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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, FIRST SESSION

SENATE—*Monday, August 2, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

PRAYER

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

Let us pray:

If any of you lack wisdom, let him ask of God, that giveth to all liberally, and upbraideth not; and it shall be given him.—James 1:5.

Eternal God, prominent, powerful, proud people find it difficult to acknowledge their need of Divine help. But the men and women of the Senate are dealing with cosmic problems which have global significance for millions of people. Help them to realize their own inadequacy and the limitations of legislation. Grant to the Senators grace to seek transcendent guidance.

Father in Heaven, grant special wisdom in dealing with bureaucracy in government which develops a life of its own. As cancer to the body, bureaucracy is to the institution. Feeding on healthy tissue around it, it is uncontrolled growth, self-perpetuating, and destructive. Give special wisdom, gracious God, in dealing with this voracious monster.

In Jesus' name Who is Life and Light. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 1993.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the time until 10:30 a.m. to be equally divided between the Senator from Michigan [Mr. LEVIN], and the Senator from North Dakota [Mr. DORGAN].

Mr. DORGAN addressed the Chair.

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

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. DORGAN. Madam President, today Senator LEVIN and I are going to send a letter to President Clinton that will be signed by six of us in the U.S. Senate, dealing with the subject of the North American Free-Trade Agreement. We send this to President Clinton as supporters of the President, as friends of this administration, but we send it hoping that this President will not send to this Congress the North American Free-Trade Agreement, or the United States-Mexico Free-Trade Agreement, for implementation.

We are saying in the letter:

We do not think it is possible to fix a fundamentally bad agreement, and we ask you today not to submit this agreement to Congress. We ask you to reject this flawed agreement and renegotiate one that represents the best economic interests of this country.

This trade agreement, called NAFTA, but more properly a free-trade agreement between the United States and Mexico, was negotiated by the Bush administration, inherited by the Clinton administration, and the Clinton administration says it intends to advance it. In my judgment, that would be a very serious mistake.

We have some experience with free-trade agreements. Some work, some do not. The most recent free-trade agreement was with Canada. My experience with that, coming from the agricultural area of this country, is that the United States negotiators of the United States-Canada Free-Trade Agreement just sold out the American Farm Belt, just sold out our interests, and they gained, I am sure, some other concessions for that in the agreement with Canada. But they sold out our economic interests in a way that is very detrimental to the Farm Belt. We are now trying to straighten out and deal with the problems of the United States-Canada Free-Trade Agreement, and we are trying, largely unsuccessfully, to solve those problems.

I regret the Bush administration saw fit to run off and try and develop another trade agreement before it had solved the problems in the United States-Canada Free-Trade Agreement. But, nonetheless, it did that.

Let me give some examples. We were promised in writing by the Reagan administration that the United States-Canada Free-Trade Agreement had an implicit understanding between the negotiators that there would not be a flood of grain coming down into our country. There would not be a flood of subsidized or unfair trade in the area of grain trade coming into our country, following the ratification of the United States-Canada Free-Trade Agreement. But, of course, that was not worth the paper it was written on. The minute that trade agreement was implemented by the Congress, we began seeing a flood of unfairly subsidized Canadian grain that competes in durum markets, wheat markets, barley markets in a

● 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

way that our farmers simply cannot compete with.

When we tried to respond to that, when we tried to seek the remedies under law that existed for that, we were thwarted at virtually every turn because of the agreements our trade negotiators had made with the Canadians.

So I have had some experience with the trail of broken promises in free-trade agreements.

For that reason, I am not anxious to see another trade agreement come to the floor of the Senate or the House. I might say that our Trade Ambassador, Mickey Kantor, is a breath of fresh air these days because at least he is weighing in, in a helpful way, with the Canadians. That certainly was not the case with Ambassador Hills, and certainly was not the case with Ambassador Yeutter.

I do compliment the current Trade Ambassador, Mickey Kantor. He is wrestling with these problems. Had the United States-Canada Free-Trade Agreement been negotiated properly, we would not have these problems to wrestle with. Now we are being asked, before we resolve those problems, let us go to Mexico, let us have a NAFTA or United States-Mexico Free-Trade Agreement. And the issue here with Mexico is the same as the issues with Canada except it differs in one important respect. We have radically dissimilar economies, Mexico versus the United States. When the European Community tried to put together a common market they had a real problem with Spain and Portugal because their economies were radically dissimilar to the rest. So they put a pile of money together and a long, long transition period and then began to phase them in. But not in this United States-Mexico Free-Trade Agreement. It says just latch together two economies, one of which has one-tenth the wage level as the other. The fact is, it will cause severe dislocations.

The issue, in my judgment, is not just agriculture—and there are plenty of agricultural issues with the United States-Mexican Free-Trade Agreement. Some say, "Well, agriculture is for this." Some of agriculture is for it. The big food companies are certainly for it.

This is a trade agreement written for and driven by the largest economic enterprises in this country. They want to produce elsewhere and sell in our markets. It is true with the giant food corporations, the food processing companies—it is true with virtually all of big American economic enterprise. They would love to produce where they can get dollar-an-hour wages and then sell back into our marketplace.

I recently read a report that most everyone, I am sure, read. It said 1,000 jobs were moved from Mexico to the United States. Gosh, it was in the news over an entire weekend, a big story: A thousand jobs were moved from Mexico back to the United States, as if it were a trend. It is a very interesting public relations approach.

Here is a report put out by the Hemispheric Education Resource Center at Albuquerque, NM, a nonprofit organization. This report talks about 100,000 jobs—just those they have been able to chronicle—that have moved from the United States to Mexico. You have not seen too many stories about that, but when 1,000 jobs move from Mexico to the United States, it is news for 4 days. We have lost hundreds of thousands of jobs. This chronicles 100,000 of them. We are going to lose many, many more jobs unless this agreement is scuttled and a new agreement is developed.

Recently, Lester Thoreau, an economist, testified before a committee I serve on, and I asked him: Is it not inevitable that wages will be homogenized across the United States and Mexico with respect to these free-trade agreements?

Will we inevitably see lower wages in the United States as a result of trade agreements such as the Mexican agreement? And he said only for two-thirds of the American workers.

Let me repeat that. Will wage rates go down in this country inevitably as a result of agreements like the Mexican trade agreement? Only for two-thirds of the American workers, he says. The other third will probably see an increase in wages.

We are off now with an attempt to take what the Bush administration negotiated and add side agreements and hope that the side agreements will persuade enough people that a flawed trade agreement is sufficient so that they would vote for it.

Ann Richards of Texas used to talk about putting earrings on a hog. She says, "You can put earrings on a hog and call it Monique, but it is still a hog."

Side agreements from now until Sunday are not going to change the basis of this trade agreement. This trade agreement, in my judgment, will cost us hundreds of thousands of jobs, will erode the economic strength of this country, and is antithetical to everything we are talking about with respect to creating new jobs with the Clinton economic plan.

I would support the development of trade agreements in this hemisphere in which we can better compete with other trade blocks, the Pacific rim, the EC, and others. But to run off and create a trade agreement within this hemisphere in which we set up competition for jobs between us and Mexico makes no sense at all. That will weaken, not strengthen, our country.

My hope is that we would decide we will not advance this United States-Mexican Free-Trade Agreement, this administration will not push it, and we will develop a new trade strategy, one in which you can tell the difference between the Bush administration and the Clinton administration. We need a new trade strategy that says it is in our interest to strengthen our economy by maintaining long-term manufacturing strength in our country's future.

The Hufbauer-Schott Report, which is the study most frequently cited to advance the claims in the United States-Mexico Free-Trade Agreement, is very interesting. I simply want to call this study to my colleagues' attention because it is important if you believe, as some argue, that rather than losing jobs, this United States-Mexico or NAFTA agreement will actually create new jobs in America. I say look carefully at the studies. The most frequently cited study to support the claim that this is good for America is the Hufbauer-Schott study.

An interesting point about this study: Two-thirds of the new investment in Mexico today comes from the United States. This authoritative study assumes that of the new investment in Mexico following the implementation of the United States-Mexican agreement, none of the new investment in Mexico will come from the United States—none, zero.

It assumes that as we implement this free-trade agreement, this country has full employment. The fact is, those who cite these kinds of studies to support the economic claims for this trade agreement, in my judgment, make a critical error. And we cannot afford an error, we cannot afford a mistake when we are talking about the kind of economy we have and the kind of economy we are trying to build.

We have plenty of trouble in this country, Madam President. We have to go about finding new jobs for the American people and create economic conditions in which we have expansion and new economic opportunity. But that will not happen if we advance fundamentally flawed trade agreements which will take from rather than give jobs to those in our future.

That is why Senator LEVIN and I and others of our colleagues have signed a letter to President Clinton respectfully asking that this administration consider not sending this trade agreement to Congress for ratification. We believe it would be a mistake. We are not some group of people who should be painted as isolationists who are opposed to all trade agreements. We do believe, however, that there is a difference between an agreement which represents our best economic interest and an agreement of the type we have seen that is being discussed today that is called NAFTA.

We hope, in the months ahead, as this is discussed, the administration will conclude it is not in the country's economic interest to advance this trade proposal.

I am pleased to be a coauthor of this letter with my colleague, Senator

LEVIN, from Michigan, who I think has done a lot of excellent work on trade and other issues and whose views I respect deeply.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan controls the time from now until 10:30.

NAFTA IS UNFAIR FOR THE UNITED STATES

Mr. LEVIN. Madam President, I thank the Senator from North Dakota for the work he has done on NAFTA, the way he points out that a fundamentally flawed agreement cannot be cured with side agreements; it should be renegotiated. The letter which we are sending to the President with a number of our colleagues makes that point. NAFTA also should not be sold with studies that ignore half the picture, with studies such as the Department of Commerce report, which shows what jobs might be created State by State with additional exports to Mexico, ignoring totally imports from Mexico which reduce jobs here and leave us with a net job gain or job loss. But it is that net which should be looked at, not just jobs that might result from exports.

Madam President, there are a number of parts of the text of the North American Free-Trade Agreement that make it an unfair agreement to the United States. Today, I wish to point out a number of flawed provisions in NAFTA's auto section and urge the President to reopen the NAFTA text to correct these and other flaws.

First, as this chart shows, under NAFTA, Mexico's discriminatory trade laws against United States manufactured automobiles would not be eliminated for 10 years. Mexico discriminates against United States-assembled autos by requiring auto manufacturers to produce in Mexico in order to sell in Mexico and requiring manufacturers in Mexico to export $1 worth of automobiles for each dollar's worth of imported automobiles. The result of these Mexican laws is that almost no United States-assembled cars can be shipped to Mexico. These discriminatory restrictions against United States-assembled cars are only slowly phased out over a 10-year period under NAFTA.

As you can see from this red line at the bottom of the chart, the United States has no equivalent restrictions.

Further, as the next chart shows, Mexico's current laws require auto manufacturers in Mexico to purchase 36 percent of the parts from Mexican parts manufacturers.

Mexico's discriminatory law would also not be eliminated for 10 years under NAFTA. It would drop from 36 to 34 percent for 5 years, and then drop 1 percent per year to 29 percent in the last year before termination.

