependent of a member of the Armed Forces of the United States;

"(2) is required by law to initiate an investigation of, or to determine whether to take disciplinary action in the case of, the allegation; and

"(3) fails to submit a notification of the allegation to the Director of Criminal Investigations of the Department of Defense and to the immediate employment supervisor or immediate commander, as the case may be, of the alleged offender,

shall be imprisoned not more than 1 year, fined under this title, or both."; and

(3) in section 2246, as redesignated by paragraph (1)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) the term 'criminal sexual misconduct' means engaging in a sexual act or sexual contact in circumstances such that the act or conduct constitutes a criminal offense under this chapter, other Federal law, or State law; and

"(7) the term 'civil sexual misconduct' means engaging in a sexual act, sexual conduct, or other activity of a sexual nature in violation of a statute, rule, order, or other lawful authority that prohibits the activity but does not authorize imposition of a sentence of imprisonment for a violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking the item relating to section 2245 and inserting the following:

"2245. Failure to report sexual misconduct.

"2246. Definitions for chapter.".

SEC. 3. PERSONNEL ADMINISTRATION MATTERS.

(a) PERFORMANCE EVALUATIONS AND BENEFITS.—(1) The Secretary of Defense shall prescribe in regulations a requirement that the commitment of an officer or employee of the Department of Defense and a member of the Armed Forces of the United States to the elimination of sexual harassment in the officer's, employee's, or member's place of work or duty and at installations and other facilities of the Department of Defense be one of the factors considered in—

(A) the preparation of the evaluations of the officer's, employee's, or member's performance of work or duties;

(B) the determination of the appropriateness of a promotion of the officer, employee, or member; and

(C) the determination of the appropriateness of selecting the officer, employee, or member to receive a financial award for performance of work or duties.

(2) The Secretary shall submit to Congress an annual report on the implementation of the regulations required by paragraph (1). The report shall contain an assessment of the effects of the implementation of such regulations on the number, extent, and seriousness of the cases of sexual harassment in the Department of Defense. The annual report under this paragraph shall be separate from the annual report required by section 142(k) of title 10, United States Code, as added by section 1.

(b) ELIGIBILITY FOR PROMOTIONS AND AWARDS.—The Secretary of Defense and the Secretary of the military department concerned may not approve for presentation of a financial award for performance of work or duties or for promotion any officer or employee of the Department of Defense or any member of the Armed Forces of the United States who—

(1) has been convicted of a criminal offense involving sexual misconduct; or

(2) has received any other disciplinary action or adverse personnel action on the basis of having engaged in sexual misconduct.

SEC. 4. PROTECTION OF PERSONS REPORTING SEXUAL HARASSMENT.

(a) REGULATIONS OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall prescribe regulations that prohibit officers and employees of the Department of Defense from retaliating or taking any adverse personnel action against any other officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by an officer or employee of the Department of Defense or a member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member. The regulations shall include sanctions for violation of the regulations.

(b) REGULATIONS OF A SECRETARY OF A MILITARY DEPARTMENT.—(1) The Secretary of each military department shall prescribe regulations that prohibit members of the Armed Forces of the United States under the jurisdiction of that Secretary from retaliating or taking any adverse personnel action against any officer or employee of the Department of Defense or any member of the Armed Forces of the United States for reporting sexual misconduct by any other officer or employee of the Department of Defense or any other member of the Armed Forces or for providing information in an investigation, disciplinary action, or adverse personnel action in the case of an allegation of sexual misconduct by any other such officer, employee, or member.

(2) A violation of the regulations prescribed pursuant to paragraph (1) shall be punishable under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

SEC. 5. SEXUAL MISCONDUCT DEFINED.

In this Act, the term "sexual misconduct" has the meaning given that term in section 142(l) of title 10, United States Code, as added by section 1.

WHAT DOES THE LEGISLATION DO?

NEW OFFICE OF CRIMINAL INVESTIGATIONS

Establishes a new, permanently authorized civilian investigative office in the Department of Defense responsible directly to the Secretary of Defense.

PROFESSIONAL STAFF AND DIRECTION

Staffs the new Office with an appropriate mix of professional criminal investigators, attorneys, administrative support personnel, and counseling referral personnel. Criminal investigators will possess full federal law enforcement authority. Staffing will be generally and appropriately representative of the population of the nation with regard to race, gender and cultural diversity.

Places direction and control of the office in a Director from the career Senior Executive Service.

Does not limit new Office to existing military disciplinary channels but authorizes it to refer violations of federal law to the Department of Justice or an United States Attorney for prosecution.

SPECIFIC OFFICE FUNCTIONS

Provides that new Office will gather, compile, store, track and report comprehensive data on investigations and prosecutions which involve allegations of sexual misconduct.

Places new Office in role of oversight and quality control for all ongoing sexual misconduct investigations by any agency or office of the military services.

Provides new Office with special authority to conduct direct investigations into allegations of criminal activity involving sexual misconduct at the direction of the Secretary of Defense or the Office Director.

Provides the new Office with contracting authority to provide necessary support activities including any necessary assistance to victims such as rape counseling, medical assistance and support, stress or trauma counseling services.

CRIMINALIZES COVERUPS OR CONCEALMENT

Makes it a federal crime to coverup or conceal sexual misconduct. Military or civilian officials who are responsible for action on issues of sexual conduct are subject to criminal prosecution if they fail to take action or conceal reports of sexual misconduct.

IMPOSES PERSONAL RESPONSIBILITY ON ALL OFFICERS AND MANAGERS

Requires career advancement and professional success in the Department of Defense to be individually tied to acceptable and responsible personal behavior through immediate changes in performance standards and evaluation procedures.

Provides that no person convicted of criminal sexual misconduct or who has a civil or administrative finding of sexual harassment or who has retaliated against a reporting victim or witness in these types of cases may be advanced in rank or receive a financial award based upon job performance.

INSTITUTIONALIZE PERSONAL ACCOUNTABILITY FOR WRONGFUL ACTS AND PROTECT VICTIMS AND WITNESSES FROM RETALIATION.

Requires the Secretary of Defense to issue regulations which insulate and protect any person from retaliation, disciplinary action or from separation from the military service as a result of reporting and/or providing information on sexual misconduct.

Requires the Secretary to make it a punishable offense under regulations of the respective military services for any military person to retaliate against any person for reporting a violation of criminal, civil or administrative requirements related to appropriate sexual conduct of service personnel.

DIRECT ACCOUNTABILITY OF SECRETARY OF DEFENSE

Makes Secretary of Defense personally and directly responsible for success in combatting sexual harassment in the military services. The Secretary must make an annual report to Congress on the numbers of sexually-related violations and the status of prosecutions. The Secretary must also make a second and separate annual report to Congress concerning the Department of Defense's overall success in eliminating a climate favorable to sexual abuse and harassment and on the status of the requirements that personnel evaluations and promotions be linked to eradicating sexual abuse and harassment.

By Mr. GLENN:

S. 817. A bill to encourage the acquisition and use of resource efficient materials in construction, repair, and maintenance of Federal buildings; to the Committee on Environment and Public Works.

FEDERAL RESOURCE EFFICIENT BUILDING MATERIAL ACT OF 1993

Mr. GLENN. Mr. President, I rise today to introduce the Federal Resource-Efficient Building Materials Act, legislation to encourage the purchase and use by the Federal Government of building products made from recycled, reclaimed, or reused materials.

As many of my colleagues are well aware, this Nation is facing a growing solid waste problem. Tougher environmental regulations, combined with continued population growth, have created a situation where it is getting tougher and tougher to dispose of our garbage.

One positive development that has come from our solid waste problem has been the boost to recycling. Over the last decade, numerous government and industrial programs have sprung up to try to prevent paper, plastics, glass, and other materials from entering into the waste stream. However, these programs have not been without their faults. One problem has been that the supply of materials to be recycled far exceeds the demand for their recycled end-products. Without incentives to stimulate demand for recycled products, market failure results—and we end up failing to fully achieve our goal of preventing materials from entering the solid waste stream.

I believe that the building industry offers enormous potential to energize the market for products made from recycled, or as I have defined in the legislation—resource-efficient, materials. A couple of houses have already been built that demonstrate the use of these materials. Some of the innovative products and technologies incorporated in these homes include:

A concrete foundation system using both recycled polystyrene and polypropylene;

Insulation made from recycled polystyrene and newspaper;

Steel beams, framing, and doors made from recycled scrap metal;

Carpeting made from recycled plastic bottles; and,

Paneling made from wood shavings and sawdust.

My bill provides $20 million to establish a 3-year pilot program run by the General Services Administration (GSA) to demonstrate the acquisition and use of these and other resource-efficient building materials in Federal buildings. In addition, the legislation creates an advisory board served by representatives of industry, government, and the environmental and scientific community to oversee the implementation of the program and study its results. Upon completion of the pilot program, GSA would then issue guidelines to all Federal agencies to both maximize the use of resource-efficient materials and minimize the generation of solid waste in all new construction. These guidelines would be based on the recommendations of the advisory board.

More than 20 companies from my home State of Ohio produce products made from resource-efficient materials. Many of them are small companies who have simultaneously found a way to turn an innovative idea into a product, raise environmental awareness, and make a green profit.

As these companies are demonstrating, our Nation can improve environmental protection while fostering economic growth, job creation, and competitiveness. I believe with the proper policies in place—such as those espoused in my bill—we can create a win-win situation for both the environment and the economy.

Recently, I also asked GAO to assess the Federal Government's research and development efforts in recycling and waste reduction, with a particular focus on how well it transfers technological innovations to the private sector. In addition, I want to know how we measure up with other industrial nations in these areas. The OECD has estimated that the world market for environmental goods and services is growing at annual real growth rate of 5 to 6 percent and will reach $300 billion by the year 2000. Japan and Germany, in particular, are pursuing aggressive government policies to target this market. We must do the same for our industry.

I plan to have hearings on these topics before my Committee on Governmental Affairs in this Congress. I believe that without foresight and pro-active support from the Federal Government, we will not only lose opportunities throughout the world to win the market for environmental technologies, but fail to capitalize on the large potential here at home.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 817

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 Resource Efficient Building Materials Act of 1993".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and any agency of the judicial branch of Government.

(3) The term "resource efficient materials" means any recycled, recovered, reclaimed or reused material whose production, manufacture, fabrication and use conserves and preserves natural resources when compared to the production, manufacture, fabrication and use of comparable, more conventional materials.

(4) The term "resource efficient building materials" means any resource efficient material which may be used in the construction of a building or facility.

(5) The term "solid waste" shall have the same meaning as such term is defined under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(6) The term "construction" shall have the same meaning as such term is defined under section 1004(2) of the Solid Waste Disposal Act (42 U.S.C. 6903(2)).

SEC. 3. FEDERAL ACQUISITION AND USE OF RESOURCE EFFICIENT BUILDING MATERIALS.

(a) DEMONSTRATION OF USE OF MATERIALS.—The Administrator shall establish a 3-year pilot program to demonstrate the acquisition and use of resource efficient building materials in the construction of Federal facilities and buildings and in existing Federal facilities and buildings.

(b) SELECTION CRITERIA.—In selecting resource efficient building materials, the Administrator shall use the criteria of—

(1) maximizing the conservation and preservation of natural resources;

(2) ensuring that the materials are similar in quality and durability to comparable, more conventional materials;

(3) ensuring that the materials are cost competitive with comparable, more conventional materials on a life cycle cost basis;

(4) ensuring that the materials meet appropriate environmental, public health, and safety standards; and

(5) meeting appropriate standards for energy efficiency.

(c) PREFERENCES AMONG RESOURCE EFFICIENT BUILDING MATERIALS.—When making choices between comparable resource efficient building materials that meet all the criteria under subsection (b), the Administrator shall give preference to those materials that best satisfy the criteria under subsection (b)(1).

SEC. 4. REPORT.

Upon completion of the pilot program established under section 3 the Administrator shall report to Congress on its implementation. Such a report shall include—

(1) a listing of the type and quantities of resource efficient building materials used;

(2) the cost and performance of such materials compared to comparable, more conventional materials;

(3) the extent to which the acquisition and use of such materials can be expanded beyond the scope of the pilot program; and

(4) an assessment of how well the materials meet the criteria under section 3(b).

SEC. 5. RESOURCE EFFICIENT BUILDING MATERIAL ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established the Resource Efficient Building Material Advisory Board (hereafter referred to as the "Board"). The Board shall consist of 11 members appointed by the Administrator of whom—

(1) one shall be a representative from the General Services Administration;

(2) one shall be a representative from the Environmental Protection Agency;

(3) one shall be a representative from the Army Corps of Engineers;

(4) two shall be representatives from the environmental community;

(5) two shall be representatives from the construction industry, of whom at least one shall be from a small business;

(6) two shall be representatives from manufacturing companies that produce resource efficient materials, of whom at least one shall be from a small business; and

(7) two shall be representatives from the scientific and technical community.

(b) DUTIES.—The Board shall—

(1) advise the Administrator on the latest developments in resource efficient building materials and design and how such developments may be incorporated into the construction of Federal buildings;

(2) make recommendations to the Administrator on actions needed to further facilitate the acquisition and use of resource efficient materials in Federal construction; and

(3) make recommendations to the Administrator on actions needed to minimize the generation of solid waste in the construction of Federal buildings and facilities.

(c) CHAIRMAN.—The Administrator shall serve as Chairman of the Board and shall be a voting member.

(d) MEETINGS.—The Board shall meet on a quarterly basis. The Board shall comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) APPOINTMENTS.—No later than 120 days after the date of the enactment of this Act, the Administrator shall make the initial appointments to the Board. The appointees shall serve until the Board's termination.

(f) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this Act.

(g) INFORMATION FROM FEDERAL AGENCIES.—The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Board, the head of such department or agency shall furnish such information to the Board.

(h) POSTAL SERVICES.—The Board may use the United States mail in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(i) GIFTS.—The Board may accept, use, and dispose of gifts or donations of services or property.

(j) COMPENSATION OF MEMBERS.—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(k) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(l) STAFF.—(1) The Chairman of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

(2) The Chairman of the Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(m) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(n) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(o) REPORT.—No later than 90 days after the completion of the demonstration program under section 3, the Board shall submit a report to Congress and the Administrator that—

(1) shall make recommendations to the Administrator on actions needed to further facilitate the acquisition and use of resource efficient materials in Federal construction;

(2) shall make recommendations to the Administrator on actions needed to minimize the generation of solid waste in the construction of Federal buildings and facilities;

(3) shall evaluate the implementation and effectiveness of the demonstration program; and

(4) shall include any dissenting minority views.

(p) TERMINATION.—The Board shall cease to exist within 1 year after the submission of its report under subsection (o).

SEC. 6. GUIDELINES TO FEDERAL AGENCIES.

(a) IN GENERAL.—No later than 1 year after the date on which the Resource Efficient Building Material Advisory Board submits its report under section 5(o), the Administrator shall, after consultation with the Administrator of the Environmental Protection Agency, promulgate regulations containing guidelines to Federal agencies on minimizing the creation of solid waste and on maximizing the use of resource efficient building materials in the construction of Federal buildings. Such regulations shall include—

(1) a requirement that bids for Federal contracts for the construction of Federal buildings include a plan for minimizing the generation of solid waste and for maximizing the use of resource efficient building materials in such construction; and

(2) standards for an acceptable plan that satisfies the requirement under paragraph (1).