Again, as you can see from this red line representing the United States, the United States has no such protection. Mexico's discriminatory laws have helped Mexico dramatically increase her manufacturing of automobiles.

If we allow discriminatory provisions to remain for even 1 year, that is a 1-year additional drain on American jobs. If this is supposed to be a balanced agreement, why do we allow Mexico's discriminatory restrictions to exist for 10 more years? Why do we not put the same restrictions on cars assembled in Mexico that they place on ours and phase out our restrictions over 10 years at the same pace that they phase out their restrictions on our cars?

It is tough enough to compete against $1 an hour labor and weak enforcement of environmental, safety, and child labor laws without tolerating discriminatory restrictions against our products for even 1 more year.

President Clinton was right on February 22, 1993, when he stated that in terms of international trade agreements "we can no longer afford to wait for 10 years while someone does something to us that we do not respond to." NAFTA's auto provisions do not meet that guiding principle.

Second, NAFTA should contain a North American content requirement high enough to ensure that vehicles and parts passing duty free across the Canadian and Mexican borders actually have been built in the three NAFTA countries. The NAFTA rule of origin formula is deficient by allowing many nonmanufacturing expenses, such as royalties and interest on debt, to be counted toward the value of the vehicle.

Third, certain provisions contained in the NAFTA text will encourage small car and light truck production to relocate from the United States to Mexico. Relative to cars, the NAFTA text allows cars produced in Mexico to be counted as domestic American cars after 3 years for purposes of corporate average fuel economy [CAFE] standards. This will provide American automakers an incentive to shift small car production to Mexico since they no longer would need to make the most fuel efficient cars in the United States to help them meet overall fuel economy standards for their domestic fleet.

This chart shows that almost half of the Big Three's domestic fleet is made up of small cars, the manufacture of which could move to Mexico and still count as domestic under NAFTA.

Why would we make such a huge unreciprocated concession to Mexico, and why would we allow this concession to be phased in within 3 years when Mexico will not phase out its discriminatory practices against our vehicles for 10 years?

Relative to light trucks, the reduction of the United States tariff on light trucks from 25 to 10 percent immediately and to zero in 5 years combined with Mexico's low wages also provides a strong incentive for light truck production to be established or relocated to Mexico.

Notice that our truck tariff is eliminated over 5 years. Contrast that to the phaseout or phasedown over 10 years that are allowed Mexico for their discriminatory practices against our products. It is beyond me why American negotiators would agree to such unequal incremental phaseouts. That is not a level playing field.

Fourth, the auto tariff phaseout under NAFTA is even more unfairly skewed in Mexico's favor. The U.S. tariff on imported autos of only 2½ percent is immediately reduced to zero under NAFTA. Mexico's auto tariff stands at 20 percent and will be reduced only to 10 percent in the first year, and then only slowly phased out to the end of the century.

These are just some of the unfair auto provisions in NAFTA. And they must be considered in the broader context of Mexico's growing auto production.

Mexico's auto production and auto sector employment have grown by 833 percent from 1982 to 1991. Not only is Mexico's auto market undergoing extraordinary expansion, it is increasingly exporting its vehicles to the United States and Canada. Mexican car production for export grew from only 18 percent in 1986 to 478 percent by 1991.

This means that most of the growth in Mexico's auto market production is coming to the United States and Canada, not staying in Mexico for consumption. Mexico's exponential growth in auto production and employment is coming at a time when American auto production and employment is experiencing decline and overcapacity. The United States auto industry lost 33 percent in auto production and 24 percent in auto sector employment over the same period.

The argument is made, look, you have lost jobs before NAFTA—and that is true. It is true because we allowed discriminatory restrictions against American-made cars without placing equivalent restrictions on cars made in Mexico coming here.

The answer is not to make Mexico's discriminatory provisions part of our law under NAFTA and just phase them down or out over 10 years. The answer is to place the same restrictions on Mexican-made cars that they place on United States cars and to phase our restrictions out on their cars at the same pace that they phase their restrictions out on ours.

So, Madam President, under NAFTA, Mexican auto protections and restrictions would be allowed to remain in place on a gradual phase down basis for 10 years while the United States has no equivalent protections or restrictions.

We have already lost in this country 2½ million manufacturing jobs since 1979. NAFTA will only add to that tragic number. We should be looking for ways to create manufacturing jobs in the United States, not shift them to low-wage countries. NAFTA will be draining more auto manufacturing jobs from the United States to Mexico, and that is why the side agreements will not do the job. The NAFTA text needs to be reopened so that its inherent flaws can be corrected.

Madam President, I thank the Chair.

I thank my good friend from North Dakota for his great effort in this regard.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, parliamentary inquiry: Would the Chair please state the present parliamentary situation?

The ACTING PRESIDENT pro tempore. The Senate is conducting morning business until the hour of 10:30.

Mr. BAUCUS. Madam President, seeing no other speakers who wish to speak on the subject, I ask unanimous consent to speak as if in morning business for 15 minutes.

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

Mr. BAUCUS. Madam President, thank you.

REACTION TO TAX CONFERENCE

Mr. BAUCUS. Madam President, I rise today to congratulate Chairman MOYNIHAN and Chairman ROSTENKOWSKI on the conference report to the President's budget plan.

The final agreement on the package is now imminent, and without their courage, their leadership, this monumental package would not have been possible. We all owe them a great debt of gratitude.

But, Madam President, in the conscientious debate over one particular portion of that budget—the energy tax—a number of misconceptions have arisen that I feel compelled to correct.

First, I believe this Nation would benefit from a broad-based energy tax as the President originally proposed. I was and am prepared to vote for a broad-based energy tax. Unfortunately, that is not what passed the Senate. That is not what is included in the conference report. Instead, the broad-based tax has been replaced with a simple gasoline tax about which I have serious reservations. A gas tax may be simple to administer, but the increased gas tax in this bill has none of the environmental and conservation virtues of a broad-based tax. Nevertheless, it is set at a very high level which would be very burdensome for consumers. The gas tax does little to stimulate conservation and protect the environment. Drivers do not have choices of alternative fuels and most have no choice but to drive to work and to get groceries. By and large, they just pay the tax and do not change their behavior. So there are no real environmental benefits. The gasoline tax in the conference report is a revenue plug, not an environmental tax.

Second, the most important reason that I oppose the gas tax is that it is a tax directly upon the middle class, something we pledged to avoid in the election. If I was convinced we had exhausted all other options—spending cuts, taxes on the wealthy, and taxes on large corporations to control the deficit—then I would be willing to look at taxes on the middle class.

But, Madam President, we have not exhausted any of those options. I believe there is room for still more spending cuts. There are good programs like the superconducting super collider that I have supported in the past that I will vote to cut this year because we simply do not have the money. We will soon be forced to do more with entitlements.

There is also revenue to be gained from cutting corporate loopholes like the so-called section 936 provision. I have difficulty supporting a tax on middle class to pay for corporate loopholes. Most troubling is that we have cut the gas tax on large corporations with more than $10 million in taxable income below that paid by individuals. That rate could easily be made equal to the top individual rate to generate billions of dollars.

I believe there is also more money that could come from the wealthy. But all of the interests I have just mentioned are defended by powerful lobbies and are thus hard to cut or tax.

The middle class have no lobbyists. If we had squeezed more deficit reduction from spending cuts, I would support taxes on the middle class. But with more to be done in each of those areas, I have serious concerns about taxing the middle class.

Finally, as President Clinton argued during the campaign, the gas tax is simply a "bad tax." It is regressive, and it falls most heavily on individuals living in rural areas. There has been a rash of misinformation and irrelevant information on this issue. So I would like to introduce a table from the Department of Transportation indicating per capita gas consumption by States and a study on the topic from the Congressional Budget Office.

I ask unanimous consent that this material be printed in the RECORD.

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

Consumption ranked by State

	Gallons per capita
Wyoming	987
North Dakota	707
Arkansas	677
Montana	673
Georgia	670
South Dakota	669
New Mexico	668
Alabama	652
Missouri	635
Oklahoma	623
Nevada	620
Mississippi	615
Kentucky	613
Nebraska	609
South Carolina	608
Indiana	602
Vermont	595
Idaho	590
Tennessee	584
Kansas	578
Texas	578
Iowa	572
North Carolina	571
Maine	569
Delaware	559
Virginia	556
West Virginia	555
Arizona	539
Washington	534
Minnesota	530
Florida	521
United States average	519
Louisiana	518
Wisconsin	514
Michigan	509
New Hampshire	507
Utah	504
Ohio	494
Maryland	491
Colorado	491
New Jersey	488
Oregon	485
Alaska	482
California	479
Illinois	457
Connecticut	457
Pennsylvania	456
Massachussetts	427
Rhode Island	407
Hawaii	369
New York	348
District of Columbia	282

Cost per capita ranked by State

	Percent of personal income
Wyoming	0.413
Arkansas	.320
Mississippi	.319
New Mexico	.319
North Dakota	.306
Montana	.306
South Dakota	.295
Alabama	.293
Oklahoma	.281
South Carolina	.278
Kentucky	.271
Georgia	.270
West Virginia	.269
Idaho	.268
Missouri	.246
Tennessee	.246
Indiana	.244
Louisiana	.241
Utah	.240
North Carolina	.236
Texas	.236
Nebraska	.233
Vermont	.231
Arizona	.230
Iowa	.228
Maine	.228
Nevada	.223
Kansas	.218

	Percent of personal income
Wisconsin	.200
Virginia	.197
Florida	.196
Oregon	.195
Ohio	.194
Minnesota	.193
Washington	.191
United States average	.191
Michigan	.190
Delaware	.190
Colorado	.178
California	.164
Pennsylvania	.164
Alaska	.163
New Hampshire	.161
Maryland	.156
Illinois	.154
Rhode Island	.146
New Jersey	.135
Massachusetts	.130
Hawaii	.127
Connecticut	.124
New York	.108
District of Columbia	.078

CBO STUDY—ADDITIONAL POLICY CONCERNS IN THE DESIGN OF TAXES

In comparing energy taxes or any other taxes, one should also consider the distribution of the tax burden among income groups and regions, the effects of the tax on specific energy-using industries and producers of energy, and the cost of administering the tax.

EFFECTS OF ENERGY TAXES AMONG INCOME GROUPS

Energy taxes will raise the cost of energy consumed by households and industry. Households will ultimately also pay for the increased energy costs to industry in the form of higher prices of goods and services that use energy in their production and distribution. In short, an energy tax is a form of a tax on consumption with different impacts on consumers, depending on the proportions of different goods and services they consume.

One measure of the tax burden is the ratio of annual taxes to the cash income of families. By this measure, taxes on consumption are regressive; the tax burden on low-income families as a portion of their annual income is larger than the tax burden on high-income families. The reason is that, in general, families with higher incomes consume a smaller fraction of their income in any year than do lower-income families.

The use of annual data, however, overstates the degree to which consumption taxes disproportionately affect low-income families. People whose income is temporarily low typically do not reduce consumption by as much as their drop in income. At the same time, people whose income is temporarily high save a large proportion of their increase in income. People consume a smaller fraction of their income in their middle years, when their earnings are relatively high, than they consume when young or old. Economists who have measured consumption taxes on a lifetime basis find that they are still regressive, but not as regressive as annual measures show.