(b) RECOMMENDATIONS.—The Administrator shall consider each recommendation of the Resource Efficient Building Material Advisory Board in implementing subsection (a).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1994, $7,000,000 for fiscal year 1995, and $8,000,000 for fiscal year 1996 to carry out the purposes of this Act.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, Mr. MITCHELL, Mrs. BOXER, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. KENNEDY, Mr. METZENBAUM, Mr. KERRY, Mr. LEVIN, Mr. HARKIN, Mr. LEAHY, and Mr. RIEGLE):

S. 818. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

BEVERAGE CONTAINER REUSE AND RECYCLING ACT

• Mr. HATFIELD. Mr. President, as many of my colleagues know, I have long been an advocate of beverage con-

tainer deposit legislation. I rise once again to lay this commonsense proposal before the Senate. I am joined in this effort by my colleagues, Senators PACKWOOD, MITCHELL, BOXER, LEVIN, RIEGLE, JEFFORDS, LIEBERMAN, KENNEDY, LEAHY, KERRY, METZENBAUM, and HARKIN.

In addition to this distinguished list of my colleagues, I look forward to adding the President of the United States to the list of supporters of this legislation. One year ago today, on Earth Day 1992, then-candidate Bill Clinton pledged his support for a national beverage container deposit system. We look forward to input and support from the Clinton administration.

Congressman ED MARKEY, and over 60 cosponsors, is introducing companion legislation in the House of Representatives today as well.

The legislation we place before the Senate today will accomplish national objectives that each of us hold dearly. A national deposit system will save natural resources and energy, reduce solid waste and litter, and create a much needed partnership between consumers, industry, and local governments for the betterment of our communities. This is a program that is easy to support because we know it works.

Mr. President, Oregonians recently celebrated the 20th anniversary of our State's pioneering bottle bill, which has enormous public backing. What's more, beverage container laws have not only served Oregon well, but have also been adopted by an additional nine States. So often, States act as laboratories for what later emerge as successful national policies. By implementing beverage container deposit systems, 10 States have achieved great success in preventing soft drink bottles and cans from ending up on our beaches, along our roadsides, or in our landfills. But even with the efforts in the 10 bottle bill States, over 60 billion beverage containers produced each year will still find their way to the landfills.

This waste must stop. Beverage containers are not only the single largest component of the waste system, they are the most easily recovered and recycled components of the waste stream. I firmly believe the time has come for Congress to follow the wise lead of these States and encourage deposit systems on a national level.

We have enormous waste in this country. About 7 million tons of plastic, 6 million tons of glass, 1.5 million tons of aluminum and 164,000 tons of steel are used to manufacture beverage containers each year. Only 42 percent of that material is recycled. Yet according to the General Accounting Office, deposit law States, which account for only 18 percent of the population, recycle 65 percent of all glass and 98 percent of all PET plastic, nationwide. That means that 82 percent of the population is recycling less than 25 percent of the beverage container waste nationwide.

Each of us is concerned about energy use and are interested in promoting sustainable development of our natural resources. Yet, in each Congress for the last 20 years, I have offered a simple, proven way to save the equivalent of 4 million gallons of oil a day by promoting reuse and recycling of the 120 billion beer, soda, mineral water, and wine cooler containers sold in the United States each year. In the 10 existing bottle bill States, deposit legislation has already saved the equivalent of 3.5 billion gallons of oil, worth $2.3 billion by reusing recycled beverage containers. Recycled plastic and aluminum require only 5 percent of the energy required for manufacturing virgin materials.

Americans can no longer afford the extravagance of ignoring the indirect costs of using the resources of this planet. We must improve our role as stewards of the natural resources. We must balance our day-to-day consumption with the renewal of the resources within our grasp. Where renewal is not possible, we must use no more than a reasonable share, and reuse whatever we can. Placing a deposit on all beverage containers would be a meaningful step in that direction. The bottle bill is straightforward and is supported by 76 percent of the American public, according to a report recently published by Peter D. Hart Research Associates, Inc. A 1990 survey conducted by the General Accounting Office showed a 70-percent level of public support.

Our opponents want to continue manufacturing billions of containers. If we buy them and throw them away, these companies can make billions more as a profit. As long as the American public is willing to foot the bill for this nonsense, the beverage industry will let us. They have put up millions to keep the status quo in place, outspending supporters of this proposal at a rate of 7 to 1.

The most recent argument made by our opponents in the beverage industry is that simple curbside collection of all recyclable materials is adequate on its own, and a bottle bill would harm curbside collections by taking out the valuable materials. Not true, says the Congressional Research Service. In January, CRS released a study titled "Bottle Bills and Curbside Recycling: Are They Compatible?" It notes the irrefutable fact that over one-half of all the Nation's curbside programs are in the 10 bottle bill States. It also shows what many Oregonians have known for some time: that a deposit law promotes curbside recycling. It does so by removing beverage containers from the waste stream, which in turn lowers handling and hauling costs for curbside. The report also notes that a deposit system raises the value of used beverage containers because of the careful sorting that occurs under a bottle bill system.

I predict that this year our opponents will seek to trade on the economic uncertainty of the Nation by arguing that the bottle bill will result in widespread unemployment. We have disproved this shopworn argument many times before and will do so again. Extrapolating from a report done by opponents of this legislation in the State of Maine, we predict that approximately 280,000 jobs will be created under a nationwide deposit system. Moreover, the Congressional Budget Office projects that $1.7 billion will be raised annually in unclaimed deposits under a national bottle bill. Our legislation returns that money to State and local governments for recycling and solid waste programs.

If we were to give up on the bottle bill approach at the State and Federal levels—if all the 10 States which currently have a bottle law were to repeal them—would the opponents of this legislation then step up to their responsibilities? Would they do anything more than fund more public relations efforts to place the burden of dealing with used beverage containers on the public?

Of course the answers to these questions is no. They would just go on manufacturing over 120 billion beverage containers each year and letting the public pick up the health, social, and financial costs of dealing with the waste.

Under the legislation that my cosponsors and I introduce today, a national deposit system would be phased in unless a State can achieve a beverage container recycling rate of at least 70 percent in 2 years. Thus, States are free to adopt any recycling program they choose, whether it be curbside, a deposit system, a combination of the two, or otherwise. It's that simple: any State that satisfies the Federal standard is exempt from the law. States that choose to adopt their own deposit law along flexible guidelines will also be exempt.

States that are not able to meet even the lowest beverage container recovery rate achieved by deposit States would be required to institute a State deposit program with a 10-cent deposit on beer, water, and soft drink beverage containers. To encourage involvement and foster the establishment of a recycling infrastructure, a handling fee of 2 cents would be paid to retailers and redemption centers by beverage distributors. Deposits that go unclaimed would accumulate in a State fund and would provide much needed assistance to States and local governments in battling the difficult and expensive recycling and solid waste challenges that confront them.

This legislation is identical to S. 2335, the national Beverage Container Reuse and Recycling Act of 1992, which I introduced in the 102d Congress. Al-

though that bill was referred to the Senate Commerce Committee, it was offered by Senator JEFFORDS in the Environment and Public Works Committee as an amendment to the Resource Conservation and Recovery Act [RCRA] and was defeated on a vote of 6 to 10, after very strong jurisdictional objections were raised by the Commerce Committee. The Commerce Committee has taken no action on this issue in more than a decade despite continued support and significant developments.

Last September, productive and insightful hearings were held on this legislation in the Senate Energy and Natural Resources Committee. Senator BAUCUS, chairman of the Environment and Public Works Committee, has also committed to conduct hearings in his committee this year. I look forward to working with members of that committee on this hearing to see that this proposal sees the thorough consideration that it deserves. I will also work to move this issue forward in the Senate Commerce Committee.

Mr. President, now more than ever, we need programs with the popular support and effectiveness of deposit systems. We need to put higher priorities on reducing waste, conserving energy and changing our throwaway mentality. There are many demonstrated benefits to a deposit approach. It is time to move forward and take advantage of the substantial environmental benefits offered by this legislation. We must take action to stop the more than 60 billion beverage containers that find their way—at taxpayer expense—into America's landfills each year.

I ask unanimous consent that the bill and the attached material be printed in the RECORD at the conclusion of my remarks.

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

S. 818

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 Beverage Container Reuse and Recycling Act of 1993".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of the containers.

(3) Solid waste resulting from the empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of the waste.

(4) It is difficult for local communities to raise the necessary capital to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources, and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers.

(7) The laws referred to in paragraph (6) have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(8) A national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would—

(A) result in a high level of reuse and recycling of the containers; and

(B) help reduce the costs associated with solid waste management.

(9) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(10) The reuse and recycling of empty beverage containers would eliminate unnecessary burdens on the Federal Government, local and State governments, and the environment.

(11) The collection of unclaimed refunds from a national system of beverage container recycling would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the United States.

(12) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(13) The provisions of this Act are consistent with the goals established by the Administrator of the Environmental Protection Agency in January 1988. The goals include a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

SEC. 3. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(a) IN GENERAL.—The Solid Waste Disposal Act is amended by adding at the end thereof the following new subtitle:

"Subtitle K—Beverage Container Recycling

"SEC. 12001. DEFINITIONS.

As used in this subtitle:

"(1) BEVERAGE.—The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

"(2) BEVERAGE CONTAINER.—The term 'beverage container' means a container—

"(A) constructed of metal, glass, or plastic (or a combination of the materials);

"(B) having a capacity of up to one gallon of liquid; and

"(C) that is or has been sealed and used to contain a beverage for sale in interstate commerce.

"(3) BEVERAGE DISTRIBUTOR.—The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

"(4) BEVERAGE RETAILER.—The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

"(5) CONSUMER.—The term 'consumer' means a person who purchases a beverage container for any use other than resale.

"(6) REFUND VALUE.—The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

"(7) UNBROKEN BEVERAGE CONTAINER.—The term 'unbroken beverage container' shall include a beverage container opened in a manner in which the container was designed to be opened. A beverage container made of metal or plastic that is compressed shall constitute an unbroken beverage container if the statement of the amount of the refund value of the container is still readable.

"(8) WINE COOLER.—The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume)—

"(A) consisting of wine and plain, sparkling, or carbonated water; and

"(B) containing a non-alcoholic beverage, flavoring, coloring material, fruit juice, fruit adjunct, sugar, carbon dioxide, or preservatives (or any combination thereof).

"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.

"Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate regulations establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator, as provided in section 12008.

"SEC. 12003. ORIGINATION OF REFUND VALUE.

"For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than a person described in this section may collect a deposit on a beverage container.

"SEC. 12004. RETURN OF REFUND VALUE.

"(a) PAYMENT BY RETAILER.—If a person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the 3-month period ending on the date of tender) the same brand of beverage in the same kind and size of container, the retailer shall promptly pay the person the amount of the refund value stated on the container.

"(b) PAYMENT BY DISTRIBUTOR.—

"(1) IN GENERAL.—If a person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the 3-month period ending on the date of tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay the person—

"(A) the amount of the refund value stated on the container, plus

"(B) an amount equal to at least 2 cents per container to help defray the cost of handling.

"(2) TENDERING BEVERAGE CONTAINERS TO OTHER PERSONS.—This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

"(c) AGREEMENTS.—

"(1) IN GENERAL.—Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection centers, including centers that act as agents of the retailers.

"(2) AGREEMENT FOR CRUSHING OR BUNDLING.—Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

"SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.

"(a) UNCLAIMED REFUNDS.—At the end of each calendar year, each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during the year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons in the State. The total amount of unclaimed refunds received by any State under this section shall be available to carry out pollution prevention and recycling programs in the State.

"(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the total amount of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceeds the total amount of the refund values of all containers sold by the distributor for resale in the State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year, designated by the beverage distributor.

"SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.

"(a) DETACHABLE OPENINGS.—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open the container.

"(b) POST-REDEMPTION DISPOSAL.—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled pursuant to section 12002 or any metal, glass, or plastic from the beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

"SEC. 12007. EXEMPTED STATES.

"(a) IN GENERAL.—

"(1) EXEMPTION.—Sections 12002 through 12005 and sections 12008 and 12009 shall not apply in any State that—

"(A) has adopted and implemented requirements applicable to all beverage containers sold in the State if the Administrator determines the requirements to be substantially similar to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

"(B) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of enactment of this subtitle, the State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

"(2) TERMINATION OF EXEMPTION.—If at anytime following a determination by the Administrator under paragraph (1)(B) that a State has achieved a 70 percent recycling or reuse rate, the Administrator determines that the State has failed, for any 12-consecutive month period, to maintain at least a 70 percent recycling or reuse rate of beverage containers, the Administrator shall notify the State that, on the expiration of the 90-day period following the notification, sections 12002 through 12005 and sections 12008 and 12009 shall apply with respect to the State until a subsequent determination is made under paragraph (1)(A) or a demonstration is made under paragraph (1)(B).

"(b) DETERMINATION OF TAX.—No State or political subdivision thereof that imposes a tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of the container.

"(c) EFFECT ON OTHER LAWS.—Nothing in this subtitle is intended to affect the authority of any State or political subdivision thereof—

"(1) to enact or enforce (or continue in effect) any law concerning a refund value on containers other than beverage containers; or

"(2) to regulate redemption and other centers that purchase empty beverage containers from beverage retailers, consumers, or other persons.

"SEC. 12008. REGULATIONS.

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle.

"(b) BEVERAGE RETAILER.—The regulations shall include a definition of the term 'beverage retailer' for any case in which beverages in beverage containers are sold to consumers through beverage vending machines.

"(c) ADJUSTMENT FOR INFLATION.—The regulations shall adjust the 10 cent amount specified in section 12002 to account for inflation. The initial adjustment shall become effective on the date that is 10 years after the date of enactment of this subtitle, and additional adjustments shall become effective every 10 years thereafter.

"SEC. 12009. PENALTIES.

"Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than $1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than $10,000 for each violation.

"SEC. 12010. EFFECTIVE DATE.

"Except as provided in section 12008, this subtitle shall take effect on the date that is 2 years after the date of enactment of this subtitle.".

(b) TABLE OF CONTENTS.—The table of contents for the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end thereof the following new items:

"SUBTITLE K—BEVERAGE CONTAINER RECYCLING

"Sec. 12001. Definitions.
"Sec. 12002. Required beverage container labeling.
"Sec. 12003. Origination of refund value.
"Sec. 12004. Return of refund value.
"Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.
"Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.
"Sec. 12007. Exempted States.
"Sec. 12008. Regulations.
"Sec. 12009. Penalties.
"Sec. 12010. Effective date.".

GROUPS THAT SUPPORT BEVERAGE CONTAINER DEPOSITS

NATIONAL ORGANIZATIONS

The American Medical Association.
The League of Women Voters of the United States.
The National League of Cities.
The National Association of Counties.
The American Public Health Association.
The United States Public Interest Research Group.
Americans for Democratic Action.
The Garden Club of America.
The League of American Wheelmen.
The National Grange.
Public Citizen.

ENVIRONMENTAL ORGANIZATIONS

The Sierra Club.
The National Audubon Society.
The National Wildlife Federation.
The Environmental Defense Fund.
The National Wildlife Federation.
The Natural Resources Defense Council.
The Wilderness Society.
Greenpeace.
The American Council on the Environment.
Defenders of Wildlife.
Environmental Action.
The Fossil Fuels Policy Institute.
Friends of the Earth/PEI.
The National Parks and Conservation Association.
Scenic America.
Trout Unlimited.
The American Fisheries Society.
The American Hiking Society.
Rails to Trails Conservancy.
The Izaak Walton League of America.