Energy taxes can be more or less regressive than more broadly-based consumption taxes, depending on whether the ratio of energy consumption to total consumption declines or increases with income. The distributional burden of energy taxes also depends on the relative rates applied to different forms of energy. Taxes on consumption of energy products that account for a relatively large share of expenditures of low-income families (such as electricity) are more regressive than taxes on energy products, which account for a relatively larger share of consumption by middle-income families of items such as gasoline.

CBO has made preliminary estimates of the distributional effect among income groups of increases in energy taxes. These estimates distribute the burden of direct increases in costs of energy products (home-heating oil, natural gas used by households, electricity, and highway motor fuels) to families in proportion to their consumption of those products. The estimates then distribute the burden of increases in the costs of industry to families in proportion to their consumption of all goods and services (see Table 2).

TABLE 2.—ENERGY TAX AS PROPORTION OF CASH INCOME

[In percent]

	Families ranked by income quintile				
	Bottom	Second	Third	Fourth	Top
President's Btu tax	1.1	0.7	0.6	0.5	0.3
Btu tax	1.1	.7	.6	.5	.3
Oil excise tax	1.0	.7	.6	.5	.3
Motor fuels tax	1.0	.7	.6	.5	.2
Ad valorem energy tax on households	1.3	.8	.6	.5	.2

Note.—The President's Btu option is simulated at 1994 levels with the tax fully phased in. All options increase revenues by the same amount. The tax change includes both the direct tax on energy consumed by households and the indirect effects of taxes on energy consumption by businesses. It also includes the effects of increased benefits and lower taxes that result from indexing COLA's and income tax exemptions, the standard deduction, and bracket widths to reflect the effect of energy taxes on the consumer price index. Family rankings include an adjustment for differences in family size.

Source: CBO tax simulation model. Consumption data from U.S. Bureau of Labor Statistics, Consumer Expenditure Survey and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

Although all of the energy tax alternatives are regressive when measured as a percentage of income, some are less so than others. For proposals that raise the same total revenue, an ad valorem tax on final energy consumption would impose the largest tax burden relative to income on families in the lowest income quintile and a motor fuels tax or oil excise tax would impose the smallest burden. The president's proposal and a general Btu gas would impose approximately the same burden as a share of income on the lowest quintile—less than an ad valorem tax on all energy, but more than a motor fuels tax. All of the alternatives would impose approximately the same burden on households in the top three quintiles.

All the proposals except for the ad valorem energy tax increase taxes as a percentage of total expenditures by about the same amount in each income quintile (see Table 3). Thus, the President's proposal has about the same distributional burden as a general tax on all consumption. An ad valorem energy tax would be slightly more regressive than a general consumption tax.

The distribution of the tax burden among income groups depends on the entire gas system, and just the relatively small share of total taxes that the proposed energy tax or an alternative consumption tax will raise. It is possible to offset the impact on low-income families by a combination of other changes in tax and spending programs. For example, the Administration's budget proposal will assist some low-income families by increasing the earned income tax credit and will raise most of its additional revenue from high-income by increasing income taxes on tax returns with taxable income in excess of $115,000.

TABLE 3.—ENERGY TAXES AS A PROPOSITION OF TOTAL EXPENDITURES

[In percent]

	Families ranked by income quintile				
	Bottom	Second	Third	Fourth	Top
President's Btu tax	0.5	0.5	0.6	0.6	0.5
Btu tax	.5	.5	.6	.6	.5
Oil excise tax	.5	.6	.6	.6	.5
Motor fuels tax	.5	.6	.6	.6	.5
Ad Valorem energy tax on households	.6	.5	.6	.5	.4

Note.—The President's Btu option is simulated at 1994 levels with the tax fully phases in. All options increase revenues by the same amount. The tax change includes both the direct tax on energy consumed by households and the indirect effects of taxes on energy consumption by businesses. It also includes the effects of increased benefits and lower taxes that result from indexing COLAs and income tax exemptions, the standard deduction, and bracket widths to reflect the effect of energy taxes on the consumer price index. Family rankings include an adjustment differences in family size.

Source: CBO tax simulation model. Consumption data from U.S. Bureau of Labor Statistics, Consumer Expenditure Survey and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

EFFECTS OF ENERGY TAXES ON REGIONS

Alternative proposals for taxing energy will affect households in various regions of the country quite differently, depending on their patterns of direct consumption of energy. Households in the Northeast, for example, use much more home heating oil than households in other regions; households in the West and South use somewhat more gasoline (see Table 4).

All of the taxes increase direct energy costs more for rural households (about 15 percent of the population) than for urban households. Moreover, all of the taxes except for the motor fuels taxes raise costs relatively less for households in the West. The President's proposal and an oil excise tax would raise costs relatively more for households in the Northeast.

The direct impact on households generally is largest for the ad valorem on final energy consumption because final consumers pay the entire tax. In contrast, because businesses pay a portion of the other taxes, they affect the prices of all goods that households consumes and not just energy. The President's proposal and the single-rate Btu tax have the smallest direct effects on households. Because these taxes include both industrial uses and coal (which is mostly used by industry and affects households directly only through purchases of power generated by coalfired utilities), they have the smallest direct effect on household energy costs.

TABLE 4.—INCREASED DIRECT ENERGY COSTS PER HOUSEHOLD

[In 1994 dollars]

	Urban Households					
	North-east	Mid-west	South	West	Rural	Total
President's Btu tax	107	103	102	94	128	105
Btu tax	98	98	94	83	111	96
Oil excise tax	130	116	122	119	169	128
Motor fuels tax	157	170	181	179	219	179
Ad Valorem energy tax on households	240	243	241	206	289	241

Note.—These taxes all raise the same amount of revenue, but vary in the degree to which households pay the higher fuel costs directly. For example, the Ad Valorem tax would impose a larger direct burden on households, but would not impose a larger total burden when indirect effects on industry are taken into consideration.

Source: See table 2 for sources.

INDUSTRIES

Another way to see which individuals would be most affected by particular energy taxes is to look at which industries are most affected. Just because an industry uses a lot of energy, it does not mean it will be harmed by higher energy costs. As I mentioned earlier, the real losses that an industry and its

employees will incur will depend on the ability of that industry to switch to lower-taxed fuels (or conserve energy) and the competitive circumstances that would allow them to pass any higher costs on to consumers.

Excluding the energy-producing and conversion sectors, iron mining, chemicals, primary iron and steel manufacturing, and plastics (in that order) would experience the biggest increase in their output costs resulting from any across-the-board increase in energy prices. The competitive ability of each of these industries to pass on higher taxes is probably limited, given the global scope of their markets.

However, the technical ability of each industry to switch out of high-taxed fuels at low cost (either to low-taxed fuels or to capital and labor by way of conservation) would vary significantly. Plastics and chemicals that depend on oil inputs would have little alternative and would be most harmed by oil taxes unless, as in the President's proposal, they are exempt. Other industries that use energy mainly as a source of heat could switch more easily among energy sources over time.

ENERGY PRODUCERS

A further concern about distribution relates to how much of the tax consumers pay (in terms of higher post-tax energy prices) and how much domestic energy producers pay (in terms of lower pretax energy prices). The relative incidence of the tax on energy consumers and producers will vary with the particular forms of energy being taxed and the changes in demand for energy that result from changes in relative energy prices to users at the end point.

Costs to any particular group of fossil energy producers will not be commensurate with the size of the tax on that energy source; they will generally be much less. For example, under the President's proposal, the Btu tax on petroleum would have a minimal effect on crude oil prices to producers and demand for domestic crude oil, since the marginal source of oil is imported and domestic prices are determined by world markets. As a result, the burden of the tax would fall heavily on oil consumers.

The burden of any tax on natural gas is likely to be split among producers and consumers if relative taxes are such that natural gas demand would fall. Gas supply is not very sensitive to changes in price, so pretax prices to natural gas producers could drop if the demand for gas fell. However, the net effect of the President's plan on the demand for gas is not clear. The natural gas market may pick up some new customers who switch from oil. At the same time, it will be threatened by increased competition from electricity.

Despite high increases in coal prices under the Clinton and other plans, pretax coal prices would change little, since coal supply responds nicely to price changes. Coal production would fall if the demand for coal dropped, which would increase the burden on coal producers. However, demand for coal itself may not change under the energy tax described by the President or other broad-based tax proposals. The percentage increase in coal prices with a new tax is not as important as the resulting percentage increase in electricity prices relative to competing energy forms.

THE COST OF ADMINISTRATION

In general, the costs of administering any tax are minimized by collecting the tax from fewer sources. For energy, this process would mean assessing the tax on crude oil or refined products at the refinery, on natural gas at the hookup to trunk pipelines, coal at the minemouth, and electricity at the utility.

Further cost advantages exist where the new tax can take advantage of existing mechanism for collecting taxes (for example, superfund taxes on oil, black-lung taxes on coal, and federal excise taxes on gasoline).

Some important considerations affect the cost of administering any broad-based energy tax. A Btu tax assessed on crude oil at the refinery gate would be easier to administer than one on all products (unless, perhaps, the unit tax would vary with the heat content of every oil shipment). Petroleum product taxes assessed upstream (at the refinery or some wholesale distribution point) would be easier to administer than those assessed at the retail level, since there would be fewer collection points to monitor. The same consideration applies to coal taxes. If collected at the minemouth, they could be relatively cheap to administer. If the unit taxes varied with the heat content of each coal source, however, the costs would rise. One cost-effective point for taxing natural gas would be at the place it enters the main interstate or intrastate trunk pipelines, since it would leave only a small number of pipeline companies to monitor. Another point might be at the city gate.

A VALUE-ADDED TAX

Taxes imposed on energy use primarily affect consumers by increasing the cost of operating motor vehicles, heating homes, and using electricity. Moreover, because the production and distribution of other goods for consumption require energy, energy taxes raise the prices of these goods too, but by much less.

Broad-based consumption taxes such as the retail sales tax or the value-added tax (VAT) are levied on consumption in a more even-handed way. Because they do not single out energy use, they have a much more neutral effect on consumer behavior. But by having a more neutral effect on behavior, they do not encourage energy conservation.

A value-added tax is similar to a retail sales tax, but it is collected in a different way. Instead of collecting the tax on consumer purchases all at once at the retail level, a VAT collects the tax in stages as goods and services are produced and marketed. Collecting the VAT in stages discourage tax evasion and allows businesses to recoup the tax they pay on their purchases.

An important disadvantage of a VAT is the high cost of administering and complying with the tax. Based on typical costs for administering and complying with a VAT in Europe, CBO estimates that the annual cost in the United States would be $5 billion to $8 billion, involving at least 7 million businesses. Thus, a VAT would not be particularly cost effective if it were adopted at a rate that only brought in the revenue that the President has called for from his proposed energy tax ($22 billion annually).

In contrast, energy taxes would be collected from a relatively small number of energy producers, refiners, and utilities. In addition, the energy tax could be "piggy-backed" on the existing mechanism for tax collection (including superfund taxes on oil, black-lung taxes on coal, and federal excise taxes on motor gasoline) and collected at a relatively low cost. Granting tax exemptions or tax rebates to energy users for any reason, however, would increase the complexity of an energy tax and add to the costs of administering and complying with it.

CONCLUSION

No one likes taxes, but if we are to deal meaningfully with the rising deficit, we must be prepared to swallow the strong medicine of reduced spending, increased taxes, or both. A broad-based energy tax can be a constructive component of a tax package, with the added benefit of contributing modestly to environmental and energy security goals. An even broad-based value added tax could also contribute constructively to increased tax revenues, although at the level of revenues proposed by the President ($22 billion in 1998), a VAT would not be cost-effective for the United States.

Mr. BAUCUS. The Department of Transportation chart demonstrates that citizens in rural States like Arkansas, North Dakota, South Dakota, Wyoming, and Montana, are forced to consume two to three times as much gasoline as citizens of New York and the District of Columbia. Thus, citizens of rural States may pay two to three times as much under a gasoline tax. The CBO confirms this point by noting that citizens of rural States, on average, pay 20 to 25 percent more than citizens of urban States under a gas tax. That simply is not fair.

Some have offered statistics on commuting time and other factors and argue that gas prices are relatively low, to counter this point. But those arguments simply do not hold water. Commuting time has little to do with the actual burden of gasoline taxes, since much of the commuting, particularly in urban areas, is done by means other than driving, such as the subway.

The fact that gas prices are now low is of little relevance. The prices may be low now; remember, this is a 5-year budget package. Will prices be low in 5 years? Even if they were, is that a reason in and of itself to apply a regressive and unfair tax? I do not think so.

If we are truly trying to reduce the deficit, we should look for cuts in taxes that fairly distribute the burden, not those that unfairly hit one area or another.

For all those reasons, Madam President, I have argued against the gasoline tax. But this conference report has a 4.3 cent per gallon gasoline tax in it, and I will vote for the package. I will vote for it because I do not want to let perfection be the enemy of the good.

The deficits we have run up have already laid a $4 trillion debt on the backs of our children. Fast action on the deficit is the best way to increase business confidence and keep interest rates low so jobs can be created by expanding businesses, and people can refinance their mortgages. To achieve those important goals, I will tolerate the small gas tax but, make no mistake about it, the gas tax is a weak spot in the package, and I have serious concerns about any future expansion of it.

TAKING STOCK OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BAUCUS. Madam President, earlier this year when I became Chairman

of the Committee on Environment and Public Works, I decided that before the committee jumped head-first into reauthorizing our various environmental statutes, we needed to take a step back—to evaluate the progress we have made over the last several decades in meeting our environmental challenges. What works? What does not work? These are the questions that we needed to address.

Since the beginning of this year, our committee has held a series of what I call taking stock hearings. We have heard from representatives of government, industry, environmental groups, and many others. These hearings have been critical in helping me and other members of the committee define what obstacles we face and, more importantly, what our environmental priorities should be in the years ahead.

These hearings also demonstrated two very important matters: First, that while we have made a great deal of progress during the last 20 years in tackling many of our environmental problems, we now face new ones which are more subtle, more complex, and more politically challenging than those we have faced in a very long time.

At our last taking stock hearing, held several weeks ago, we heard from two former EPA Administrators—William Ruckelshaus and Russell Train—as well as the two cochairs of President Clinton's Commission on Sustainable Development—Jonathan Lash and David Buzzelli.

While they disagreed on many issues, there was a striking consensus among the panelists that, of all our environmental statutes, the Clean Air Act is one of the most effective laws Congress has passed to improve the quality of our environment.

As one of the primary sponsors of the 1990 Clean Air Act Amendments, I was particularly gratified by their evaluation of our last major environmental achievement. But, that assessment, frankly, sounded too good to be true.

The Clean Air Act has been successful in addressing some of the major environmental problems in our Nation, such as virtually wiping out air pollution caused by lead—a highly toxic chemical. But, the fate of the Clean Air Act Amendments of 1990 is still up in the air—the bright promise of that innovative legislation remains largely unfulfilled.

Therefore, the Environment and Public Works Committee will undertake a serious review of the progress being made in implementing the Clean Air Act amendments. Tomorrow, the committee will begin an exhaustive series of oversight hearings on the implementation of the Clean Air Act Amendments of 1990. I asked Senator LIEBERMAN, chairman of the Subcommittee on Clean Air and Nuclear Regulation, to begin these hearings with a review of the implementation of particular titles of the act, looking first at State implementation plans. When we return in September, the full EPW Committee will continue with a comprehensive oversight hearing looking at a broader range of implementation issues.

Madam President, this is not the time, in my opinion, to pat ourselves on the back for passing an effective law or, alternatively, to point fingers where the job has not been done to our satisfaction. Rather, it is time to get to the bottom of what is working and what is broken in the process of implementing the Clean Air Act amendments, and figure out how to fix that break.

Let us face it, we passed an ambitious and groundbreaking law that placed a tremendous burden of execution on the Environmental Protection Agency. Within the first 2 years alone, EPA was required to issue 175 regulations, write more than 30 guidance documents, conduct 50 research efforts, and prepare 25 reports to Congress.

One of the most innovative provisions of the law, set up a market-based system of allowances for trading emissions that cause acid rain. The first auction was held last March. Furthermore, EPA has successfully implemented a program to phase out CFC's, which are highly destructive of the stratospheric ozone layer. In doing so, EPA has both helped to solve a serious domestic problem and lived up to the international commitments of the United States in the Montreal protocol. On both these efforts, EPA and industry worked together and consequently met deadlines without major litigation or bureaucratic holdups.

However, because implementation of the other major provisions of the law has been delayed, air pollution continues to get worse. The historical trends paint a dark picture. From 1982 to 1991, only minimal gains were made in reducing emissions of five of the six most prevalent air pollutants. For example, during that time, ozone emissions decreased only 13 percent, particulate matter emissions decreased a mere 5 percent, and sulfur dioxide emissions decreased an abysmal 2 percent.

No one believed that we could reverse the horrible trends in air pollution overnight. In fact, the Clean Air Act amendments recognized that to make significant progress would take time. But, the work must begin in earnest now. It should have started sooner.

So today I challenge the EPA and all the participants involved in Clean Air Act implementation to take stock of whether they have done all they can to live up to their responsibilities under the Clean Air Act. I challenge Administrator Browner to dig deep into her Agency's resources and make a firm commitment to me and to the Congress that implementation of the Clean Air Act will be a top priority for her at EPA.

And I will commit myself to work with other members of my committee, and my fellow Members of Congress to focus our attention on the Clean Air Act amendments and find a constructive way to improve the implementation process. I do not believe that the answer to this problem is to rethink our original goals for the act, or to minimize the burdens on any of the responsible parties.

On the contrary, in the spirit of the Clean Air Act amendments themselves, it is time for us to be creative and to rededicate ourselves to getting the job done. If we do not, then all our efforts in enacting the Clean Air Act Amendments of 1990 can be chalked up to simply blowing smoke.

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed 10 minutes as in morning business, to be charged against the time that is reserved for the first nomination to be considered today, which the Senator from Minnesota is managing.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

THE UNITED STATES TRADE IMBALANCE WITH CHINA

Mr. BINGAMAN. Madam President, I am here to speak about another of our trade problems. A few minutes ago, the Senator from North Dakota and the Senator from Michigan were here talking about their concerns about the North American Free-Trade Agreement and the potential loss of jobs that would result from that. I share some of those concerns, but I am here today to talk about the trade imbalance that we have developed with China.

Madam President, I chair a subcommittee of the Joint Economic Committee which, each year, receives a report from the Central Intelligence Agency about the China economy. This last Friday, we received that report for this year. We had a hearing on the subject, and the growth in our trade imbalance with China, I believe, is a cause for concern for all of us here in the Congress and in the Government.

The United States bilateral trade deficit with China increased this last year, 1992, to $18.2 billion, a rise of 42 percent over 1991.

In 1991, our trade imbalance was $12.7 billion. United States-China trade relations were in rough balance in the early 1980's, and in 1982 the United States ran a modest surplus with China. In 1983, we began running a modest deficit. In 1985, the deficit was only $6 million.

But by 1986, that bilateral trade deficit had taken a quantum leap to $1.4

billion, and it has been leaping every year since then. It doubled to $2.8 billion in 1987 and increased to $3.5 billion in 1988. And, in 1989, the first year that President Bush was in office, our bilateral trade deficit with China was $6.2 billion.

A year later it went to $10.6 billion. Again in 1991, the deficit was at $12.7 billion, and in 1992 up over $18 billion.

Madam President, this chart which I have here today, I think reflects that there has been some very modest increase in imports during that period. But there has been a very dramatic increase of imports from China to the United States.

The trend, I would also point out to my colleagues, is no accident. It is apparent that Chinese Government policy has been devoted very substantially to an export-led growth policy. Exports have been promoted. Imports have been restricted. And the primary target for those exports has been the U.S. market.

We have complained about unfair trade practices, high tariff, nontariff barriers, quotas, absolute bans on some of the goods we would sell to China; arbitrary changes in the laws and regulations, restricted access to the domestic markets, and violation of intellectual property rights.

We have had a number of negotiations with China regarding unfair trade policies. And the Government in Beijing has several times promised to liberalize some of those policies. So far that has been mainly promises.

China's economic situation today I fear holds the likelihood that that trade deficit we have with China will do nothing but continue to increase over the next several years. China has been growing at an unsustainably rapid rate and inflationary pressures have been building up and threatening to get out of control.

The CIA estimates that urban inflation in China increased about 30 percent during the last 12 months. The Government has already taken steps to cool this overheated economy, and one of the traditional steps that they take is to further limit imports. Indeed, the CIA testified before our committee this last Friday that because of this expected change in policy, this expected plan to limit imports, we can expect the deficit to continue growing and perhaps reach as much as $24 billion to $25 billion in this calendar year.

Madam President, one of the most disturbing things about the deficit we have with China in our trade relations is that it is out of sync with the trade relations China has with the rest of the world. With the rest of the world last year, China ran a very small trade surplus and, in fact, this year it is running a trade deficit with the rest of the world. That is at the same time that China's trade deficit with the United States continues to grow.

Madam President, I raise this issue for people to focus on at this point because China is the 900-pound gorilla in the world economic picture today. China was the 11th largest trading nation in 1992, but according to the International Monetary Fund it was the third largest economy in the world.

At the same time that it is a relatively large economy relative to the size of its economy—it has just begun to export—only 7 percent of its economic activity is presently engaged in trade.

There is a tremendous opportunity on China's part to increase its trade with the rest of the world, and if present trends continue, that increased trade will come at the expense of the United States.

Our President was recently in Japan talking about the uneven trade relations with Japan and the chronic trade deficit of $50 billion we are running with that country.

I would suggest today, Madam President, that the trade deficit we run with Japan may well be eclipsed one of these years by our trade deficit with China unless we take strong action to come to grips with this problem at this point.

Madam President, I ask unanimous consent that a table describing our trade deficit with China from the period 1984 through 1993 be printed in the RECORD at this point.