STATEMENT OF SUSAN BIRMINGHAM ON BEHALF OF THE U.S. PUBLIC INTEREST RESEARCH GROUP, APRIL 21, 1993

The Public Interest Research Groups (PIRGs) stand firmly in support of a national Bottle Bill. Today, we call upon President Clinton to fulfill his Earth Day 1992 pledge to make the Bottle Bill the law of the land. We also applaud the longstanding leadership of Senators Hatfield (R-OR), Mitchell (D-ME), Jeffords (R-VT), and Packwood (R-OR), along with Representatives Markey (D-MA), Bonoir (D-MI), and especially Congressman Henry (R-MI), without whom we would not be as close to passage as we are today.

Responsible for virtually all of the plastic, two thirds of all glass and 40 percent of all aluminum recycled in the nation today, the Bottle Bill will be introduced on Earth Day with over 70 original sponsors. This is more than any time in its Congressional history and it is evidence that despite the massive corporate opposition, led by Philip Morris, Coca-Cola, and Anheuser-Bush, momentum for enactment is growing. This is because not only is the Bottle Bill the most effective recycling law on the books today, the most effective litter reduction measure, a revenue generator, and a jobs creating mechanism, but because it is one of the crudest examples of what our nation's democracy has become. One need only look at the results of the first committee vote allowed on the Bottle Bill in almost 20 years which took place during the 102nd session. As compared to those voting in favor, members of the Senate Environment and Public Works Committee (EPW) who failed to support the Bottle Bill received 250 times the amount of political action dollars from the richest beverage and packaging industries in the world. The top 15 of these industries spent over 6 million dollars on Congressional campaign contributions in the last 3 years to buy a no vote.

A few weeks ago, thousands of citizens across the country launched the "Bottles to Bill" campaign, sending their non-returnable beverage containers to the White House. More than 100 billion disposable beverage containers are produced every year in this country. Over the next several months, President Clinton will be reminded that he can either recycle these containers or he can throw them away.

CRS Report for Congress

BOTTLE BILLS AND CURBSIDE RECYCLING: ARE THEY COMPATIBLE?

(By James E. McCarthy, Specialist, Environment and Natural Resources Policy Division)

SUMMARY

In recent years, both curbside collection and deposit/refund (or "bottle bill") programs have been used to collect materials for recycling. In 1991, both served about 30% of the U.S. population. Along with many other measures, both methods may have a role to play in a comprehensive recycling program. Neither method excludes the use of the other. Nevertheless, many wish to compare the merits of the two systems as alternatives. This report compares the merits of curbside and deposit programs in three respects: amount of material collected; quality of material collected; and financial aspects. The report concludes that:

Comparisons between the two systems are difficult to make. Key data (such as the cost of collecting materials) are often not publicly available and can be greatly affected by methodological assumptions.

The two methods are not designed to serve exactly the same purposes. In addition to promoting recycling, deposit-refund systems reduce litter generation and make possible the use of refillable beverage containers. Curbside programs, on the other hand, can target a wider range of materials than a deposit system, and thus have the potential to achieve a greater diversion of waste for recycling.

Curbside programs are more common in deposit States than in non-deposit States: 43% of the population has access to curbside recycling in deposit States, versus 22% of the population in non-deposit States. Thus, enactment of a bottle bill does not appear to prevent operation of curbside programs.

Deposit systems collect more of their target materials than do curbside programs. Return rates in deposit systems range from 72% to 98%. The best, curbside programs collect less than 70% of the targeted material—in many cases, substantially less.

Because the bottles and cans are sorted and handled individually when returned to retailers, the material collected by deposit systems are generally of a higher quality than curbside materials, particularly if the latter are commingled during collection.

Deposit-refund systems cost more to operate on a per-ton-collected basis. These additional costs are internalized in product prices. Curbside systems, while costing less, depend on tax revenues, making the ability to maintain or expand levels of curbside service dependent on local government budgets.

Deposit systems "skim" potential sources of revenue from curbside programs, but they also reduce operating costs of curbside collection and processing.

Studies suggest that local governments would achieve a greater diversion of solid waste from disposal at a lower cost per ton if both a bottle bill and a curbside collection program were in place.

CONCLUSION

This report has examined three aspects of curbside and deposit-refund systems as means of collecting beverage containers: the amount of material collected; the quality of the material collected; and cost factors, including whether deposit systems skim resources from curbside recycling. There are many other issues that could be addressed in comparing the two systems,[1] but the key issues raised by affected parties in recent years are those addressed in this report.

In general, the report concludes that:

Curbside collection and deposit-refund systems are not designed to serve exactly the same purposes. In addition to promoting recycling, deposit-refund systems reduce litter generation and make possible the use of refillable beverage containers. Curbside programs can target a wider range of materials than a deposit system, and thus have the potential to achieve a greater diversion of waste for recycling.

Both systems can serve as elements of comprehensive recycling programs. Neither constitutes a comprehensive program by itself. Neither excludes the use of the other.

Curbside programs are growing faster than deposit programs. Since 1988, the number of communities using curbside collection for recycling has quadrupled. By contrast, no new State has enacted a bottle bill since 1986, although a number of the existing bottle bill laws have been amended to include additional beverages since that time.

Curbside programs are more common in deposit States than in non-deposit States: 43% of the population in deposit States has access to curbside recycling, versus 22% of the population in non-deposit States.

Deposit systems collect more of their target materials than do curbside programs. Return rates in deposit systems range from 72% to 98%. The best curbside programs capture less than 70% of the targeted material—in many cases, substantially less.

Because the bottles and cans are sorted and handled individually when returned to retailers, the materials collected by deposit systems are generally of a higher quality than the same types of materials when collected by curbside programs, particularly if the latter are commingled during collection.

Deposit-refund materials cost more per ton collected. These additional costs are internalized in product prices. Curbside systems, while costing less per ton, depend on tax revenues; the ability to maintain or expand levels of curbside service is, therefore, dependent on local government budgets.

Deposit systems skim potential sources of revenue from curbside programs, but they also reduce the operation costs of curbside programs. Local governments would appear to achieve greater diversion of solid waste from disposal at a lower cost per ton if both a bottle bill and a curbside collection program were in place.

These results suggest that deposit systems and curbside recycling are compatible. While each can be used to target various segments of the waste stream, both approaches in combination are likely to increase the amount and quality of the material collected.

SUMMARY OF MARKETS FOR RECOVERED GLASS

THE ROLE OF MARKETS IN RECYCLING

Recycling, along with source reduction, combustion, and disposal in landfills, is a key component of an integrated municipal solid waste management strategy. Recycling may consist of several steps, including collection, separation, processing, remanufacture, and marketing. A material is not considered "recycled" until all of these steps are completed and the "recycling loop" is closed.

Since materials must be converted into products and used by consumers to close the recycling loop, understanding the markets for recyclable materials and for goods manufactured from recyclable materials is key to continued and expanded recycling. Markets for recyclable materials, like all markets, are influenced by the laws of supply and demand. As more and more communities across the nation implement recycling programs and more recyclable materials enter the marketplace, both supply and demand are affected.

The U.S. Environmental Protection Agency (EPA) is supporting market development by promoting the government purchase of goods containing recycled materials; providing assistance to local governments; and researching, developing and evaluating policy options.

This booklet summarizes "EPA's Markets for Recovered Glass." It describes factors affecting the current supply and demand for glass, and provides information on future trends. It also explains how to obtain a copy of the full report.

SCRAP GLASS SUPPLY

The supply of scrap glass has three components: transition glass, preconsumer cullet, and postconsumer cullet. Cullet is simply crushed scrap glass. Transition glass is made up of unmarketable glass products created by glass manufacturers. Preconsumer cullet is finished glass that breaks at a bottling or distribution plant. Most transition glass and much preconsumer cullet are remelted by the plant that produced it. More important from the perspective of recycling is postconsumer cullet. Postconsumer cullet primarily includes discarded glass beverage containers (including juice, beer, and soft drink bottles) and other glass containers (such as food jars and medicine bottles). Cullet is 100 percent recyclable in that it can be used repeatedly to make the same product. Typically, there are three colors of container cullet: flint (clear), amber, and green.

In 1988, recovery of glass totaled 1.5 million tons, or 12 percent of the total glass generated. Glass beverage containers accounted for about one-half of all glass containers manufactured and most of the glass recovered from the solid waste stream. In 1988, 20 percent of all discarded beer and soft drink containers were recovered.

In recent years, municipal glass recycling collection programs have been expanding in terms of the number of areas participating, types of recovery methods employed, and amount of cullet recovered. From 1980 to 1988, the rate of materials recovery of glass containers from the municipal solid waste stream rose 133 percent. Nevertheless, effective and convenient recycling opportunities do not yet exist in all areas, and many areas do not yet sponsor any type of glass collection program.

---

[1] Other issues might include the effects of the two systems on recycling infrastructures, employment, energy and raw material use, container substitution (e.g., whether plastic or aluminum substitute for glass), prices of the affected products, structure of the affected industries, public opinion, and other variables. Many of these issues were studied in the late 1970s, when a national bottle bill first came before the Congress. These studies are still instructive, but the affected industries, the structure of distribution systems, the amounts and kinds of material used for packaging, and other factors have changed in numerous ways since that time.

FACTORS AFFECTING SUPPLY

The supply of scrap glass is affected by the type and availability of collection methods used, costs, and publicity factors. The type of collection program in place in an area affects the amount of glass recycled and available for reuse. Currently, there are three types of postconsumer collection programs around the country: (1) deposit/refund programs (initiated by bottle bills), (2) drop-off or buy-back centers, and (3) curbside pickup.

Under deposit/refund programs, consumers pay a deposit when buying a bottled soft drink or bottled beer and receive the deposit back when they return the bottle. The bottles are then refilled or recycled. States with deposit laws report much higher recycling rates for glass beverage bottles than states without deposits. To achieve this response, however, these states have had to offer returns on bottles (5 to 10 cents) far above the market scrap value of the bottle. (A glass beverage bottle is worth about a penny.) Although deposit programs do not increase the value of cullet once it leaves the collectors, the effect is to push more cullet into the market than would otherwise be available, given current scrap prices.

The convenience associated with a recycling collection program also affects cullet supplies. The beverage industry sponsors buy-back and drop-off centers in several states, whereby consumers return or sell their containers back to major glass manufacturers directly. These programs do not generate as much consumer response as deposit/refund programs because consumers typically prefer to return glass to the same location from which it was purchased, and the market price of a glass container is much lower than the typical deposit.

Curbside pickup programs, on the other hand, can be even more effective than drop-off programs at generating cullet because they are more convenient for consumers. In curbside programs, consumers separate recyclables from other trash for collection by the municipality or other organization.

Currently, the recycling of nonbeverage glass containers and noncontainer glass does not significantly affect cullet supplies. Publicity about recycling often emphasizes beverage containers. Consumers often are unaware that many buy-back and drop-off centers accept nonbeverage glass containers and noncontainer glass in addition to soft drink and beer bottles. To date, no collection methods have been widely established to handle large or heavy pieces of glass or flat glass (such as window panes), or glass that needs to be separated from other components (such as lightbulbs).

Another factor affecting supply is the low value of cullet and the high cost of transporting it. Transporting cullet to the glass manufacturers is the single largest cost component for cullet suppliers. The market for glass containers, therefore, is regional, and more glass tends to be recycled in areas where manufacturers are located. Exceptions to this trend occur in areas where the high cost of trash disposal makes it economical to recycle glass and other items at a great distance from manufacturers. If municipalities take into account the avoided costs of disposing of this glass in landfills, they may be able to justify high transport costs.

FUTURE TRENDS IN SUPPLY

Industry observers predict that the use of glass food and beverage containers will rise only slightly over the next several years. This modest increase will nonetheless lead to an increase in the supply of cullet because more glass will be available for recycling. Curbside programs, in particular, are likely to boost recycling rates, since this type of program is most convenient for consumers and the number of curbside collection programs is rapidly increasing.

The expansion of the cullet supply partially depends on how well glass fares over aluminum and plastic in the container marketplace. Aluminum has long been a competitor of glass, and, since the introduction of plastic beverage containers in the 1970s, the glass share of the beverage container market has dropped steadily. Between 1980 and 1989, the number of glass containers declined 12 percent, and the supply of potential cullet decreased. Shipment of glass containers, however, grew slightly in 1989, and that growth is expected to continue for several years.

DEMAND FOR CULLET

Glass manufacturers buy cullet directly from recyclers and from intermediary companies that purchase cullet from recyclers. Furnace-ready cullet (which is crushed and decontaminated) may be purchased from independent dealers and processors (who often obtain cullet from industrial or commercial glass manufacturers that do not use scrap glass). Many glass beverage container manufacturers also own and operate beneficiation units where glass is made furnace-ready.

Glass container manufacturers are the largest consumers of cullet. According to industry representatives, these manufacturers will buy as much cullet as is available because it saves raw materials, energy, and furnace life. In addition, manufacturing recycled glass projects a positive company image.

Noncontainer glass industries currently do not use significant quantities of cullet. The fiberglass insulation industry and companies that make such items as ceramics, industrial compounds, and glasphalt (a road-paving compound made of asphalt and glass) use some cullet. Although most non container glass manufacturers rarely purchase cullet, they do use small amounts that are self-generated. Pressed and blown glassware producers do not use or purchase cullet and sell their own scrap glass.

FACTORS AFFECTING DEMAND

To meet strict manufacturing specification, all cullet must be sorted by color, crushed to a size suitable for the furnace, and separated from bits of aluminum and other contaminates. Color sorting is accomplished either by consumers or after disposal by processing facility operators. Bits of gravel, pieces of ceramic, and some types of noncontainer glass pose special problems for glass manufacturers because they cannot be easily removed from the cullet. Recyclers need to pay special attention to see that these materials do not contaminate their glass.

Strict specifications for most products limit the amount of cullet that manufacturers can use. Although it is possible to manufacture some glass products using 50 percent cullet or more, most glass containers are manufactured using 20 to 30 percent cullet. Higher percentages would require significant process modifications. Manufacturers are unlikely to make these process modifications without the assurance of a constant supply of color-sorted, contaminant-free cullet. To respond to the industry's need for a steady supply of cullet, some glass manufacturers subsidize cullet prices and deal with large intermediaries and independent dealers that can provide a large volume of cullet with greater reliabilty than small individual communities or cullet processors.

FUTURE TRENDS IN DEMAND

The success of glass against aluminum and plastic in the marketplace will affect the amount of cullet the glass industry will demand. Observers predict that the glass container industry will continue to see modest growth over the next few years. Growth in the container industry will dictate the overall capacity to use cullet. Consumer demand for recycled containers will also affect use of cullet.

To increase the use of cullet, existing collection and beneficiation units must improve operations to a level that can guarantee cullet quality and quantity. Glass industry observers also speculate that if prices or regulations changed enough to make it more worthwhile to use cullet, more companies would be motivated to do so.•

• Mr. JEFFORDS. Mr. President, I rise today in support of a national deposit law. There has been much talk of how America voted for change in November. Implementing a national bottle bill is an excellent way to show Americans that Congress can pass important legislation over the objections of special interests.