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

U.S. trade deficits with China, 1984–93

1984 (million)	$60.0
1985 (million)	6.0
1986 (billion)	1.4
1987 (billion)	2.8
1988 (billion)	3.5
1989 (billion)	6.2
1990 (billion)	10.4
1991 (billion)	12.7
1992 (billion)	18.2
1993 (billion—estimate)	23.0

Mr. BINGAMAN. Madam President, I appreciate the courtesy of the Senator from Minnesota, and I yield the floor.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as anyone even remotely familiar with the U.S. Constitution knows, no President can spend a dime of Federal tax money that has not first been approved by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. And to determine how much it shall be. Congress has failed miserably for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,352,487,844,872.15 as of the close of business on Thursday, July 29. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $16,945.05.

TRIBUTE TO COL. LAWRENCE C. MOHR, M.D.

Mr. THURMOND. Madam President, I rise today to pay tribute to Col. Lawrence C. Mohr, M.D., a great man and outstanding physician, who recently retired from a long and distinguished Army career.

I was honored to attend Dr. Mohr's retirement ceremony last week at the White House, where he has served as physician since 1987. In addition to attending to Presidents Reagan, Bush, and Clinton, Dr. Mohr has been my personal physician for a number of years. In that time, I have gotten to know him very well. In the course of my remarks at the White House, I was pleased to praise the good doctor for his many years of unparalleled service, for his excellent record as a competent physician, and for his service as a combat soldier before becoming a doctor.

We are all proud of Dr. Mohr's contributions to the U.S. Army and our great Nation. He is a man of high character who serves as a shining example of dedication, compassion, and professionalism for others to follow. It is my hope that this most capable doctor will come to South Carolina and continue his practice there. I know that he would be a welcome addition to my State's already excellent medical community.

Madam President, Dr. Mohr will certainly be missed by his peers, his patients, and by me; but, I wish him and his family good health and happiness in the years to come. I ask unanimous consent that a history of Dr. Mohr's impressive Army career be included in the RECORD following my remarks.

HISTORY OF MILITARY SERVICE

(By Col. Lawrence C. Mohr, M.D., U.S. Army)

Colonel Lawrence C. Mohr was born on 8 July 1947 in Staten Island New York. He entered the United States Army in 1966 as a private. While in basic training at Fort Gordon, Georgia, he was selected to attend Officer Candidate School at Fort Sill, Oklahoma. Upon graduation from Officer Candidate School in 1967 he was commissioned in the Field Artillery and assigned to the 18th Airborne Corps Artillery at Fort Bragg, North Carolina. He subsequently completed Airborne School at Fort Benning, Georgia, and the Jungle Operations Course at the School of the Americas, Fort Sherman, Panama.

From 1968 to 1970 Colonel Mohr served in a variety of combat assignments in the Republic of Vietnam. He was initially assigned to the 1st Cavalry Division (Airmobile), where he served for one year with both infantry and field artillery units. During that time he saw extensive action in Quang Tri province and War Zone "D" and participated in more than 50 combat air assaults. In November 1968 he

was wounded in action during a battle near the Cambodian border. He returned to combat duty and was subsequently assigned to the 101st Airborne Division, where he served as commanding officer of a field artillery unit. His unit conducted combat operations in the Ashau Valley and northern I Corps and was presented the Valorous Unit Award for extraordinary heroism in action.

In 1970 Colonel Mohr returned to Fort Bragg, North Carolina, where he served as commanding officer of a field artillery unit in the 18th Airborne Corps Artillery. His unit received numerous commendations and awards for military proficiency and was the first to air-transport a tactical nuclear weapon. From 1972 to 1973 Colonel Mohr attended the Field Artillery Officer Advanced Course at fort Sill, Oklahoma, where he graduated on the Commandant's List and was presented the Distinguished Writing Award for his class.

Colonel Mohr was then selected for Army sponsored higher education. He attended the College of Arts and Sciences at the University of North Carolina where he received a baccalaureate degree with highest honors, was elected to Phi Beta Kappa and was awarded the Merck Award for Excellence in Chemistry. At that time he decided to pursue a career in military medicine. He attended the School of Medicine at the University of North Carolina on an Army Health Professions Scholarship and was awarded the M.D. degree in 1979.

Colonel Mohr was then assigned to Walter Reed Army Medical Center, where he completed an internship and residency training in Internal Medicine. He was presented the Erskine Award as the outstanding resident in his class and was selected to remain at Walter Reed as Chief Resident in the Department of Medicine.

In 1983 Colonel Mohr was assigned to the 9th Infantry Division at Fort Lewis, Washington, where he served as Command Surgeon for the Division Support Command. During that time the 9th Division was the Army's High Technology Test Bed and Colonel Mohr had the additional mission of developing and field testing new concepts and equipment for combat medical support. His work was instrumental in modernizing medical care on the battlefield and has since been incorporated into Army doctrine.

Colonel Mohr subsequently returned to Walter Reed, where he served as Attending Physician in the Department of Medicine and Assistant Professor of Medicine at the Uniformed Services University of the Health Sciences. While at Walter Reed he completed one year of fellowship training in Pulmonary Medicine and conducted clinical research on medical problems at high altitude. During that time he also served on the Department of Defense Committee for Military Medical Residency Programs, was an instructor at the Armed Forces Combat Casualty Course, served on the Army Working Group for Deployable Medical Systems and was Scientific Director for the American Andes Biomedical Research Expedition.

In 1987 Colonel Mohr was selected as White House Physician and joined the staff of President Ronald Reagan. He has continued to serve in that position, joining the staff of President George Bush in 1989 and the staff of President Bill Clinton in 1993.

While assigned at the White House, Colonel Mohr helped to plan and coordinate multiple humanitarian assistance projects for underdeveloped and newly independent nations. In 1990 he served as United States Representative at two international conferences on medical assistance to the emerging democracies of Eastern Europe and the former Soviet Union.

Colonel Mohr is a graduate of the United States Marine Corps Command and Staff College. He is a Diplomate of the American Board of Internal Medicine, a Fellow of the American College of Physicians and a Fellow of the American College of Chest Physicians. He has authored 17 scientific publications and book chapters and currently serves as Associate Clinical Professor of Medicine and Emergency Medicine at both the Uniformed Services University of the Health Sciences and George Washington University.

During his military career, Colonel Mohr has received numerous honors for valor on the battlefield and for distinguished service. His many awards and decorations include the Defense Distinguished Service Medal, the Silver Star, two awards of the Bronze Star with "V" device for heroism in ground combat, two awards of the Bronze Star for meritorious service against an armed hostile force, the Purple Heart, two awards of the Meritorious Service Medal, the Air Medal, two awards of the Army Commendation Medal, the Parachute Badge, the Expert Field Medical Badge and the Presidential Service Badge.

WOLF CONTROL EFFORTS IN ALASKA

Mr. STEVENS. Mr. President, I come to the floor once again to discuss an Alaskan issue and the fact that once more, without solid understanding of an Alaska issue, non-Alaskans have decided they are better qualified than we are to make a decision affecting the resources of our State.

One group has made a lot of noise, caused a ruckus and produced a problem where otherwise one would not have existed.

On the excuse of consideration for animals, some activists have tried to second-guess—without a shred of factual information—the decisions of trained biologists in my State.

The concern of these vocal non-Alaskans is the management of Alaska's world population.

In 99 percent of my State—almost all of its 586,000 square miles—predator and prey populations are able to survive without active management.

But, in one area of Alaska, a 40-by-50 mile area in the foothills of the Alaska Range, roughly just this one very small portion of Alaska—and I brought this map to show the areas that are all outlined, or shaded, are Federal areas that have been reserved for various purposes, for wildlife management in particular.

Over 85 percent of the wildlife refuges in the United States are in Alaska in terms of acreage. The area I am discussing is not part of a wildlife refuge. This is the area of the resident Delta caribou herd, which has declined by an alarming 60 percent over the past few years.

To stem this decline, our Alaska State game biologists determined that a portion of the wolf population, which preys upon the caribou in that area, required management. The population of the Delta caribou herd dropped from more than 10,000 in 1989 to currently less than 4,000.

That is despite the fact that we stopped all hunting for Delta caribou in 1991. Let me repeat that, we stopped hunting in this area, this small 40-by-50 mile area. Notwithstanding that—there are no longer any takings of these caribou by hunters—the population of the caribou continues to drop.

After an intensive study, the Alaskan Department of Fish and Game planned a wolf control effort in that small area. Incidentally, in that 40-to-50 square mile area are 3 percent of the wolves that live in Alaska. Long research by our Department of Fish and Game has proved that a temporary reduction in wolf population in a specific area can restore depressed wildlife species.

The main factor in the continued decline of the caribou herd is the predation of wolves, and that has been found to be the case by wildlife biologists.

Announcement of the management plan caused an outcry from these uninformed critics who have no knowledge of the facts. They have manipulated the story to suit their purposes. These protesters even took out newspaper advertisements, threatened our tourist industry, really, with blackmail, and they spread false information on the purpose of this game management plan. It has become so bad that Alaska's Attorney General is suing them now for false advertising, which it was. They have completely ignored the truth.

Not once have these people addressed the two most important factors involved in the control decision. The first fact they failed to admit is that wolf numbers of Alaska declined by lack of prey, not because of man's annual harvest or lack of habitat. The Delta caribou herd is critical to the wolves' survival in that area. If the herd numbers are down, the wolf population itself will suffer.

The second fact is that human beings are an integral part of the equation in Alaska. Approximately 60 percent of Alaskans hunt for their food, yet hunters take only 2 to 3 percent of all the caribou. Eighty percent of the caribou killed each year are killed by predators; the rest die naturally.

More wolves are taken by hunters in Minnesota each year than in all of Alaska, even though my State has 3 million lakes and Minnesota is proud to be called the Land of 10,000 Lakes. We have a great deal more area, and we have a great many more wolves. Hunters in Minnesota take more wolves, yet we get criticized for a program of management which is designed to try and preserve the balance of both the caribou and the wolf population.

All indications are that without intervention, this delta caribou herd

will continue to decline and could disappear completely. That would be a great detriment to the herd, obviously, and the wolves and other wildlife, but the people I speak for are the people in the area who rely upon this caribou herd for their food.

It is not just a new problem. As we were looking back through the history of this issue before the Congress, we found that 50 years ago, just minutes before he learned of President Roosevelt's death, Vice President Harry Truman, as the President of the Senate, presented to the Senate a request from the Alaska Territorial Legislature to allow the taking of wolves in Alaska. I have a copy of that petition, Mr. President. It is on page 3283 of the April 12, 1945, edition of the CONGRESSIONAL RECORD. It explained why the Alaska Legislature asked the Senate to act.

The problem was similar to the one we face today. The wolves were decimating then the reindeer herds of the Territory of Alaska. Presenting that petition to the Senate, incidentally, was one of Harry Truman's last official acts as President of the Senate and Vice President of the United States.

What I am here to make my remarks on today is despite what opponents of Alaska's management plan might indicate, our Alaska Board of Fish and Game did not authorize aerial shooting of wolves; did not authorize trapping or land-and-shoot hunting; did not allow year-round hunting or trapping of wolves; did not pay a bounty; they did not authorize radio collars and will not use radio telemetry in dealing with wolves.

The control effort will run between October of this year and April 1994. To maintain the reduced population of caribou herd and assist in its return to its original size, biologists say that between 50 and 75 wolves will have to be taken per year for 2 years.

Just across the border in Canada, Mr. President, they take 10 times that many without an outcry from these extremists. I cannot understand why we cannot have sound wildlife management take place in our State to preserve this caribou herd which is of substantial importance to the people who live in the Delta region.

The Alaska Department of Fish and Game will review this effort again and consider alternatives and options at its next spring meeting. The board of game authorized a control period of up to 3 years, if necessary. Afforded protection both as big game and its fur bearing species, wolves are stable-to-increasing in Alaska. They are not game animals in the sense that they are in other areas of the country. Those who live with wolves and those who depend on the caribou for their very existence during the winter months understand the need to control wolf populations that grow in this manner.

I hope that the Senate and all Americans will hear the truth and understand this. This is a legitimate management issue; it is not one for the ultraextremists trying to, once again, attack a sound management policy in my State.

Thank you, Mr. President.

REMEMBERING THE BATTLE OF PLOESTI

Mr. PRYOR. Mr. President, I rise today to pay tribute to the Army Air Force pilots who fought the Battle of Ploesti in World War II. Yesterday, August 1, 1993, marked the 50th anniversary of this important air battle. On August 1, 1943, while our Nation was engaged in a world war, five men overcame extraordinary obstacles and piloted their bombers with such skill and heroism that they were awarded the Congressional Medal of Honor, our Nation's highest award for military heroism. Of these five men, three were killed during the battle and were awarded the medal posthumously; they made the ultimate sacrifice. This battle resulted in more Medal of Honor recipients than any other air battle during the Second World War.

Now, 50 years later, this battle is largely remembered only by those who fought and survived. However, one young college student in Arkansas wrote me and asked that this battle not be forgotten. Darrell Whitledge, of Austin, AR, wrote an eloquent and highly informative research paper regarding this battle for his history class at the University of Central Arkansas. After reading his paper and in particular his final sentence, in which he made an appeal to forever remember the brave men who fought this battle, I felt moved to pay tribute to their bravery and sacrifice.

TRIBUTE TO ABE SACHAR, FIRST PRESIDENT OF BRANDEIS UNIVERSITY

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Abe Sachar, the first president and chancellor emeritus of Brandeis University, who died at age 94 on July 24.

Abe Sachar was an advocate, scholar, author, educator, and extraordinary American. In 1948, beginning with 107 students, 13 faculty members, and three empty buildings at the site of a former medical college in Waltham, MA, he created a world-renowned university that has made brilliant contributions to scholarship, learning, and tolerance in America. The story of his achievement in leading Brandeis University to such eminence is unparalleled in the modern history of American higher education.

Abram L. Sachar was born in 1899 in New York City to immigrant parents. His mother had been born in Jerusalem and his father in Lithuania. He served with the U.S. Army in World War I, earned simultaneous B.A. and M.A. degrees at Washington University in St. Louis in 1920, and a Ph.D. in history at Emmanuel College of Cambridge University in England in 1923. That year, he joined the history faculty at the University of Illinois, where he remained for many years. In 1929, he published his famous book, "A History of the Jews."

Abe Sachar was also one of the early leaders of the Hillel Foundation, which sponsored youth centers for Jewish students on college campuses, and provided jobs, housing services, and loans for needy students. He served as national director of the foundation from 1933 to 1948, and he fought to eliminate discrimination and quotas against Jews in American higher education.

In 1948, he was invited to become the first president of Brandeis University, named in memory of the great Supreme Court Justice, Louis D. Brandeis. The office represented an opportunity to fulfill his lifelong ideals, and Abe Sachar made the most of it.

Under his leadership, Brandeis grew from small beginnings to the magnificent institution it is today. During Dr. Sachar's years as president and chancellor, Brandeis achieved a national and international reputation for academic excellence. Its graduates have left a profound mark on our State, our region, our country, and our planet.

Abe Sachar's vision and achievements have been an inspiration to millions of Americans. I join many others in celebrating his extraordinary life, and I extend my deepest sympathy on his death to his wife Thelma and his sons David and Howard. I ask unanimous consent that two articles and an editorial from the Boston Globe on Dr. Sachar's outstanding life and career may be printed in the RECORD.

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

[From the Boston Globe, July 27, 1993]

ABRAM L. SACHAR

Abram L. Sachar, founding president of Brandeis University, was an institution builder of exceptional talent.

In 1948, Sachar created the nation's only nonsectarian university sponsored by the American Jewish community. He was perfectly suited to the task. As national director of the Hillel Foundation, he had confronted the quotas that limited the admissions of Jewish students into prestigious colleges. With his colossal fund-raising abilities, he did something about it.

Brandeis University opened with 107 students and 13 faculty members. Eleanor Roosevelt gave the first commencement address in 1952.

In just two decades under Sachar, Brandeis blossomed into one of the top liberal arts institutions in the country. Today Brandeis has 360 full-time faculty members and more than 3,700 undergraduate and graduate students. Each academic department was built

to make a distinctive contribution to scholarship. That was Sachar's vision, and it worked.

Lawrence Fuchs, a former dean of faculty, spoke of the diminutive Sachar's "outsized abilities"—his intensity of focus, his articulateness and his capacity to see the big picture. These qualities shone through, evidenced by Sachar's ability to raise $250 million as Brandeis' president and later as chancellor.

Sachar was not well suited to retirement or emeritus status, as subsequent Brandeis presidents would learn. His was an era when leaders were described as "giants." Sachar's organizational ability would rival that of any of today's top university presidents, but this was not his main contribution. His principal legacy is the extraordinary quality of Brandeis University and his singlemindedness in achieving it.

Those saddened by his death Saturday at age 94 extend far beyond the campus.

[From the Boston Globe, July 25, 1993]

ABRAM L. SACHAR, WAS EDUCATOR, WRITER, BRANDEIS PRESIDENT; AT 94

Abram L. Sachar, author, historian and founding president of Brandeis University in Waltham, died yesterday at his home in Newton after a long illness. He was 94.

Mr. Sachar won recognition as the driving force behind molding Brandeis into a major research university and the only nonsectarian college or university sponsored by the American Jewish community. In his 20 years as its president, from 1948 to 1968, Mr. Sachar propelled the university toward national recognition. Begun in 1948 with 107 students and 13 faculty members, Brandeis today has 360 full-time and 114 part-time faculty members and more than 3,700 undergraduate and graduate students.

Mr. Sachar raised more than $250 million for Brandeis during his tenure as president and later as chancellor.

During his lifetime, Mr. Sachar achieved national and international recognition for his contributions to higher education. The West German government awarded him its Grosse Verdienstkreuz mit Stern decoration in 1969, in recognition of the program that brings foreign students to Brandeis with the obligation of returning to their countries to offer their specialized training.

Mr. Sachar was the recipient of honorary degrees from more than 30 American colleges and universities, including Brandeis; his alma mater, Washington University; Tufts University; Providence College; Hebrew Union College and Harvard University. In 1973, Brandeis dedicated the Abram L. and Thelma Sachar International Center, which houses the Lemberg Program in International Economics and Finance.

Mr. Sachar was born in New York City, to immigrant parents. When he was 7 years old, he moved with his family to St. Louis, Mo.

He received his bachelor's and master's degrees in history from Washington University, St. Louis. He undertook special research in England on the Victorian House of Lords and was awarded his PhD from Emmanuel College, Cambridge University, in 1923.

Upon his return from England in 1923, he joined the history faculty of the University of Illinois, where he remained for 24 years. At the University of Illinois, he became one of the pioneers of the Hillel Foundation, which began there.

Mr. Sachar was chairman of the National Hillel Foundation from 1948 to 1955. He served as its national director from 1933 to 1948, before retiring to accept the presidency of Brandeis University.

He wrote a number of books, including "The Course of Our Times"; "A History of the Jews"; "The Redemption of the Unwanted"; and a chronicle of Brandeis, "A Host at Last."

Mr. Sachar leaves his wife, Thelma (Horowitz) of Newton, whom he married in 1926; and two sons, David B. And Howard M.

[From the Boston Globe, Feb. 15, 1984]

STILL THIRSTING FOR CHALLENGES

(By Martin Pave)

People who have heard his speeches would probably agree that Dr. Abram L. Sachar, founding president of Brandeis University, could recite the telephone book and get a standing ovation.

"I've been listening to him for 35 years and his ability to move me has not diminished," says Atty. Paul Levenson, a Brandeis trustee and student union president in the school's first graduating class in 1952. "He has what very few people have—the capacity to evoke an inspirational emotion. Abe Sachar taught me that it is possible to make dreams come true."

Sachar, who celebrates his 85th birthday today, is a complex personality: charming and sensitive, but obstinate and persistent; controlled, yet wildly visionary; argumentative with those who do not share his view, but even more exasperated by those who have no opinion.

A MAN OF ENERGY

Transcending all are his boundless energy and intensity, optimism and humor, and an unquenchable thirst for challenges.

Energy: He rises at 6 a.m. in his Newtonville home, devours his newspapers, magazines and correspondence as eagerly as his breakfast, and usually arrives at his Brandeis office before his staff. His workday ends late in the evening at home where he says, "I think with my typewriter and write with my ears." Says Thelma Sachar, his wife of 58 years: "Sleep is almost a waste of time to him."

Intensity: His son, Howard, a history professor at George Washington University, recalls the many times his father would drive to the post office and then "he'd walk back to his office, intently reading his letters, or a newspaper, and forget about the car with the motor running."

Optimism: Sachar jokes that his autobiography is not imminent. "I'm too young, I'm going to wait until I mature to get perspective. Maybe I'll do it after my next book."

Which leads to Sachar's latest challenge, one of transition.

Even though he keeps office hours at Brandeis—in the building named for him—Sachar is slowly moving away from administration (he became chancellor emeritus three years ago) and back to an earlier pursuit, writing history.

Sachar will fly to the Orient in May to interview political leaders as part of a new volume of modern history. "When I finish my latest book [The Redemption of the Unwanted] last year, my publisher asked me if I had another one in my belly," says Sachar. "Then I told him of my ambition, to take another view of the world, to document dramatic changes of the last 25 years. I chided my publisher [Richard Marek] and said he was tempting God by giving me a 30-month contract."

But Sachar was always equal to tough tasks.

In the 1930's and 1940's, as a founder and national chairman of 126 Hillel chapters of American college campuses, he fought to overcome resistance at some schools to the Jewish cultural, social and religious centers.

In 1948, after buying a home in California, he decided to become president of Brandeis, the country's first Jewish-sponsored, but non-sectarian university. The first class of 107 students and 13 professors at a small, defunct medical school in Waltham became a 270-acre campus with an international reputation, 80 buildings, 400 faculty and 3700 students.

"He used to fly in from Dallas or L.A., sometimes after traveling all night, because of his fundraising for the school, to get to his weekly history lectures," recalls 'Carol Rabinovitz, his former student and now executive director of the Brandeis National Womens' Committee. "As a teaching president he made history come alive. As a president, he knew how to use power, but he also wanted to be loved and respected."