By passing this one bill, we can not only protect the environment, but put Americans to work. Enacting this bill would reduce greenhouse gas emissions, it would reduce our need for new landfills, it would foster and support State and local recycling programs. It is a commonsense, proven proposal that 70 percent of Americans support. I urge my colleagues to look beyond the special interests and at the facts.

So what is a bottle bill? It is merely a national program to place a refundable, and let me stress refundable, deposit on beverage containers. When a consumer buys a soft drink or a beer, the consumer would pay 10 cents per container. Then, when the consumer returns the container, the consumer gets all of his or her money back. In States which have a bottle bill, over 90-percent recovery of the containers has been achieved. That is quite an impressive recycling record.

Which States would this proposal be applicable to? States which do not achieve a 70-percent recovery rate for beverage containers. The proposal is very flexible in this regard. Any State may opt out by using any method they want to reach the 70-percent goal. You will hear lots of rhetoric about curbside programs. Nothing in this proposal interferes with curbside recycling in any way. Let me make that clear. Whoever tells you that this bill interferes with curbside recycling is misinformed. If a State can achieve the 70-percent goal, a State need do nothing more. We are not asking for 90 percent or even 80 percent which nearly every bottle bill State has achieved. We are cutting States some slack. We are being flexible.

Now, you may ask, why all the fuss over beverage containers? It's simple. This country uses over 120 billion, yes

that's right, 120 billion, with a "b" beverage containers every year. Most of these go right into the trash and from there to the landfill or incinerator. This is criminal. We have the power to put an end to this terrible waste, and we should.

Let me discuss some of the merits of this proposal.

Deposit legislation improves recycling efficiency. Industry has bragged about how well they are doing overall with beverage container recycling. They are doing so well because of the bottle bill States. Let's compare numbers. On average, 80 percent of cans get recycled in deposit States; only 48 percent in nondeposit States; 40 percent of glass gets recycled in deposit States; only 4 percent in nondeposit States. Here's an even more impressive number: 67 percent of plastic gets recycled in deposit States; only 6 percent gets recycled in nondeposit States. The 10 deposit States account for over 45 percent of all recycling, but only 30 percent of the country's population.

The bottle bill complements curbside recycling efforts. This is one I expect we'll debate a bit when the bill comes to the floor. In the 1970's, bottlers said deposit laws cost jobs. We've proven that false. In the 1980's, they said deposit laws were unsanitary. We've proven that false. Now they say it hurts curbside programs. Well, Seattle found that to be false. Deposit legislation would have saved Seattle between $240,000 and $632,000.

Cincinnati found that a deposit law combined with their curbside recycling program would lower the cost of the recycling program from $94 a ton to $73 a ton and result in an additional 6,000-ton reduction in solid waste volume every year.

The General Accounting Office even concluded that deposit legislation was compatible with curbside programs. Last, California found deposit legislation entirely compatible with curbside programs and concluded: "* * * the positive effect of the beverage container recycling program on curbside recycling was evident by the average overall 37 percent increase in volume of aluminum recycled and a 224-percent increase in revenue." Nine of ten States with deposit legislation have curbside programs. How many times do we have to show that deposit legislation is not incompatible with curbside and in fact improves upon curbside programs?

Deposit legislation reduces litter. In Michigan, two studies found that beverage container roadside litter dropped 85 percent. And, litter is more than unsightly. In Massachusetts, glass-related injuries to children dropped 60 percent. This amendment will protect children. Concerned about farmers? Beverage containers are estimated to cause losses of over $2 billion annually to farmers. This hazardous litter injures farm animals and machinery.

Deposit legislation reduces pollution and saves energy. A national deposit law would reduce beverage container waste by 83 percent, by weight and keep an additional 4.7 million tons of beverage containers out of landfills and incinerators. The energy saved by recycling would be equal to 23 million barrels of oil a year.

Deposit legislation reduces costs to government. This is one I really like. The New York Beer Wholesalers projected that the State would save $50 million in litter pickup costs and $19 million in solid waste disposal costs. A similar study in Michigan showed savings of $18 million in solid waste management costs. Bottlers have convinced some recycling programs that deposit legislation would be bad for their program because it would remove some cans from the program. The recycling programs would thus lose the value of the metal. What they neglect to say is that not everyone will take their cans back; some will still show up in curbside, only now those cans will be worth a dime, not a fraction of a penny. Furthermore, recycling collection costs will drop because high-volume plastics will be removed from the wastestream.

Deposit legislation creates jobs. The facts are clear. California's program created 3,411 new jobs. Oregon's employment increased by 365 jobs. GAO estimates that Michigan created about 5,000 new jobs. Maine gained 626 jobs, while my State created about 400 jobs. Last, New York created about 4,000 new jobs.

Not the bottlers will say deposit laws cost jobs, in glass, for instance. The decline in glass jobs, however, has been due to the rise in aluminum and plastic use, not deposit legislation. Furthermore, in my State and others, we've seen an increase in the use of refillable glass bottles. No wonder aluminum doesn't like deposit laws.

In addition, the unclaimed deposits will go to finance environmental activities in the States. That could be millions and millions of dollars for the environment and recycling programs. I wonder if the bottlers are telling this to recycling coordinators.

Bottlers try to portray this as forced deposits, with a heavy emphasis on forced. No one is required to forfeit 10 cents; all they have to do is take back the container. What is so heavy handed about that?

Finally, I expect to hear that since State legislatures have not enacted this law, why should we. GAO found that 70 percent of Americans support deposit legislation. Perhaps we should ask the question: Why aren't legislators being more responsive to their constituents? I heard that the bottlers have contributed about $4 million in campaign contributions. In votes on deposit legislation, I've found that bottlers outspent citizens by over 7 to 1. For seven times the money, no wonder big money wins.

Let me read a list of names of the groups that support deposit legislation:

The National Association of Counties, the National League of Cities, the American Medical Association, the Natural Resources Defense Council, the Sierra Club, National Audubon Society, National Wildlife Federation, Wilderness Society, Defenders of Wildlife, American Council on the Environment, Greenpeace, Izaak Walton League of American, National Grange, American Fisheries Society, American Hiking Society, National Parks and Conservation Association, Fossil Fuels Action, Scenic America, Rails to Trails, Wildlife Society, League of American Wheelmen, U.S. PIRG, Evangelicals for Social Action, Garden Club of America, Trout Unlimited, Environmental Action, Public Citizen, Friends of the Earth, Americans for Democratic Action, and the League of Women Voters of the United States.

Basically, on the other side, you have beer and soft drinks. Do we respond to 70 percent of Americans with a proposal with a proven track record, or not? That is what this bill is about—it's about showing Americans we stand for them.

If we are serious about recycling, this is my colleagues' opportunity to go on record for recycling. If we can't do this, if we can't do what 70 percent of Americans want, what can we do?

Now what does this have to do with global warming? Recycling saves energy. A national deposit law would reduce fossil fuel use by millions and millions of barrels a year. Third World countries can afford to return their bottles. If you've been to those countries, you see people carrying their old bottles back. Yet, somehow, some in industry will argue that we cannot afford a national deposit law. Have we become so rich we cannot afford to do what countries much poorer than we somehow afford? No wonder other countries are frustrated by our lack of effort to reduce the risk of global warming.

I also like the way that no matter what the issue is, whether it be greenhouse gases or recycling, industry points to a particular product and says, "We're only 2 percent of the problem, etc. etc." Well we have to start somewhere or we get nowhere. We can reduce solid waste by 5 to 8 percent with this bill.

In the very near future, I anticipate that this measure that would spur recycling and help prevent global warming will come before the Senate. I urge my colleagues and their staffs to learn the facts about a national bottle bill.●

By Mr. HELMS:

S. 819. A bill to extend the temporary suspension of duty on Trifluoromethylaniline; to the Committee on Finance.

TFMA DUTY SUSPENSION ACT

Mr. HELMS. Mr. President, I am today introducing, on behalf of the Sandoz Corp., legislation to extend for a period of 4 years the existing duty suspension on trifluoromethylaniline, which is known as TFMA.

TFMA is used in the production of herbicides. There are no domestic producers of the TFMA. In fact, the last domestic supplier of this chemical ceased production in 1984.

By Mr. HELMS.

S. 820. A bill to extend the existing suspension of duty on machines designed for heat-set, stretch texturing of continuous manmade fibers; to the Committee on Finance.

DUTY SUSPENSION ACT

Mr. HELMS. Mr. President, I am today introducing, on behalf of the yarn spinners industry, legislation to extend for a period of 2 years the existing duty suspension on heat-set stretch texturing textile equipment.

The machinery in question is designed for heat-set, stretch texturing of man-made fibers. The textured yarns are major components in various kinds of apparel and home furnishings, such as hosiery and knitwear.

Mr. President, there are no domestic producers of the texturing equipment. In fact, the last U.S. producer of this machinery ceased production in 1973.

By Mr. ROCKEFELLER:

S. 821. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE CANCER COVERAGE IMPROVEMENT ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, I am pleased to rise today to introduce the Medicare Cancer Coverage Improvement Act of 1993. This bill is intended to ensure that Medicare beneficiaries receive the most appropriate cancer treatment available. The policy change recommended in this bill would add no additional cost to the Medicare Program because of their cost effectiveness.

I was proud to introduce similar legislation in the last Congress and gratified that I was able to include one of its provisions in H.R. 11, which unfortunately was ultimately vetoed by President Bush last year. The need for this legislation has not diminished. In fact, its need is perhaps even greater now than when I first rose to discuss this issue in November 1991.

While significant headway has been made in recent years in the diagnosis and treatment of cancer, the full benefits of these advances have not always been realized by patients, particularly by Medicare beneficiaries. This legislation addresses three obstacles that stand in the way of senior citizens receiving the best available care: coverage of off-label uses of anticancer drugs; coverage of oral anticancer therapies; and coverage of the patient care costs associated with clinical trials of new cancer therapies.

First, the bill would establish a uniform standard for coverage of so-called off-label or unlabeled uses. I have learned from physicians who treat cancer patients that chemotherapy drugs are normally approved by the Food and Drug Administration [FDA] for one kind of cancer, but through continued studies are quickly found to be effective in the treatment of other cancers as well. These new uses are referred to as off-label or unlabeled because the FDA-approved labeling for the drug does not mention them. Nevertheless, they are often absolutely critical to appropriate treatment of people with cancer. In fact, studies show that half or more of the uses of anticancer drugs are for off-label indications, which is not surprising in light of the rapidly evolving nature of cancer treatment.

Medicare currently covers the cost of anticancer chemotherapy drugs administered by a physician, but coverage is unreliable because the Health Care Financing Administration [HCFA] allows each individual carrier to make its own decisions on coverage. These are decisions which should be made by treating physicians with the best interests of their patients as their top concern. Both FDA and HCFA officially recognize that physicians may appropriately prescribe FDA-approved drugs for off-label purposes, including the treatment of cancers not specifically mentioned in FDA labeling.

Although Medicare carrier guidelines expressly authorize coverage of medically appropriate unlabeled indications, many carriers accept them for reimbursement reluctantly or inconsistently. As a result, Medicare beneficiaries are deprived of the most up-to-date and appropriate treatment, physicians and patients are unfairly disadvantaged, and progress against cancer is undermined.

There is no scientific or medical basis for allowing such decisions to vary among the more than 50 Medicare carriers. The resulting chaos has been criticized by Government agencies, such as the FDA, the National Cancer Institute [NCI], the National Committee to Review Current Procedures for Approval of New Drugs for Cancer and AIDS and, most recently, the General Accounting Office [GAO].

In September 1991, the GAO released a study of off-label use of cancer drugs. Subtitled "Reimbursement Policies Constrain Physicians in their Choice of Cancer Therapies," this report found that Medicare's unreliable and inconsistent coverage of accepted off-label uses of cancer drugs forced oncologists to alter their preferred treatments, thereby depriving their patients of the best available care. The GAO found, too, that denial of coverage for such uses may actually increase the cost of cancer therapy, as physicians resort to hospital treatment—where accepted off-label uses are more consistently reimbursed—solely to circumvent the restrictions imposed by HCFA's current reimbursement policies. The GAO concluded that it was essential for Medicare to develop a policy that would ensure uniform and consistent coverage decisions.

The Medicare Program itself is not unmindful of the hardship caused by the lack of an uniform coverage policy. In January 1989, HCFA initiated a rulemaking on coverage determinations. Over 4 years later, however, that rule has yet to be published in final form. Meanwhile, as the GAO reported, Medicare beneficiaries and their physicians continue to suffer inconsistent results because of HCFA's inaction.

My bill, S. 821, would resolve the matter by requiring Medicare to cover any unlabeled indication of an FDA-approved drug that has been accepted for inclusion in a major medical compendium or that appears in a peer-reviewed medical journal that has been determined by the Secretary of HHS to be of acceptable rigor. Carrier discretion with respect to coverage decisions on off-label uses would be eliminated.

Second, the bill provides for coverage of oral anticancer drugs that can be substituted for an injectable version of the same chemical ingredient.

Most anticancer chemotherapy administered intravenously in an outpatient setting is covered by Medicare as incident to the physicians' services. A few anticancer drugs are available in oral dosage from, but because Medicare does not reimburse for outpatient prescription drugs, oral doses are not covered. In European countries, where health coverage is more comprehensive and outpatient drug benefits are standard, anticancer drugs which are available in both oral and injectable dosage form are used predominately in oral form. In the United States, where reimbursement policy favors physician administered drugs, the reverse is true, with injectable drugs being used much more frequently than the oral alternatives.

As a result, Mr. President, reimbursement policy—and not science—is clearly driving clinical decisions in this country. This approach is unacceptable, both for individual patients and overall health policy. In the short term, it deprives patients and their physicians of an effective treatment option. One which would yield immediate savings to the Medicare Program by avoiding some of the costs associated with administering chemotherapy. In the long term, this reimbursement driven approach to treatment could actually retard the development of new therapies which do not fit squarely

within Medicare reimbursement criteria. We should be developing reimbursement policies that are not only cost effective, but that also encourage technological advances and permit patients to realize the full advantage of those gains.

Mr. President, my bill would take a significant step toward achieving that goal by extending Medicare coverage to any oral anticancer drug which is the same chemical entity as a drug already covered by Medicare when injected by a physician. Physicians would have additional treatment options, and their patients would have the flexibility to receive anticancer treatment at home rather than being forced to travel to a doctor's office or a hospital. This is particularly important for seniors in West Virginia who, like others who live in rural areas, often drive long distances to be treated by a cancer specialist. Even more importantly, there is some evidence to suggest that patients taking oral versions of chemotherapeutic agents may suffer less serious side effects.

Expanding the range of treatment options reimbursable by Medicare could produce cost savings to the program as well. Obviously, use of an oral drug would avoid some costs of chemotherapy administration. In addition, both the GAO and CBO concluded that there could be other, less direct savings. By expanding the range of reimbursable outpatient treatment options available to physicians, we could avoid situations where a patient is admitted to a hospital simply to receive a course of treatment that is not covered in any other setting.

Finally, the bill directs the Secretary of Health and Human Services to study the costs of patient care for Medicare beneficiaries enrolled in cancer treatment clinical trials and to develop criteria for such coverage.