DESCRIBED AS MASTER BUILDER

John P. Roche, academic dean of the Fletcher School of Diplomacy in Tufts, said Sachar was a master builder, "one of the two or three greatest architects of an educational institution I've ever known. he is a strange mixture of scholar, dreamer and impressario, a man of many parts.

"After working for Abe Sachar, Lyndon Johnson was a cinch. [Roche was an adviser to President Johnson for two years]. When I was chairman of the Politics Department at Brandeis, he used to say to me 'you find the best person for your department and I'll find the money' Sachar was the original existential administrator."

Sachar, during 20 years as president, another 12 as chancellor, and in three ensuing years, has personally raised more than $250 million for Brandeis, in large measure through eloquent speeches, delivered from two pages of scrawled notes.

"I have to hold my audience with gesture, context and analogy," says Sachar, and impeccably dressed man whose Brandeis office is lined with books written by faculty members. "After all, I'm a small man with a high-pitched voice, so my appearance isn't going to hold them.

"There's a lot of my grandfather in me. He was the chief rabbi of St. Louis and after World War I he would appeal for aid for Polish Jewish refugees. The congregation, which was not affluent, would nevertheless come to the pulpit and donate coins and jewelry because of the way he moved them."

INFLUENCED BY TEACHER

Sachar's use of descriptive language was a direct influence from his history professor at Washington University, Roland Usher. "When he described Joan of Arc at the Stake," Sachar recalls, "I could smell the smoke." The course led to Sachar's early career as a history professor at the University of Illinois. There was a two-year wait for his classes.

"There was always something fresh, new and exciting about his lecturers, an excitement he never lost," says his wife, who was secretary of the society at Washington University that invited Sachar to lecture at his alma mater in 1924. The were married two years later, he jokes, because "I courted her with 12 books of James Barrie, and I had to marry her to get them back."

Thelma Sachar is her husband's constant companion and editor. When Sachar interviewed historical figures like David Ben-Gurion, Eamon deValera or Earl Warren, her advice and mental notes lent a sense of perspective to his finished product, whether in print or on educational television.

The couple has two other sons, Edward, head of psychiatry at Columbia University Medical School, and David, an associate in gastro-enterology at Mt. Sinai Hospital in New York.

Sachar, the son of immigrant parents, has written five previous books, including "A History of the Jews," which has been translated into several languages and is now in its 26th printing; "The Course of Our Times," a contemporary world history based on his public television lecture series; and, most recently, "The Redemption of the Unwanted," which chronicles the liberation of the Jews from Nazi death camps and the founding of the State of Israel.

TOURED EUROPE IN 1938

He traveled through Europe in 1938 while updating his history of the Jewish people, and, he says today, "I still, recall the faces of eventual victims of genocide." Sachar's voice trails off when he talks of losing 54 family members in the Holocaust, but rises when he sounds a warning:

"You may see a little group that's being persecuted or repressed and say it's not my business and become unconcerned, and then of course, the shadow becomes a cloud and then it becomes a storm. It happens so often in history."

Next month, he will deliver four lectures on the "Redemption" on the West Coast, follow that with a talk in St. Louis on how elderly people can cope with the present and future, attend a three-day symposium in Milwaukee and end the month with a speaking date at Holy Cross College.

"He still has at least 12 things going at once," his secretary of 14 years, Eleanor Charter, says. "We go home exhausted and he thrives on it."

NOMINATION OF THOMAS DODD TO BE AMBASSADOR TO THE REPUBLIC OF URUGUAY

Mr. SARBANES. Madam President, I rise today to express my strong support for the President's nomination of Thomas Dodd to be Ambassador to the Republic of Uruguay.

As a distinguished scholar in Latin American studies, Thomas Dodd brings to this post years of academic and professional experience which will serve him and our country well during his term as Ambassador to Uruguay. Dr. Dodd, the brother of our colleague from Connecticut, Senator CHRISTOPHER DODD, has been a professor of Latin American history at Georgetown University's School of Foreign Service since 1966. At Georgetown, he has served as director of the Latin American Studies Program. In addition to having received numerous awards including grants and fellowships for his widely published writings and research on various aspects of Latin American history and politics, Dr. Dodd has lived and studied in Central and South America and is fluent in Spanish.

As a recognized authority on Latin America, Dr. Dodd has also served as a consultant to and lectured in government, including the Foreign Service Institute, the Inter-American Defense College, the National Defense University, and the Department of State. I am confident that the breadth of Thomas Dodd's academic and professional background will give our country and the President excellent representation in Uruguay.

Madam President, I commend the President for his choice of Thomas Dodd to be Ambassador to Uruguay and I strongly concur with the Senate's confirmation of this nomination last Friday.

THE ENVIRONMENTAL IMPLICATIONS OF THE NAFTA

Mr. BAUCUS. Madam President, 2 weeks ago, I discussed the environmental conditions on the United States-Mexico border and the need for a strong side agreement on the environment if the NAFTA is to benefit our country. Today I will respond to two arguments that call for voting for NAFTA regardless of the side agreement. These are:

First, the contention that by spurring economic growth in Mexico, the NAFTA will automatically promote environmental protection; and

Second, the argument that the NAFTA is already the "greenest trade agreement in history" and doesn't need a strong side agreement.

DOES GROWTH BRING ENVIRONMENTAL PROTECTION ANYWAY?

Proponents of the first argument frequently cite a Dartmouth study arguing that when a country reaches a level of about $5,000 per capita, its environmental protection rapidly and dramatically improves. Up to that point, industrialization creates terrible environmental problems. Afterwards, it gets cleaned up.

This may well occur in some cases. However, it is not GDP per capital itself that spurs environmental protection. Poor people don't like drinking industrial chemicals any more than rich people. But poor farmers and unskilled workers are politically weak, and have difficulty making their Government protect them.

Richer countries are more likely than poorer countries to be democracies with a strong middle class. Middle-class people and citizens of democracies have more political influence that poor farmers, manual laborers, and citizens of dictatorships. They are strong enough to demand environmental protection. That's why environmental standards often rise as countries develop.

If we did not have a long common border with our NAFTA partner—if this were a free trade agreement with, say, Bolivia—the issue would not affect us directly. One could say, well, who cares if Bolivia gets polluted? Let's conduct an experiment. Let's see if the problem solves itself as the country develops. No skin off our noses.

But we do have that border. We cannot ignore the problem. Pollution in Mexico is pollution in America, and it directly affects the health and safety of American citizens. We cannot afford to wait. We need environmental enforcement now.

THE MAQUILADORA EXPERIENCE

With a strong environmental side agreement, we can get environmental enforcement. Conversely, passing the NAFTA without a strong side agreement could well cause a disaster.

To understand why, look at our existing free trade with Mexico—the maquiladora program on the border. It lets Mexico import raw materials and components of industrial goods from the United States duty-free, assemble them into final form, and reexport them to the United States duty-free. We created it in 1965. As I recall, nobody thought about the environment at all.

The result? Eight out of ten United States-owned maquilas operate in violation of Mexican environmental law. Governor Richards of Texas estimates it will cost $4.2 billion to clean up her section of the border alone. Estimates for the full border area go as high as $30 billion. Infectious hepatitis in El Paso runs at five times our national rate. In Juarez alone, 55 million gallons of industrial sludge and 24 million gallons of raw sewage flow into the Rio Grande every day. All largely because of the operation of maquiladoras on the border.

These plants cut costs by dumping waste and garbage into the Rio Grande, and they make us pay the bill. They give themselves a pollution subsidy at the expense of law-abiding firms.

Disease spreads in America as well as Mexico. We spend more tax money on environmental cleanup. There is no end in sight.

This was not inevitable. If we had thought ahead, and coupled the maquiladora program with an enforceable guarantee against environmental abuses, we could have avoided it.

We must not repeat our mistake. We must learn from it instead. By pushing for a side agreement with trade sanctions as enforcement, we show that we have learned something.

IS NAFTA THE GREENEST TRADE AGREEMENT IN HISTORY?

A second argument is that the NAFTA is already the greenest trade agreement in history and will mean significant environmental improvement. Thus, one would be silly to oppose it if the environmental side agreement does not measure up. To do so would make a perfect agreement the enemy of a good agreement, and damage both trade and the environment.

If this were correct, it would be an unanswerable argument for the NAFTA. It deserves a serious response.

In a rhetorical sense, NAFTA may well be the greenest trade agreement ever. But in reality it is business as usual. Let me review the NAFTA's environmental provisions:

First, its preamble says sustainable development is a goal. That is all well and good. But it does nothing on the ground.

Second, it contains a provision saying that if Mexico is using weak environmental enforcement to attract investment, we can request consultation on the issue. Well, we can request consultation now, if we have a quarter to make the phone call. That does not mean we will achieve anything.

Third, it explicitly protects some of our existing rights. These are the Federal Government's ability to inspect meat and vegetables at the border, and the right of States to pass environmental laws stronger than Federal standards.

This provision simply protects existing laws. In no way does it improve the status quo. It does not even protect all our laws. Mexico has not given up the right to attack our process standards—as it did a few years ago in successfully using the GATT to attack our effort to protect dolphins.

To sum up: NAFTA has nice rhetoric. In some areas it protects the status quo. In no area does it improve the status quo. And it offers no protection against the kind of gush of pollution the maquiladora program caused. It is not good enough.

WHY WE NEED STRONG SIDE AGREEMENTS

When a plant gives itself a pollution subsidy and harms law-abiding firms, and Government will not enforce the law, the plant should lose the benefits of the NAFTA. Our side agreement proposal will make sure it does.

We are not asking Mexico to write new laws. We are not even asking for the perfect environmental NAFTA. For example, we have not asked to change the text to protect our process standards. We simply ask Mexico to enforce its existing law. That's all.

We failed to do that when we created the maquiladora system. We made a giant mistake. I will not stand by as we repeat it. If we get a strong environmental side agreement, I will support the NAFTA. If we cannot, I will not. It's that simple.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

The Chair recognizes the Senator from Minnesota.

EXECUTIVE SESSION

Mr. WELLSTONE. Madam President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Thomas Payzant under the time agreement. This request has been cleared with the minority.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. WELLSTONE. I thank the Chair.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF EDUCATION

The assistant legislative clerk read the nomination of Thomas W. Payzant, of California, to be Assistant Secretary for Elementary and Secondary Education.

Mr. WELLSTONE. Madam President, I yield 15 minutes to the Senator from South Carolina to speak as if in morning business.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Minnesota. I do appreciate it, and I will try not to even take that amount of time.

THE BUDGET

Mr. HOLLINGS. Madam President, somehow, we have to expose the Washington speak with respect to this budget plan, especially the disingenuous excuse "I cannot vote for it now because it does not do the job." Heavens above, we have known for months that this plan does not eliminate the deficits, that it is only the first step.

Specifically, while this plan does not do the job, neither did Dole-Domenici, neither did Nunn-Domenici in 1992. None of them do the job because no single plan can solve entirely the fiscal disaster given the President of the United States here in January.