Mr. President, Medicare does not, as it should not, pay for services which are not medically reasonable and necessary. Unfortunately, this has been interpreted by the Medicare Program to exclude from coverage treatment which is given in the context of clinical trials. When the clinical trial involves an investigational drug, the drug is provided free of charge by the sponsoring company, but the patient remains liable for a variety of costs, including hospital and physician charges. If the Medicare Program refuses to cover these costs, the beneficiary may face many thousands of dollars of unreimbursed expense, or go without treatment altogether.

Denial of coverage for investigational treatment is particularly problematic for cancer patients. As the National Cancer Institute has frequently noted, treatment provided under a clinical protocol is state-of-the-art cancer therapy. Perhaps more than in any other disease category, cancer patients are likely to receive treatment under a protocol, especially if the treatment is provided in one of the many cancer centers across the country which deal almost exclusively with cancer. Often, the protocol under investigation represents only a minor variation from standard treatment and can in no way fairly be characterized as experimental in the usual sense of that term.

Even when the investigational treatment is more clearly a variation from standard therapy, ethical guidelines for clinical investigations require a demonstration that standard therapy would not be expected to benefit the patient. Thus, investigational therapy is, almost by definition, at least as good as standard therapy. In most instances, it is accurate to say that investigational therapy is the best available treatment.

Mr. President, it is time to develop a rational policy to make sure that Medicare beneficiaries are not unfairly denied access to the most appropriate available care. This bill requires the Secretary to study the feasibility of Medicare coverage of patient care costs associated with enrollment in clinical trials that meet quality assurance and ethical standards and to report his recommendations to the Congress within 2 years. The report is to focus on the additional cost, if any, of such coverage to the Medicare Program; the extent to which these investigations represent the best available treatment for cancer patients; whether progress in developing new cancer treatments would be assisted by Medicare coverage of investigational cancer treatments; and whether there should be special criteria for the admission of Medicare beneficiaries, on account of their age or physical condition, to clinical trials.

Mr. President, I am confident that these relatively minor changes in Medicare policy can result in significant improvements in the care available to cancer patients. Reimbursement policies all too often prove virtually insurmountable obstacles in the battle against cancer. These policies can improperly influence treatment decisions in a way that not only is harmful to cancer patients, but increases costs as well. By eliminating undesirable and unnecessary aspects of those policies, we can respond to the needs of individual cancer patients and at the same time make important strides toward conquering this disease.

Mr. President, I ask unanimous consent that a summary of the bill and the complete text of the bill be printed in the RECORD following my remarks.

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

S. 821

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 "Medicare Cancer Coverage Improvement Act of 1993".

SEC. 2. UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS.

(a) IN GENERAL.—Section 1861(t) of the Social Security Act (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) For purposes of paragraph (1) the term 'drugs' includes any drugs or biologics approved by the Food and Drug Administration used in an anticancer chemotherapeutic regimen for a medically accepted indication as described in subparagraph (B).

"(B) The term 'medically accepted indication' means any use of a drug or biologic included under paragraph (1) if such use—

"(i) is included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations and the United States Pharmacopoeia-Drug Information; or

"(ii) is supported by peer reviewed medical literature appearing in publications which have been specifically approved for purposes of this paragraph by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to items furnished on or after the first day of the first month that begins after the date of the enactment of this Act.

SEC. 3. COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by adding "and" at the end of subparagraph (P); and

(3) by adding at the end the following new subparagraph:

"(Q) an oral drug (which is approved by the Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients) which is the same indication and active ingredient (or ingredients) as that for a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B);".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 4. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering the patient care costs for medicare beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medi-

care beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) REPORT.—The Secretary of Health and Human Services shall submit a report on the study required by subsection (a), including recommendations as to the coverage of patient care costs of medicare beneficiaries enrolled in clinical trials of new cancer therapies, to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, not later than 2 years after the date of enactment of this Act.

MEDICARE CANCER COVERAGE IMPROVEMENT ACT OF 1993

UNIFORM MEDICARE COVERAGE OF ANTICANCER DRUGS

Current Law: The Medicare program covers items and services that are "reasonable and necessary." A drug prescribed for an "off-label" indication (i.e., a use other than those specifically approved by the Food and Drug Administration) is considered reasonable and necessary if the unapproved use is accepted in the medical community. Medicare carriers determine whether a particular indication is medically accepted.

Proposal: Any use of an FDA-approved anticancer drug that is approved by FDA, appears in the peer-reviewed medical literature, or is included in one or more of the three major medical compendia, is considered a medically accepted indication and must be covered.

COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS

Current Law: Medicare covers injectable drugs administered on an outpatient basis as incident to a physician's service. Medicare does not cover self-administered outpatient prescription drugs.

Proposal: An oral drug prescribed for a medically accepted indication in an anticancer regimen is covered if the drug contains the same active ingredient as a drug that would be covered if administered as incident to a physician's service.

STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF CANCER DRUGS

Current Law: None.

Proposal: The Secretary of Health and Human Services shall study the costs of patient care for Medicare beneficiaries enrolled in clinical trials of new cancer therapies (where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board) and develop criteria for such coverage.●

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. ROTH, the names of the Senator from Colorado [Mr. CAMPBELL] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 20, a bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes.

S. 21

At the request of Mrs. FEINSTEIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 21, a bill to designate certain lands in the California Desert as wilderness to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

S. 110

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 110, a bill to require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes.

S. 177

At the request of Mr. DOLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 177, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 185

At the request of Mr. GLENN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of 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.

S. 342

At the request of Mr. BOREN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 342, a bill to amend the Internal Revenue Code of 1986 to encourage investment in real estate and for other purposes.

S. 367

At the request of Mr. AKAKA, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 367, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 401

At the request of Mr. CAMPBELL, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 401, a bill to amend title 23, United States Code, to delay the effective date for penalties for States that do not have in effect safety belt and motorcycle helmet safety programs, and for other purposes.

S. 411

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 411, a bill to freeze domestic discretionary spending for fiscal years 1994 and 1995 at fiscal year 1993 levels.

S. 421

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 421, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 430

At the request of Mr. MACK, the names of the Senator from Indiana [Mr. COATS] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 430, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 455

At the request of Mr. HATFIELD, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 457

At the request of Mr. EXON, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 457, a bill to prohibit the payment of Federal benefits to illegal aliens.

S. 459

At the request of Mr. PACKWOOD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 459, a bill to arrest the decline in, and promote the restoration of, the health of forest ecosystems on Federal lands, to reduce the escalating risk to human safety posed by potentially catastrophic wildfires on Federal lands, to require the Secretary of the Interior to establish a special fund for Bureau of Land Management activities in furtherance of forest health, and for other purposes.

S. 462

At the request of Mr. BUMPERS, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 462, a bill to prohibit the expenditure of appropriated funds on the U.S. International Space Station Freedom Program.

S. 463

At the request of Mr. BUMPERS, the names of the Senator from Missouri [Mr. BOND], the Senator from Nebraska [Mr. EXON], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 463, a bill to prohibit the expenditure of appropriated funds on the Superconducting Super Collider Program.

S. 481

At the request of Mr. SIMON, the name of the Senator from Wisconsin

[Mr. FEINGOLD] was added as a cosponsor of S. 481, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 517

At the request of Mr. BUMPERS, the names of the Senator from Nevada [Mr. BRYAN], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 517, a bill to reduce the deficit in the Federal budget for fiscal year 1994 by limiting to $2,000,000,000 the amount that may be appropriated for the Strategic Defense Initiative.

S. 519

At the request of Mr. BUMPERS, the names of the Senator from Nevada [Mr. BRYAN], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 519, a bill to reduce Federal budget deficits by prohibiting further funding of the Trident II Ballistic Missile Program.

S. 520

At the request of Mr. BUMPERS, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 520, a bill to prohibit the expenditure of appropriated funds on the Advanced Solid Rocket Motor Program.

S. 545

At the request of Mr. DOLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 545, a bill to amend the Internal Revenue Code of 1986 to allow farmers' cooperatives to elect to include gains or losses from certain dispositions in the determination of net earnings, and for other purposes.

S. 661

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 661, a bill to provide for the establishment of an Independent General Accounting Office Peer Review Committee, and for other purposes.

S. 667

At the request of Mr. COHEN, his name was added as a cosponsor of S. 667, a bill to amend the Immigration and Nationality Act to improve procedures for the exclusion of aliens seeking to enter the United States by fraud.

S. 687

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 687, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 754

At the request of Mr. DURENBERGER, his name was added as a cosponsor of S. 754, a bill to extend the temporary suspension of duty on octadecyl isocyanate.

S. 793

At the request of Mr. DURENBERGER, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 793, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that standards of identity for milk include certain minimum standards regarding milk solids, and for other purposes.

S. 797

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 797, a bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. MACK, his name was added as a cosponsor of Senate Joint Resolution 6, a joint resolution to provide for a balanced budget constitutional amendment.

SENATE JOINT RESOLUTION 7

At the request of Mr. MACK, his name was added as a cosponsor of Senate Joint Resolution 7, a joint resolution to provide for a balanced budget constitutional amendment.

SENATE JOINT RESOLUTION 58

At the request of Mr. RIEGLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 58, a joint resolution to designate the weeks of May 2, 1993, through May 8, 1993, and May 1, 1994, through May 7, 1994, as "National Correctional Officers Week".

SENATE JOINT RESOLUTION 62

At the request of Mr. RIEGLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 62, a joint resolution to designate the week beginning April 25, 1993, as "National Crime Victims' Right Week".

SENATE JOINT RESOLUTION 72

At the request of Mr. RIEGLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 72, a joint resolution to designate the last week of September 1993, and the last week of September of 1994, as "National Senior Softball Week".

SENATE RESOLUTION 100—TO AUTHORIZE TESTIMONY OF SENATE EMPLOYEES

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 100

Whereas, the respondent in *Pefaur* v. *Pefaur*, Nos. 92-42571, 92-53491, pending in the Florida Circuit Court for Dade County, seeks the deposition testimony of Lula Rodriquez, a Senate employee on the staff of Senator Graham;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control of in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Lula Rodriquez, and any other employee whose testimony is required, are authorized to testify in *Pefaur* v. *Pefaur*, Nos. 92-42571, 92-53491 (Fla. Cir. Ct.), except concerning matters for which a privilege should be asserted.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, May 18, 1993, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 721, a bill to amend the Land and Water Conservation Fund Act of 1965; and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the committee staff at (202) 224-9863.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry and General Legislation will hold a hearing on the oversight and reauthorization of the Federal Grain Inspection Service [FGIS]. The hearing will be held on Thursday, May 13, 1993 at 9 a.m. in SR-332. Senator TOM DASCHLE will preside.

For further information, please contact Richard Hess at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON RENEWABLE ENERGY, ENERGY EFFICIENCY AND COMPETITIVENESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Renewable Energy, Energy Efficiency and Competitiveness of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., April 22, 1993, to receive testimony on opportunities and barriers to commercialization of renewable energy and energy efficiency technologies.

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

ADDITIONAL STATEMENTS

MARCH FOR PARKS

• Mr. DECONCINI. Mr. President, on April 17–18, 1993, the National Parks and Conservation Association held its fourth annual March for Parks. Held in conjunction with Earth Day, March for Parks raised funds for America's national, State, regional, and local parks by holding events at 480 locations around the country.

In Tucson, AZ, participants hiked, biked, and rode horses to raise money to help create trails and expand the boundaries of the Saguaro National Monument East and West Units. As a native of Tucson and a proponent of preserving our natural resources and the lifestyle we have grown to love, this event was very important to me.

Early this year, I reintroduced legislation to give the Park Service the capabilities and resources to protect the Tucson Mountain Unit of the Saguaro National Monument by authorizing the expansion of its boundaries. In addition, I was successful in having $100,000 included in the fiscal year 1992 Interior appropriations bill to enable the Park Service to undertake a comprehensive boundary study to identify which lands are appropriate for possible inclusion into the monument.

With the final draft of this boundary study hopefully being completed shortly, I plan to amend my legislation and add to the already 160 acres identified for the expansion. In addition, I hope to make the monument a national park that my family and others will utilize and appreciate for generations to come.

Mr. President, I ask that my colleagues join me in offering their support to the March for Parks effort to preserve and protect the precious resources contained at the Saguaro National Monument as well as the precious natural resources contained throughout the entire country.•

IN TRIBUTE TO SENATOR CHARLES PERCY IN HONOR OF THE 20TH ANNIVERSARY OF THE PERCY AMENDMENT

• Mr. DOMENICI. Mr. President, I rise today to extend tribute to one of our former colleagues, Senator Charles Percy of Illinois, for his dedication and commitment to the issue of women in development.

Twenty years ago, on October 2, 1973, Senator Percy came to this floor and introduced a straightforward amendment No. 574 to the Foreign Assistance Act:

SEC. 116. INTEGRATING WOMEN INTO NATIONAL ECONOMIES.—Sections 103–107 shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of foreign countries, thus improving their status and assisting the total development effort.

There were probably few in this Chamber, with the possible exception of Senator Percy, who recognized the global impact of these simple words. I can assure my colleagues, however, that this amendment has positively and successfully affected the lives of countless millions of women, their families, their communities, and their countries. These words, without mention of a single dollar appropriated to the effort, laid the foundation for twenty years of extraordinary achievements for the improvement of women's lives: increased access to credit, improved literacy rates, increases in women-owned small businesses, improved health for themselves and their children, and participation in decision-making activities, to name but a few. These words recognized the importance of focusing on half of the globe's population: the overlooked and undervalued women of the world. There are, indeed, few instances when a one sentence amendment can achieve such far-reaching and outstanding results.

Moreover, only occasionally do policy initiatives bear the name of the legislator introducing the measure. In this case, however, this language is known the world over as the Percy amendment. The sentence itself is almost incidental. It is the intent—the recognition of women and their status—that is identified with the Percy amendment. Senator Percy was, indeed, a visionary. He saw how necessary it was to have a legislative mandate to improve women's lives, not just as a goal in itself, but as a critical component of sustainable development.

For these reasons, Senator Charles Percy deserves our heartfelt appreciation and gratitude for both his foresight and his years of dedication to enhancing the roles and status of women.

As we have witnessed the maturation of the Percy amendment over these past 20 years, we need to recall that there were three important characteristics enhancing its ultimate success: congressional will, public participation and support, and executive branch responsiveness and implementation. These three elements were critical to its enactment, as they have been ever since in subsequent strengthening amendments and specific policies, both nationally and internationally.

As detailed in "Women in Washington: Advocates for Public Policy," edited by Irene Tinker, as a followup to a State Department meeting organized by Virginia Allan, Deputy Assistant Secretary of State for Public Affairs, Mildred Marcy drafted language that could be inserted into the foreign assistance bill being considered by the Foreign Relations Committee. However, after Senator Percy introduced and the Senate accepted amendment No. 574, the House and Senate conference committee dropped the language from the bill. That's when the public participation element went into high gear. The lobbying began. As stated in the book, "The conferees were amazed at the torrent of mail and phone calls urging support for the amendment and quickly put it back in the bill at the next meeting."

I mention this one characteristic of the triad because it exemplifies that no matter how compelling or worthy a few words may be on a piece of paper, they can also be wiped out by the stroke of a pen. If a few individuals had not exercised their public support and invigorated hundreds of others to do the same, this language might have gone the way of so many other good and simple ideas. We can be proud of the commitment of these American women and men who recognized how critically important this language would become to such a significant proportion of the world's population.

Senator Percy recognized the importance of this language. His introduction of the amendment on October 2, 1973, clearly reflects his understanding of and commitment to the concept of taking into account women's roles as participants in and agents of change and the importance of this factor to sustainable development. His words are worthy of remembering here today.

Mr. PERCY. Mr. President, I believe that we can dispose of this amendment, important as it is, in just a few minutes. Let me make these comments.

It is well known that in many of the lesser developed countries, traditional practices, cultural mores, and inadequate resources tend to block women and girls from access to educational and economic opportunities.

In developed countries as well, including the United States, women and girls suffer similar—if less severe—discrimination. I am very conscious of this, and I continue to support every reasonable effort to give women and girls full equality in our society.

The Committee on Foreign Relations has been especially concerned with the problems of women in the aid-recipient countries. In the committee report on this year's foreign assistance bill, S. 2335, the following language appears:

"Recognizing that the status of women within each society is one of the indicators of the level of national development, U.S. bilateral aid should assist in the integration of women into the national economy."

This is an important concept and a significant statement which I now wish to bring into law by means of an amendment to the foreign assistance bill.

My amendment specifies that the major provisions of the act "shall be administered so as to give particular attention to programs, projects and activities which tend to integrate women into the national economies of foreign countries, thus improving their status and assisting the total development effort."

At the same time as we seek to achieve the equal rights of women in our own country, let us adopt this amendment to promote the achievement of equal rights for women in the aid-recipient countries.

Mr. President, I trust that the managers of the bill will, in their wisdom, consider this a desirable objective and will accept the amendment.

Senator Percy did not stop his commitment to the world's women and girls with this amendment. He crafted similar language and ensured that it was included as a resolution before the U.N. General Assembly in 1974. As a result, both the U.S. Government and the United Nations acknowledged that one of the crucial resources for dynamic and sustainable development was women. In the ensuing two decades, thanks to Senator Percy, his language has remained the anchor of both United States and countless other countries' initiatives in behalf of women's policies and programs.

In the United States, the Agency for International Development [AID] has made significant progress in developing its programs so that they enrich—rather than neglect—the lives of women in the developing world. As former AID Administrator Ronald Roskens stated in the foreword to AID's 1989–1990 "Report to Congress."

* * * Through staff training, technical assistance, applied research, and information support, gender analysis has become a vital analytic tool in the design of our development activities. This and our stated commitment to women in development has enabled more women from developing countries to participate in A.I.D. programs and projects; to access A.I.D. supported resources, skills, and training; and to benefit from programs which now address their particular needs, constraints, and opportunities. This participation has contributed to the positive impact and sustainability of A.I.D. efforts.

As just an example of what has been accomplished in AID's programs as a result of the Percy amendment, the following impacts articulate well how critical this language has been to women and girls in developing countries.

In 1991, women entrepreneurs received 56 percent of all loans, technical assistance, and training in AID's microenterprise programs.

In 1992, women and children comprised 90 percent of the beneficiaries of AID's program to combat malnutrition in developing countries.

AID's Basic Education Program now gives priority to girls' education, which has shown to have unparalleled benefits on women's health and earning power, as well as on the lives and livelihoods of their future children. One recent project in Egypt, for example, doubled girls' enrollments in parts of the country. In Malawi, AID worked with the World Bank to negotiate a lending package which allowed for an immediate jump in girls' primary school enrollments by 100 percent.

Over the past 15 years, the percentage of women participating in AID's largest training program has doubled from 15 percent to 30 percent. This proportion is expected to reach 50 percent by the year 2000.

In the health sector, as the incidence of AIDS rises precipitously among women in the developing world, AID is funding pathbreaking research on women and AIDS. AID is also funding 17 projects in developing countries to identify factors that put women at risk of HIV infection and opportunities for HIV prevention.

Efforts to institutionalize a gender approach to development has gained momentum throughout AID because the Office of Women in Development has taken the Percy amendment literally. Through careful strategic planning, the Women in Development Office developed and put in place the procedures to systematically integrate gender issues into each AID program, project, and activity in each bureau, office, and overseas mission. Its 1983 "Policy Paper on Women in Development" has been the guideline for almost every donor country in the world, and it is as useful and relevant today as it was in 1983.

In conclusion, Mr. President, it is impossible to identify the hundreds of committed individuals, policymakers, organizations, and governments who have supported and implemented the words of the Percy amendment. They have used these words as both the foundation and the pillar of support for millions of people the world over—whether they be women and girls or men and boys. Senator Charles Percy can be proud of many achievements in his life. However, there is no doubt in my mind that the Percy amendment can be considered the highest achievement on this long list—a gift to humankind. There is little more than one could ever achieve. Thank you, Senator Percy.•

THE LINE-ITEM VETO

• Mr. McCAIN. Mr. President, soon the House of Representatives is expected to consider its version of the line-item veto. Although I am pleased that the House is finally taking some action on this important subject, I want to set the record straight on what is actually happening.

First, Mr. President, I just want to note for the record the hypocrisy of the House leadership on this issue. The American people overwhelmingly support giving the President line item veto authority. However, while I brought this issue before the Senate year after year for the last 6 years, the House sat quietly by doing nothing. During that time, leaders of the Democratic party accused me of only supporting the line-item veto because the President was of my political party.

Now, Mr. President, I am on the floor yet again fighting for the line-item veto and the occupant in the White House is no longer of my party. However, with the change in the administration, the House leadership now believes that a watered-down, weakened line item veto merits floor debate.

Mr. President, the House's action makes one thing abundantly clear—for the last 6 years the House put politics above the good of the people.

I wish I could state that the House is now seeking to rectify its past wrongs on this issue. However, the House Democratic leadership continues to put its partisan goals ahead of what is best for the Nation.

What the House will soon consider is a far cry from the line-item veto I have been seeking. According to House minority whip GINGRICH, what the House is about to debate is a sham and it is designed to give cover to Democrats who don't want to vote on a line-item veto.

Mr. President, I hope my colleagues in the Senate will not fall prey to this ruse. The Stenholm-Spratt language is not the line item veto. The public knows what a line item veto is. They know a veto requires a two-thirds override vote in the Congress. The House bill will only require a simple majority vote to preserve pork.

Mr. President, I have brought before the Senate line-item veto language requiring a two-thirds override vote. I will soon begin doing so again.

At that time, my colleagues will face a choice to either do what is right and give the President a meaningful line-item veto or hide behind a political sham.•

DRUG MANUFACTURERS: RETAINING THE TITLE OF "AMERICA'S MOST PROFITABLE INDUSTRY"

• Mr. PRYOR. Mr. President, in just a few short weeks, the report of the task force on national health care reform will be sent to Congress by our First Lady, Mrs. Clinton. I know that we are all anxiously waiting to see how our President and First Lady plan to provide affordable, quality health care to all Americans, as well as contain skyrocketing health care costs.

While this Nation's pharmacists continue to be voted year after year the most trusted professional by the Amer-

ican public, the pharmaceutical industry is spending millions of dollars to repair its damaged image with the average American consumer. Unfortunately, these millions of dollars in public relations campaigns could be better used to bring down the cost of medications for poor and vulnerable populations.

The drug industry's current image problem is largely a result of its own making. For the last 12 years, Americans have been forced to pay the highest prescription drug prices in the industrialized world. Prescription prices have increased at three times the overall rate of inflation. Even drug manufacturers are now admitting, for all practical purposes, that their prices have been too high. Many drug manufacturers are now offering to voluntarily restrain price increases. These actions are laudable and should be commended, but should have been taken many years ago.

Over the past few years, I have updated my colleagues on facts and figures concerning the pharmaceutical industry. For example, this past February, a report of the Senate Aging Committee found that drug manufacturer inflation in 1992 increased four times the rate of general inflation. In spite of the fact that some companies said that they would voluntarily limit price increases in 1992, the majority of companies did not, meaning that many Americans still had to shoulder the burden of skyrocketing prescription drug prices.

Now, however, we have some new data on the 1992 profitability of the drug manufacturing industry. According to the April 19, 1993 edition of Fortune magazine, the pharmaceutical industry is once again the most profitable industry in the United States. In each and every category of profitability, the drug industry was No. 1. In addition, the profitability gap between the drug industry and the average Fortune 500 company actually widened in 1992.

For example, the pharmaceutical industry's return on sales in 1992 was 11.5 percent, almost 5 times the median return on sales for the average Fortune 500 company, which was 2.4 percent. For the previous year of 1991, the drug industry's return on sales was only 4 times the average Fortune 500 company.

The pharmaceutical industry's return on stockholder's equity in 1992 was 26.7 percent, 3 times the median return on equity for the average Fortune 500 company, which was 9.1 percent. In 1991, the drug industry's return on equity was only 2.6 times the average Fortune 500 company.

The new figures on the profitability of the pharmaceutical industry are very important to the upcoming debate over pharmaceutical cost containment mechanisms. Many drug manufacturers are saying now that the industry is fragile, and that any type of cost containment on pharmaceuticals will cause a sharp decline in research and development of new drugs. These new profit figures, however, paint a picture of a robust and vibrant drug industry in the United States.

The fact is that cost containment on pharmaceuticals does not necessarily mean a decline in research and development expenditures. It does mean that companies may have to reduce their excessive profits, and cut back on extravagant marketing and advertising expenditures. It is amazing that the drug industry could cut its profits by a third, and still be the most profitable industry in the United States.

It could reduce the 25 to 30 percent of its total sales that it spends on wasteful marketing and advertising, and still invest significant resources into finding cures for cancers, AIDS and Alzheimer's disease.

Mr. President, we need a strong, profitable pharmaceutical industry in this country. We want the pharmaceutical industry to do research to find the drugs to treat the diseases of our time. However, we must assure that these drugs are priced fairly and reasonably for our health care system.

By retaining the title of "America's Most Profitable Industry" in 1992, the drug industry may have significantly weakened its case that cost containment mechanisms on pharmaceuticals will "kill the goose that lays the golden egg."•

HONORING CLARA BARTON HIGH SCHOOL

• Mr. D'AMATO. Mr. President, on May 1–3, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of the We the People * * * The Citizen and the Constitution Program. I am proud to announce that the class from Clara Barton High School of Brooklyn, NY, will represent New York State. These young scholars have worked diligently to reach the national finals by winning district and State competitions. The distinguished members of the team representing New York are: Janice Beeston, Dwight Benn, Erica Campos, Dawn Franklyn, Marie Gabriel, Lynne George, Alisha Griffith, Paul Hong, Gisclerc Morisset, Cleopatra Powell, Ester Rodriguez, Marsha Rose, Caroline St. Martin, Francene Stewart, Ernest Townsend, Jean Victor.

I would like to recognize their teacher Leo Casey, who deserves much of the credit for the success of the team. The district coordinator Florence Smith and the State coordinator Stephen Schechter have also contributed a great deal of time and effort to help the team reach the national finals.

The We the People * * * The Citizen and the Constitution Program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day academic competition simulates a congressional hearing. Students, acting as expert witnesses, testify before a panel of prominent professionals from across the country to demonstrate their knowledge of constitutional issues. Administered by the Center of Civic Education, the program, now in its sixth year, has reached over 12,000,000 students in 21,490 elementary, middle, and high schools nationwide.

The program provides an excellent opportunity for students to gain an appreciation of the significance of our Constitution and its place on our history and our lives today. I am proud of these students representing New York State and commend then and their teacher for their hard work. I wish them the best of luck in this competition—and a bright future thereafter.•

REPORT OF THE NATIONAL GAY AND LESBIAN TASK FORCE ON ANTI-GAY VIOLENCE

• Mr. SIMON. Mr. President, I applaud the efforts of the National Gay and Lesbian Task Force [NGLTF] Policy Institute in its fight against antigay violence. For the past 8 years, the NGLTF has compiled data on antigay attacks, including harassment, threats, physical assaults, police abuse, and murder, in their annual Anti-Gay/Lesbian Violence, Victimization and Defamation Report. NGLTF's efforts in collecting these data and in working with Federal, State, and local government and nongovernment agencies has been instrumental in developing programs that combat antigay bias and violence. I commend their efforts to expose and eliminate hate crimes and would like to share with my colleagues some of the NGLTF's recent findings.

I was saddened to learn that reports to NGLTF of hate crimes against gays reached record high levels in 1992. Victim service agencies in Boston, Chicago, Minneapolis-St. Paul, New York City, and San Francisco recorded 1,898 incidents, including harassment, attacks on property, physical assaults, and murder. The incidents in 1992 represent a 4-percent increase over 1991's total of 1,822 incidents. Taken together, such episodes represent a 172-percent increase over the 697 bias incidents reported 5 years ago by these agencies.

I am also disturbed by events in Oregon and Colorado, States where gay civil rights initiatives were placed on ballots last November. In 1992, the Portland, OR, victim assistance agency documented 968 bias incidents, more than any other gay agency in the United States. After the passage of Colorado's amendment 2, Denver victim ad-

vocates reported antigay episodes tripled during November and December. Forty percent of the 204 incidents recorded by victim advocates in Colorado in 1992 were reported during the last 2 months of the year, after amendment 2 had passed.

Clearly, data collected by local antiviolence programs and by the police account for only a fraction of the hate crimes against gays that actually occur. Studies which question individuals directly about antigay incidents are even more revealing. Such studies in 1991 added to the already substantial body of research suggesting the depth of antigay bias. In a study conducted by the Philadelphia Lesbian and Gay Task Force, 20 percent of the homosexual men and women surveyed reported that they had been threatened, chased, or assaulted in 1992. Perhaps most startling, however, is that AIDS bias continues to be a factor in antigay hate crimes. Among the incidents documented in 1992, 168, or 9 percent, involved AIDS-related epithets or were directed toward people with AIDS or perceived to have AIDS. Equally troubling, a survey conducted by the National Association of People with AIDS found that 21 percent of those surveyed had been the victims of discrimination outside of their homes as a result of their disease.

The NGLTF Policy Institute and the NGLTF, in conjunction with other civil rights organizations, have been instrumental in drawing attention to hate crimes and proposing solutions to intolerance. While there is obviously much more work to be done, their efforts to date should be commended.

I urge my colleagues to carefully examine the Anti-Gay/Lesbian Violence, Victimization and Defamation in 1992 Report.●

FACES OF THE HEALTH CARE CRISIS

● Mr. RIEGLE. Mr. President, I rise to tell another story about the impact the health care crisis is having on people in this country. Today, I want to tell you about Carole Lannin from Sault St. Marie, MI. Carole has experienced firsthand what happens when affordable private health insurance is not available and a serious illness strikes.

At age 46, Carole works fulltime as a house manager and on-call counselor in a women's treatment center. She is also pursuing a bachelor of arts degree in sociology and an associate degree in substance abuse counseling.

As a student, Carole has a limited health benefit plan through her school. She pays nothing for this insurance, but it only covers outpatient services. This plan proved to be inadequate when Carole learned she would need quadruple bypass surgery, costing between $30,000 to $40,000.

Carole was unable to afford more extensive private health insurance which, she was told, would cost at least $175 a month. When looking into obtaining insurance to cover the cost of the surgery, Carole learned that several insurance companies would not even consider covering her because of this preexisting health condition.

Carole turned to the State Medicaid Program hoping to obtain coverage for her surgery. She was denied Medicaid benefits because her income was too high and because her condition would not leave her disabled for a year. Like many other Americans, Carole had fallen through the health care safety net.

Fortunately for Carole, Munson Medical Center in Traverse City, the hospital where she was scheduled to have surgery, has a charity program to help people in Carole's situation. In 1992, the hospital contributed more than $1 million to the charity care program. The hospital agreed to waive the hospital's expenses associated with Carole's surgery.

Carole did incur doctors' fees totaling over $6,000. She has worked out an agreement to make $10 monthly payments to chip away at these fees which is the best she can do in her current financial situation. She must live with the fact that the bill will be hanging over her head for a very long time.

Carole's situation illustrates what a growing number of people are facing in this country, and one of the major reasons why health care costs are spiraling. Many of the people who receive hospital charity care are members of the working poor—those with low-paying jobs who can't afford private health insurance, yet make too much money to qualify for Medicaid.

It's fortunate for Carole that Munson was willing to pick up her hospital medical expenses. But when people who lose insurance coverage or have inadequate coverage, need medical help, hospitals often have to absorb the expense. As one Michigan hospital administrator states: "We receive no direct reimbursement for helping these patients, yet we feel we cannot deny them access to the health care they need."

The growing need for charity care, as well as other unreimbursed costs, is placing a substantial burden on hospitals. While hospitals recoup some of the expense through community fundraising, these costs are increasingly passed on to other patients in the form of higher bills.

Today, Carole is living a healthy life. She is able to exercise every day and is looking forward to receiving her academic degrees this May. She would like to attend graduate school, but she doesn't know if she will have enough money to do so. Even though everything seems to have worked out regarding her health, Carole fears the future.

Once she graduates in May, she will no longer be able to receive even the limited student health benefits she now receives. As a result of losing her benefits, the cost of her prescription drug that prevents a heart attack by relaxing her heart will increase by at least $20 a month. She is currently paying $1 a month for her prescription under her student policy.

She will also lose her outpatient coverage which provides for checkups to monitor her heart condition. She is concerned about whether she will ever be able to obtain coverage because of her preexisting condition and she worries that she may again find herself in the position of not being able to afford needed care. She doesn't want to fall through the safety-net again.

Everyone in America deserves affordable health care coverage. Like Carole, too many hard-working people are finding health care coverage out of their financial reach. Health care should not be a luxury available to some and not others. I will continue to do all that I can to bring down the skyrocketing costs of health insurance and health care services by enacting comprehensive reform of our health care system.●

THE FUTURE OF THE DRUG WAR: DOMESTIC POLICY DANGERS

● Mr. D'AMATO. Mr. President, I rise today to discuss further the question of the future of our counternarcotics policy. I want to focus on points raised by Peter Reuter in an article entitled "Truce in Needle Park: Time To End the Drug War," that was published in the Sunday, February 28, 1993, edition of the Washington Post.

In his article, Doctor Reuter states that "[t]he 'harm reduction' approach would relegate criminal law to marginal role in dealing with drug offenders and focus instead on the health consequences of drug use." I believe that adoption of such an approach would be a catastrophe for America and would strike hardest at the least privileged communities in our society.

In support of this harm reduction approach, he cites European experience with it, saying "[i]t evolved in Western Europe, where illicit drug use also ranks high on the list of social concerns but where associated crime and violence have not reached the epic levels found in the United States." He continued, "[t]hus Europeans tend to support policies that risk increasing the extent of drug use but that lower the incidence of disease, especially AIDS. Syringe exchange schemes, scarcely permitted even on a pilot basis here, have become commonplace in Britain, The Netherlands, Italy, and Switzerland. Europeans prefer less stringent enforcement if getting tough lessens the likelihood that drug addicts will seek treatment. Markets that generate violence are subject to intense enforcement aimed at curbing that violence; orderly drug markets may be left alone except for recruiting users

into treatment and AIDS prevention programs."

Relying upon the European experience as a guide for U.S. drug policy would be akin to abandoning personal computers to return to quill pens and parchment. There are many points to be made here: European demography is different; European public health systems are different; European public welfare systems are different; European law enforcement procedures are different; preferred drugs of abuse in Europe are different; illegal drug distribution is different in Europe; and, perhaps most important, the conditions that Doctor Reuter advances in support of his thesis are undergoing rapid, negative change right now.

Doctor Reuter focuses on syringe exchange programs and AIDS prevention programs as one harm reduction imperative, and cites European experience in support of his view. Injectable drugs were the dominant drugs of abuse in Europe, but are not the dominant drug of abuse here. Cocaine in its powder form and crack form is the dominant drug of abuse here, and is most often snorted or smoked. Heroin is the dominant drug of abuse in Europe and is most often injected, just as it is here.

What this means is that the European addict population has not been exposed to the psychopharmacological effects of cocaine. Its effects reportedly include a form of drug-induced paranoid psychosis that produces a heightened propensity for violence. That, coupled with the structure of the American illegal drug market at the street level, the social backgrounds of the majority of dealers and addicts, and the driving imperative addicts feel to get money any way they can to buy drugs to feed their habits, produces the high level of violence characteristic of the U.S. drug culture.

Heroin has dramatically different psychopharmacological effects. A heroin addict does not show symptoms of paranoid psychosis. If anything, a heroin addict is first sociable and happy, and then sleepy, as compared to a crack cocaine addict who has high energy, shows paranoid ideation, is edgy and unpredictable, and who comes down hard from the drug high.

Cocaine is coming to Europe. Press reports of ever-increasing seizures of cocaine by European law enforcement, often in cooperation with U.S. DEA efforts, lead to the inexorable conclusion that the cocaine cartels find the European market's higher street prices for the drug more attractive than the already saturated U.S. drug market's lower prices. Operation Green Ice revealed that there were already substantial connections between the cartels and the traditional heroin distribution networks run by established European organized crime groups.

I believe that it is only a matter of time—and perhaps a short time—before our European allies find that cocaine and its crack variant are a rapidly growing problem. Worse, modern Europe has a growing underclass of immigrants, many of them illegal. These people, who are attracted by higher wages or by the promise of safety from ethnic or religious conflicts at home, are a natural market for crack. It is cheap, it gives a false sense of energy and reduced fatigue, and the user does not have to inject it. For people working in menial jobs requiring long hours and hard physical work, it is an attractive drug.

Crack has its own logic. While it may begin being distributed through established heroin trafficking channels, it is unlikely that, once the market begins its typical exponential expansion phase, it will remain in those channels. Then, Europe will face the same sort of violently competitive drug entrepreneurs we have confronted here.

Then, the tradeoffs that look good to European authorities now—"* * * risk[ing] increasing the extent of drug use but * * * lower[ing] the incidence of disease, especially AIDS," and "* * * less stringent enforcement if getting tough lessens the likelihood that drug addicts will seek treatment," and "* * * orderly drug markets may be left alone except for recruiting users into treatment and AIDS prevention programs," will not look so good. In fact, they are likely to conclude that they turned a serious problem into a disaster.

Now, let us go back and reconsider Doctor Reuter's proposition that, "[f]or fiscal, practical, and humanitarian reasons, it would make sense to modify the goal of a drug-free America in favor of the more realistic goal of reducing the harm caused by drugs."

His view is that "Clinton's challenge will be to detach his policies from the zero-tolerance rhetoric that was once so attractive to politicians and the public and to rethink the objectives of Federal drug control." He predicts that "[t]he Clinton administration is likely to have little sympathy for the very tough approach that has been institutionalized in both Federal- and State-level drug control efforts."

He concludes that "[p]erhaps the best the Clinton administration can hope for is that the punitive apparatus will collapse of its own weight. Not only is there the burden of all of those billions of dollars to support strict enforcement and the crowding of prisons to 150 percent of capacity, but there is also the tremendous emotional and professional drain on judges and police in carrying out what many have come to regard as unfair laws and dead-end policies. Or, perhaps, the hawks will simply declare the war won and, in the flush of victory, reach out a helping hand to the vanquished. It would be overdue."

I believe in a drug-free America. Most American parents want a drug-free America. Most American workers want a drug-free America. Most American travelers want a drug-free America.

It is hard to find a parent who will say that he or she is prepared to tolerate a higher level of drug abuse in our schools. It is hard to find a worker or a manager who will say it is all right if more of his or her coworkers abuse drugs on the job. It is hard to find a traveler who will say he or she doesn't care if the bus driver or the airline pilot or the train engineer uses illegal drugs.

It is hard to find the law-abiding citizen who agrees that "the best * * * hope * * * is that the punitive apparatus will collapse of its own weight." If it did collapse, that would mean that drug felons would be free to prey upon our communities without effective restraint.

What, exactly, is that punitive apparatus Doctor Reuter thinks should collapse? It is our criminal justice system—our police departments, our prosecutors, and our judges. I, for one, think our brave and hard-pressed law enforcement personnel deserve high praise for their hard work in defending the rest of us from violent, greedy human predators, not a pundit's snide characterization of them as a punitive apparatus.

Doctor Reuter says that "[i]n the politically powerless inner-city communities the effects of hawkish policies have been harsh. These neighborhoods not only suffer from most of the drug trade's effects—from crime, violence, AIDS, crack babies, and a host of other ills—they also bear the brunt of law enforcement. African-Americans now account for 40 percent of drug offenders, compared to less than one-quarter 10 years ago, and a much higher percentage than for other criminal offenses."

Mr. President, no one knows better the catastrophic effects of the illegal drug trade than the very residents of those inner-city communities. They have banded together seeking more, not less, police protection. They would volunteer to bear even more of the brunt of drug law enforcement in order to restore peace and safety to their neighborhoods.

These very inner-city communities have sought ways to remove the drug dealers and the violence associated with the trade from their neighborhoods even if they can't get the police protection they deserve. They organize community patrols, neighborhood watches, and other measures they hope will work.

The percentage of convicted drug criminals who happen to be African-Americans reflects not upon their race, but rather upon each of them as individuals who chose to do harm to their community by placing greed for great drug profits ahead of everything else. While the friends and relatives of the

convicted criminals may regret their incarceration, many will agree that prison is the best place for a great many of these felons, whose first victims, in many cases, were their own families.

Relentlessly pursuing a drug-free America, Mr. President, is the point. Doctor Reuter himself agrees that "* * * zero-tolerance rhetoric * * * was * * * attractive to politicians and the public. * * *" The fact is that it isn't just the rhetoric that was attractive—it was, and still is, the promise of an end to the drug threat they and their loved ones face every day that is attractive—so attractive that they are willing to tolerate limits on their civil liberties and to spend large amounts of tax money to achieve a drug-free America.

Americans are tired of living in fear—fear of drug-driven violent crime, fear of drug abuse-caused accidents and injuries, fear of drug abusers spreading fatal diseases, and fear of drug pushers trying to recruit their children. The way to end this fear is to fight drugs and win, not to "declare the war won and * * * reach out a helping hand to the vanquished."

We haven't won, but we are on the right track. And the people who deserve the helping hand most are the victims of drug-associated violent crimes, the innocent people who are injured or infected as a result of the recklessness of drug addicts, and the families and children who are poisoned by illegal drugs pushed by human predators.

If the new administration chooses to follow Doctor Reuter's advice, we will be definitely on the wrong track. We will be on the wrong track destined for a head-on collision with reality. Such a collision will kill tens of thousands of innocent Americans, as a result of increased drug violence, increased accidents and injuries, and increased fatal illnesses. It will cost us billions and billions of dollars more than proceeding down the present track would cost.

We can't afford such a policy train wreck. I hope that President Clinton will seek out advice from others in addition to Doctor Reuter. This country has developed an unmatched corps of experts—many with actual experience in the field—in fighting the drug war. Their voices should be heard in the drug policy review that I understand is presently underway in the White House.

Mr. President, I ask that the article entitled "Truce in Needle Park: Time To End the Drug War," that was published in the Sunday February 28, 1993, edition of the Washington Post, be printed in the RECORD following my remarks. In addition, I ask that a letter to the editor of the Washington Post, by William J. Olson, that was published Wednesday, March 17, 1993, also be printed in the RECORD.

The material follows:

[From the Washington Post, Feb. 28, 1993]

TRUCE IN NEEDLE PARK: TIME TO END THE DRUG WAR

(By Peter Reuter)

In America, when issues that once blanketed the political map suddenly slip off altogether, the usual scapegoat is a notoriously fickle public—one that fixes briefly and avidly on, say, Star Wars, Somalia or Los Angeles and then forgets its sheer existence. But sometimes, when an issue slips out of public attention, there's a politician nudging it on its way. That's what's happening today with that one-time national call to arms, the "war on drugs."

With little fanfare, the Clinton administration is now de-escalating that war. In the recent White House staff cuts, the office of the drug czar lost 121 of 146 staff positions, to little media attention and no public outcry. Which may be just as well. After the costly and largely ineffectual policies of the '80s, drugs are one issue that may benefit from benign neglect.

The costs of the drug problem in inner cities and prisons and treatment centers are likely to remain high throughout the '90s unless, that is, we begin to construct a sensible alternative—one that still takes seriously the need to protect communities from the worst damages of violent drug traffickers and continues to signal society's disapproval of drug use, while retaining the basic criminal prohibitions on use and sale. Clinton's challenge will be to detach his policies from the zero-tolerance rhetoric that was once so attractive to politicians and the public and to rethink the objectives of federal drug control. For fiscal, practical and humanitarian reasons, it would make sense to modify the goal of a drug-free America in favor of the more realistic goal of reducing the harm caused by drugs.

It won't be easy. As long as drug use and crime are synonymous in the minds of most Americans, any new approach to the nation's drug-related social problem is likely to face strong political resistance. The success of the hawks in the drug policy debate during the Reagan-Bush era was in part a function of how the drug problem is characterized by the media. Americans are uncomfortable with moral ambiguity; if nothing else, the war on drugs, as it has played out before television cameras over the last decade, delivered the villains clearly labeled.

The popular desire to "get tough" on drug users gave the hawks an extraordinary degree of control over drug policy in the 1980s. The federal budget for drug control increased from $1.5 billion in 1980 to almost $13 billion in 1992, two-thirds of which went to enforcement programs. State and local governments, which together spent another $18 billion or so on drug control in 1990, were even more enforcement-oriented, with 80 percent of their money going for enforcement. A rough estimate of the total national governmental budget for drug control in 1990 was $28 billion, of which $21 billion went to enforcement.

Congress and state legislatures also dramatically increased the penalty for drug offenses. In 1988, for example, Congress raised the mandatory sentence for selling 5 grams of crack cocaine to five years. Michigan imposed mandatory life imprisonment without parole for those convicted of selling 650 grams of cocaine, a law that was finally overturned by the Michigan Supreme Court.

Nor were these legal changes just paper acts. At the federal level the number of persons sent to prison on drug charges rose from 2,300 in 1980 to 13,000 in 1990. Moreover, the expected time served on average rose dramatically from 20 months to 66 months, reflecting the impact of the Sentencing Commission guidelines as well as congressional mandates. At the state level the number sentenced to more than 12 months rose from 11,500 in 1981 to 90,000 in 1989, while several hundred thousand spent weeks or months in local jails.

By contemporary American standards, drug use and drug selling have become quite risky, at least for certain groups. A study of streel-level drug dealers in the District of Columbia in the late 1980s estimated that a regular dealer had almost a one in four chance of going to prison in the course of a year.

Yet the effect of these increasingly punitive and expensive policies on the nation's drug-related social problems has been modest. Illegal drugs are just as widely available as a decade ago. The price of cocaine is lower than ever (adjusting for inflation). The price of marijuana is higher, reflecting the one clear success of enforcement. Drug use in the general population has sharply decreased, probably reflecting increased health concerns generally, as well as greater awareness of the dangers of drug use (cocaine) and smoking (marijuana).

In the politically powerless inner-city communities the effects of hawkish policies have been harsh. These neighborhoods not only suffer the most from the drug trade's effects—from crime, violence, AIDS, crack babies and a host of other ills—they also bear the brunt of law enforcement. African Americans now account for 40 percent of drug offenders, compared to less than one quarter 10 years ago, and a much higher percentage than for other criminal offenses.

The vast majority of those who are locked up (black or white) are the small fry of the drug trade, not because the police avoid the upper levels but because there are so many more low-level dealers. A study of those sentenced in the federal prison system, supposedly reserved for the more serious offenders, found that nearly half were either street-level dealers or minor participants in something larger.

A cruel irony of tough federal sentencing guidelines is that the only mitigating circumstance for shortening a mandatory sentence is cooperation with the prosecutor. Unimportant dealers have little to offer; higher-ups can provide valuable information and get off more lightly. Moreover, it seems that many of those being incarcerated on drug offenses are not violent offenders; with prisons overcrowded, offenders posing more serious threats to community safety are being kept out.

Moreover it is clear that there has been, at most, only a slight reduction in the number of persons who are drug dependent, especially in the inner city, and probably no reduction in the damage they cause themselves and others, especially crime and the spread of AIDS and, more recently, tuberculosis. Drug abuse (as opposed to use) is increasingly concentrated among the inner-city poor, particularly young, African-American males.

Other drug-related harms may be exacerbated by tough enforcement. Frequent harassment of street drug sellers may increase the incentives to use violence to maintain market share. More variability in the purity of heroin, resulting from occasional large seizures, may cause more overdose deaths. Stringent enforcement has raised marijuana

potency, possibly increasing the hazards of consuming the drugs, at the same time that head shop laws prevent marijuana smokers from using water pipes—the least harmful method of consuming the drug.

The "harm reduction" approach would relegate criminal law to a marginal role in dealing; with drug offenders and focus instead on the health consequences of drug use. It evolved in Western Europe, where illicit drug use also ranks high on the list of social concerns, but where associated crime and violence have not reached the epic levels found in the United States.

Thus Europeans tend to support policies that risk increasing the extent of drug use but that lower the incidence of disease, especially AIDS. Syringe exchange schemes, scarcely permitted even on a pilot basis here, have become commonplace in Britain, the Netherlands, Italy and Switzerland. Europeans prefer less stringent enforcement if getting tough lessens the likelihood that drug addicts will seek treatment. Markets that generate violence are subject to intense enforcement aimed at curbing that violence; orderly drug markets may be left alone except for recruiting users into treatment and AIDS prevention programs.

The Clinton administration is likely to have little sympathy for the very tough approach that has been institutionalized in both federal- and state-level drug control efforts. However, implementing "harm reduction" policies—such as less stringent sentencing of federal drug offenders or reduced aggression in our overseas programs—offers hostages to right-wing foes. The accusation of being "soft on drugs" is one that Democrats are likely to be sensitive about.

Even the first step of moving towards a harm-reduction drug policy—building an effective public drug treatment system—is likely to be difficult for the new administration. The existing drug treatment system is isolated from other medical and social service systems, lowering both morale and effectiveness. In recent years, the emphasis has been on increasing the number of persons in treatment rather than improving the quality of treatment. When subject to serious scrutiny, the current public sector drug treatment system looks weak.

The heart of the problem is that the clients of drug treatment are people who cause the rest of society many problems. There is little enthusiasm for providing good services to such an unattractive bunch of clients. But in the later stages of the drug epidemic, which is our current situation, most of what we think of as the nation's drug problem is more amenable to a good treatment system than to continued growth in incarceration. Law enforcement, instead of aiming to punish, should aim to get those most needing treatment into the system.

Perhaps the best the Clinton administration can hope for is that the punitive apparatus will collapse of its own weight. Not only is there the burden of all those billions of dollars to support strict enforcement and the crowding of prisons to 150 percent of capacity, but there is also a tremendous emotional and professional drain on judges and police in carrying out what many have come to regard as unfair laws and dead-end policies.

Or, perhaps, the hawks will simply declare the war won and, in the flush of victory, reach out a helping hand to the vanquished. It would be overdue.

[From the Washington Post, Mar. 17, 1993]

THE WAR ON DRUGS: COUNTERATTACK

Peter Reuter's Outlook piece "Truce in Needle Park" [Feb. 28] would have been better titled "Truth in Needle Park?" The essence of his argument is that federal counter-narcotics policies have failed, and it is time to do something new. But what are these failures, and what is the new?

First, Mr. Reuter argues that the presence of drugs on U.S. streets is a sign of failure. While it is true that drugs are available, on one claimed that we could eliminate drugs from American life, and nothing in Mr. Reuter's proposed alternative contemplates that.

The purpose of the war on drugs was to reverse the trend that encouraged drug use as acceptable social behavior and to create breathing space for treatment and for education programs to work. The war on drugs also was intended to stop the violence that came with increasing use, especially with the explosion of cocaine abuse. This sounds strikingly like Mr. Reuter's goal of "harm reduction," only with teeth.

Social disapproval is one of the strongest weapons in building as effective counter-drug policy. But how does society demonstrate unmistakable disapproval? By branding drug use as a medical problem requiring treatment so that the message is that only sick people are involved? Or by placing sanctions on the sale and use of drugs and attacking drug production and trafficking vigorously?

Second, Mr. Reuter argues that the continuing presence of drug addicts is a sign of failure. What he passes over, however, is that drug abuse is down in every category except among hard-core users.

Third, he points to rising jail populations as a sign of failure. This piece of social accounting, however, ignores the cost of drug abuse to society in increased medical costs, accidents, gang violence and crack babies. Mr. Reuter argues that any sound policy must protect communities, but he does not explain how reducing law enforcement will do this.

Mr. Reuter then argues that all these failed efforts were the result of ill-conceived hawkish policies. Thus it would seem that the war on drugs was not the result of popular demand that forced Congress and the administration to do more to control drug trafficking and abuse, but the byproduct of a few drug hawks.

Mr. Reuter also argues that we must sustain the prohibition on drug abuse but that we must dismantle the very things that have made this possible. That is a case of having and eating the cake at the same time. The problem of drug abuse in this country did not grow overnight, and it did not happen because there was a vigorous law enforcement environment in the 1960s and 1970s. Yet Mr. Reuter seems to think that the war on drugs should have instantaneously solved the problem after years of social acceptance. If we applied this logic to child abuse we would have to conclude that efforts to prevent it were abysmal failures and that we should stop trying to prevent them. Instead, we should see them as an expression of an illness and treat the abusers, hoping that the casualties will take care of themselves while we wait for treatment to have the desired results.

The question is whether we are going to have a serious drug policy. There are few signs that the Clinton administration has any concept of a policy, but if it does, I hope it is not as muddled as Mr. Reuter's.●

ON THE CLINTON ADMINISTRATION'S "GOALS 2000—EDUCATE AMERICA ACT"

● Mr. DURENBERGER. Mr. President, I rise to day to comment briefly on the education reform legislation President Clinton proposed yesterday, officially known as Goals 2000—Educate America Act.

I want to begin by commending both President Clinton and Education Secretary Riley for their long-time commitments to education reform, previously as Governors and now in picking up the broad emphasis on quality in education launched in the previous administration by President Bush and his Education Secretary, Lamar Alexander.

I also want to give special thanks to Secretary Riley for his efforts to consult with a large number of education interest groups and Members of Congress in preparing this legislation for introduction. I and many of my colleagues have made numerous suggestions for changes or improvements in this bill. And, I know that we will have other suggestions to offer before it leaves the Congress.

On the substance of this bill, I am pleased to see the administration's strong interest in systemic reform, its willingness to allow State education improvement funds to be used to support public school choice and charter schools, and its openness to using waivers to offer States, districts, and individual schools new ways to be held accountable for measurable education outcomes.

I have made several suggestions to the administration for improvements in these and other sections of this bill. And, I now pledge to continue to work with my colleagues on the Senate Labor Committee to implement those suggestions as this debate goes forward.

If nothing else, I would hope that our recent experience with the President's supplemental appropriations proposal will convince everyone in this body and the administration that major legislative initiatives—in health care, education, economic policy and other areas—must be bipartisan. In the area of education reform, that certainly is my desire and my intent.

As I begin to define my own contribution to this debate, Mr. President, I have found it useful to compile a listing of "principles for a Federal role in State-based education reform."

These principles are offered under the premise that sound Federal education policies will emerge only with active and constructive participation from both Republicans and Democrats in the Congress.

With that premise in mind, the following 12 principles are respectfully offered for our consideration as the administration's education proposal now come before us:

First, education is and should remain primarily a State and local government responsibility. State governments—and their chief executives should be looked to as the primary designers and implementers of education reform.

Second, we must remember that the Federal Government's primary historic role in education has been to promote equal access to education regardless of income and other factors, and to improve the ability of States and local school districts to assist students who need specialized education services, especially students with physical and other disabilities. That historic role should be preserved, and within obvious fiscal limitations, be enhanced.

Third, under the leadership of President Bush, a new and expanded Federal role in education has also been defined. That role in collaboration with the States is to identify, define, and monitor progress toward achieving a limited number of national education goals. Those goals are designed to improve the quality and outcomes of education for every American child for the benefit of each individual and to improve the competitive position of the Nation as a whole.

Fourth, it is appropriate that the Federal Government in collaboration with the States continue to define and refine the six National Education Goals, and to set standards that can be used to quantify the goals and measure progress toward achieving them.

Fifth, the Federal Government's role in setting and monitoring standards should be specific enough to allow real measuring of success or failure, but flexible enough to not impede States and local communities that are in a much better position to determine precisely how goals and standards should be met.

Sixth, Federal standards should also not replace community, building, classroom, and individual student-level efforts to define, measure, and monitor progress toward achieving improved education outcomes.

Seventh, within a broad framework of educational goals and standards for achieving them, the Federal Government has a responsibility to encourage and financially assist States and local communities as they design and implement education reform initiatives.

Eighth, States should be given maximum flexibility to develop or adapt previously approved education reform initiatives. Education agencies and educators, parents, employers and others should provide extensive input in developing education improvement plans. But, primary responsibility for developing and carrying out education improvement plans should lie with each State's Governor.

Ninth, whenever possible, new forms of accountability should be used to monitor and measure achievement of objectives based on outcomes rather than compliance with input-oriented rules and regulations.

Tenth, this shift in how accountability is maintained should include careful use of waivers from Federal and State mandates, and should include use of contracts and other means of holding States, districts, schools, and individual educators accountable for achieving previously agreed-upon outcomes. Waivers should not be given rules and regulations that protect basic human rights and other underlying principles of public education.

Eleventh, within such new forms of accountability, parents should be given the opportunity to choose schools and programs that best meet the needs of their children. Accurate and useful information on available school choices must be readily accessible to parents along with assistance in using that information to help make informed choices.

And, finally, Federal education policies should encourage the availability of new and more diverse school choices, including the establishment of new, innovative public schools like charter schools and magnet schools. However, the precise design of school choice programs and conditions under which new schools may be established and sustained should remain a State government responsibility.

Mr. President, I realize that this listing of principles for Federal support of State-based education reform is not all-inclusive. Neither is it relevant to every aspect of the reform initiative that President Clinton has now proposed.

But, I do hope we will use these and other principles in a constructive effort to add greater bipartisanship and value to the initiative the President has put before us. That certainly will be my objective. And, my hope is that all of us will come to this debate with the same constructive spirit.●

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 66.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 66) entitled "Joint resolution to designate the weeks beginning April 18, 1993, and April 17, 1994, each as 'National Organ and Tissue Donor Awareness Week'," do pass with the following amendments:

Page 1, lines 4 and 5, strike "'National Organ and Tissue Donor Awareness Week'", and insert: "Nancy Moore Thurmond National Organ and Tissue Donor Awareness Week".

Amend the title so as to read: "Joint resolution to designate the weeks beginning April 18, 1993, and April 17, 1994, each as 'Nancy Moore Thurmond National Organ and Tissue Awareness Week'.".

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote and move to table the motion to reconsider.

The motion to lay on the table was agreed to.

AUTHORIZING TESTIMONY OF SENATE EMPLOYEES

Mr. MITCHELL. Mr. President, on behalf of myself and the Republican leader, I send to the desk a resolution authorizing testimony and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title

The bill clerk read as follows:

A resolution (S. Res. 100) to authorize testimony of Senate employees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, in Pefaur versus Pefaur, Nos. 92-42571, 92-53491, a proceeding pending in the Florida Circuit Court for Dade County, the respondent seeks the deposition testimony of a member of Senator GRAHAM's staff, concerning casework performed for the petitioner. This resolution would authorize the testimony of this employee and the testimony of any other employee required in these cases, except concerning matters for which a privilege should be asserted.

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

The resolution (S. Res. 100) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 100

Whereas, the respondent in Pefaur v. Pefaur, Nos. 92-42571, 92-53491, pending in the Florida Circuit Court for Dade County, seeks the deposition testimony of Lula Rodriguez, a Senate employee on the staff of Senator Graham;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Lula Rodriguez, and any other employee whose testimony is required, are authorized to testify in Pefaur v. Pefaur, Nos. 92-42571, 92-53491 (Fla. Cir. Ct.), except concerning matters for which a privilege should be asserted.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to and move to lay that on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. GLENN. Mr. President, S. 171, the subject which we have been discussing here for the past couple of hours, we will resume discussion on next Tuesday. I would like to offer a unanimous-consent request that I believe has been cleared on behalf of the majority leader, Senator MITCHELL.

Mr. President, I ask unanimous consent that on Tuesday, April 27, at 11:30 a.m., when the Senate resumes consideration of S. 171, the Department of Environment Act of 1993, that Senator ROTH be recognized to offer a substitute amendment which relates only to elevating the EPA to Cabinet status; that there be a time limitation of 1 hour for debate on the amendment with the time equally divided and controlled between Senators GLENN and ROTH or their designees, with no intervening amendment in order; that on Tuesday, from 12:30 p.m. to 2:15 p.m., the Senate stand in recess to accommodate the respective party conferences; that at 2:15 p.m., without intervening action or debate, the Senate vote on or in relation to the Roth amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TOMORROW AND TUESDAY, APRIL 27

Mr. MITCHELL. I ask unanimous consent when the Senate completes its business today, it stand in recess until 9 a.m. on Friday, April 23; that on Friday, the Senate meet in pro forma session only; that upon the close of the pro forma session, the Senate then stand in recess until 10:30 a.m. on Tuesday, April 27; that on Tuesday, following the prayer, the Journal of the proceedings be deemed approved to date; that following the time for the two leaders, there then be a period for morning business not to extend beyond 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator GRAMM of Texas recognized for up to 10 minutes, and with 30 minutes of morning business under the control of Senator DASCHLE or his designee; that at 11:30 a.m., the Senate resume consideration of S. 171, the Department of Environment Act of 1993, as provided for under the provisions of a previous unanimous-consent agreement.

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

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 5:46 p.m., recessed until Friday, April 23, at 9 a.m.