President Clinton has been down in Arkansas for 10 years balancing budgets. I think he knows what does the job. I wanted to make sure of that myself in February, and I had the advantage of speaking at length with the President with respect to a plan to do the job, stating at that particular time:

Madam President, as you know, you are going to have deficits in excess of $250 billion per year for the 5 years. You are going to add at least $1.2 trillion to $1.4 trillion to the national debt even with your plan.

And the President was concerned at the particular time—I will never forget it, because he had had a meeting with the Prime Minister of Britain, John Major. Major had told him that Europe, the European Community was a basket case, that they were not going to have economic growth this year. He noted also that the Pacific rim is in trouble economically, and that the United States of America must lead the way as the locomotive of world economic growth.

So, in addition to the inherited deficit and debt, on the one hand, our President in taking over the reins of Government and has the task of keeping the engine of Government moving and at the same time trying to provide leadership to the economic recovery of the global economy itself. He has had a most difficult task.

I have been in this game now for the past 12 years. We knew it would be a disaster when President Reagan drastically cut revenues in 1981, which David Stockman now says was the original cause of the budget mess in Washington. The Republicans covered their tracks by calling for growth, growth, growth. Now they have changed their litany; now it is cut spending first, cut spending first, cut spending first.

Madam President, this particular plan does, indeed, cut spending. It does not cut the deficit. It cuts spending.

When you look at the deficit right now in excess of $300-some billion—they change the figure with the reestimates of around $321 billion—and you look at the deficit next year, it has not been cut. You look at the following year, it has not been cut. You look at it over the 5 years, the deficit itself has not been cut.

We still have an enormous deficit and, in my judgment, it is going to exceed $300 billion the fifth year out.

So if you have over a $300 billion deficit this minute here in August 1993, and you look where you are 5 years out in 1998, you still have over $300 billion, then you are in trouble. That is agreed. That is understood.

So the distinguished Senator from Oklahoma, in headlines this morning when I got back in town, had changed his vote from last month in support of the President's plan and now does not support it because he says it does not do the job. Come on. Nothing has changed. That is nonsense. No one makes any claim that this puts us in the black or actually reduces the debt. So when you look at the fifth year out at the deficit, the deficit is still around $300 billion.

What this plan does is to reduce spending $500 billion over the 5-year period. That ought to be understood from the word go. I fault the media for not explaining it properly. I fault us here in Washington for not explaining it to the American people.

As Lewis Carroll wrote in "Through the Looking Glass," to stay where you are you have to run as fast as you can. To get ahead, you have to run even faster.

This Republican crowd ought to be ashamed of themselves. They are the ones who put this deficit and debt on automatic pilot. Taxes? Cut spending first? They put taxes first, deficit taxes.

This morning, Monday, at 8 o'clock, the very first thing we did is go down and borrow another billion and add it to the debt. So the debt goes up, up, and away; the deficit goes up, up, and away to pay for what I call interest taxes.

Now, no one is saying—not in the Dole-Domenici plan, not in the Nunn-Domenici plan, not in the Perot plan, not in the Kasich plan—none of them claim to eliminate the interest costs of $300-some billion so that we can stop the growth of the deficit and the debt. It is going up $1 billion a day. And that is the dilemma the President finds himself in, and the lack of public understanding, Ross Perot included.

They all want the litany of cut spending first, do not raise taxes. But we do not have the luxury of choice. We need all of the above.

We tried the freeze. We tried the cuts in spending. We tried taxes. Now, none of them alone is enough. You have to do even more.

And with respect to a freeze and cuts in spending, President Clinton has done so in accord with no-nonsense CBO figures. I voted against that 1990 budget summit fraud and stood on this floor right here at this desk and pointed out the bogus projections of growth, bogus projections of interest rates, and so on. CBO told us the real numbers. So I said: This is a fraud and you know it; quit misleading the American people.

Instead of cutting the deficit $500 billion, as they claimed in 1990, we have a 1-year deficit this year of almost $400 billion. Yet, a majority of the Republicans voted for the 1990 plan, but you cannot get a single vote for the Clinton plan today. The majority of the Republicans—DOMENICI, DOLE, that whole crowd—voted in 1990 for the so-called cut in the deficit of $500 billion, yet we have a deficit growing this year alone at almost $400 billion. They supported the Bush plan then, but now there is not a single Republican vote for the Clinton plan.

Instead, we are bogged down in pollster politics, with the rhetoric on every TV show: Cut spending first, cut spending first, cut spending first.

Right this minute, we have a discretionary outlay figure of $548 billion for 1993. That includes domestic discretionary, defense spending, and international spending. That is the outlay figure for the 1993 fiscal year budget.

That is George Bush's spending. Incidentally, he never vetoed a red cent of spending. He never vetoed a red cent of spending. Forty-three vetoes, and he never vetoed spending.

So they are the manufacturers of their own fate on the other side of the aisle. They act as if they had nothing to do with it; that President Clinton invented the deficit. But discretionary outlays are $548 billion this year, and that is George Bush's budget.

Yet, President Clinton, in this 1994 reconciliation budget deficit for the same three areas—domestic, defense, and international—is $538 billion. That is an absolute cut of $10 billion compared to fiscal year 1993.

So what did we do? The President of the United States came forward and said, "Look, I am cutting my own staff 25 percent." This Senator cut the Commerce, Science, and Transportation Committee 10 percent. We eliminated 100,000 jobs in the Federal Government. We have come around and frozen your pay, my pay, and everybody else's pay. And they are fussing about that still.

In the Budget Committee, my same Republican colleagues, when we were in the markup, they said we could not freeze pay 1 year, particularly for the military. And then they proposed a 5-year freeze when they got out on the floor. There has been total hypocrisy.

They said in the Budget Committee we could not have Social Security taxes on the recipients above the $40,000 income level at 85 percent, which would still be less than the average pensioner pays on his benefits. Then they came on the floor and said: We want to cut, for the senior citizens, Medicare and Medicaid $177 billion. It is devastating. You could not find a doctor for a senior citizen.

So they went through those things, but they never came out with a plan of specific cuts. All they offered were broad percentage cuts, with nothing specific.

That Republican cut of $177 billion in Medicare and Medicaid would have put it where no senior citizen would have access to a doctor.

Madam President, let us not allow the perfect to be the enemy of the good. This is the first President who has come to town and categorically analyzed the problem and said we need it all—spending cuts and tax increases. He did not give us this "read my lips" baloney. He said we are going to have some cuts, we are going to have some freezes, and we are going to have some taxes.

And he originally proposed a broad-based consumption tax, a Btu tax. He tried his best to hold it. He held it in the House, but could not hold it here. But that is the reality.

But it was not President Clinton who could not hold that broad-based consumption tax. He told me back in February he did not think he had enough strength in the land for such a tax. Americans have been in a spoiled condition of demanding instant Government, of not paying for services, of opposing taxes as the great enemy. Republicans pander to those sentiments.

They proposed a broad-based consumption tax; namely, when the Center for Strategic and International Studies came forward with the Nunn-Domenici plan, which called for a broad-based consumption tax. But now, all of a sudden, they say the President has not cut spending first. They are playing parliamentary and political games out here on the floor of this Congress.

We have a good first step in the President's budget plan. And in this first step, we all should be supporting it and not coming forth claiming, oh, we discovered now it does not do the whole job. No one contemplated it would do the whole job, because the job is too enormous, quite frankly, for any President to do here in 2 years, 3 years, or 4 years.

I would try to do even more. And I have tried to impress upon the President that we are going to have to have a large 5 percent across-the-board value-added tax to bring in more than $100 billion, allocating it to the deficit and the debt. Even that will not do the job in 1 year. It will take several years to do it.

I see my leader, the Senator from Minnesota, is ready to move on to the Executive Calendar and his appointments.

I appreciate him yielding at this particular time, to say that we must not be under any illusions about doing the whole job. And I said at the time I voted that it would not do the whole job. We all know that; anybody with any sense knows it.

But you have to start somewhere. President Clinton has given the leadership. He has had the political courage to get out here and call it as it is, and try to use every angle at his disposal to get a budget plan passed.

Republicans ought to be ashamed of themselves, voting in a majority just 2 years ago for the present dilemma that they have caused, and coming back around now and saying that the Clinton plan will not do the job and, therefore, you get none of our votes on it.

I yield the floor and I thank the distinguished Senator from Minnesota.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

I thank the Senator from South Carolina for his remarks.

As I understand what the Senator from South Carolina was trying to say, I remember reading a book by, I think, several journalists from the Philadelphia Inquirer—I think they won a Pulitzer for it—entitled "America: What Went Wrong."

Their point was that it was a good many years, a decade plus, of sweeping problems under the rug, including the debt, the budget deficit and the debt.

So when you are dealing with that kind of legacy, I think what the Senator from South Carolina is saying is not doing the job means that in one stroke of public policy you do not fully address that problem, but you begin to change the course, you begin to change the direction. And that is the way the Senator from South Carolina has interpreted the President's plan.

Mr. HOLLINGS. That is exactly right. The President has come in here with not only all those cuts—we cut back the veterans' programs, we cut back the farm program, we had to cut

back legal services—we cut them and people do not seem to understand. The FCC—it was $7.2 billion, we have raised all kinds of fees. We are struggling around here trying to find new sources and the President is not given the credit because he is not solving the whole problem, or doing the whole job.

Who are they kidding, anyway?

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I will add, before I go forward with a floor statement, I think there is another problem in the equation. We should treat people in the country with intelligence because I think there is a great deal of intelligence out there in this budget debate. The other problem is that we have a very fragile economy still, with a high level of unemployment officially defined, much less subemployment, including people who work full time for poverty wages or people who are only part-time employed, much less people who do not have jobs they can count on, jobs with decent wages and decent fringe benefits.

So there comes a point when you cut even further and further, you run the risk of plunging this country right back into a recession. I do not think there has been near enough said in this debate about the whole question of investment in this economy and that whole issue.

EXECUTIVE SESSION

NOMINATION OF THOMAS W. PAYZANT, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

The Senate continued with the consideration of the nomination.

Mr. WELLSTONE. Mr. President, I am pleased to speak on behalf of Tom Payzant as Assistant Secretary for Elementary and Secondary Education. If confirmed, he will be one of the most qualified individuals ever to serve in this position. He brings over 30 years of success as a teacher, principal, and superintendent. He has served as a superintendent in four States, Pennsylvania, Oklahoma, Oregon, and California, each time finishing with a distinguished record of accomplishment.

Under his leadership, San Diego gained a reputation as one of the best managed and most successful urban school districts in the country. The reasons are clear: increased academic achievement as measured by overall test scores, the number of students taking advanced placement courses, and the number of students going to college; a 50-percent reduction in dropouts, a 30-percent reduction in central administration during a time of increasing enrollment; maintenance of strong relationships with teacher unions while making a cut of $50 million in the budget; institution of comprehensive services for children; and, finally, a successful voluntary desegregation effort. This record was acknowledged this year when Dr. Payzant was awarded the prestigious McGraw Award for Excellence in Education.

It is not surprising, therefore, that Dr. Payzant has won support from all ends of the political spectrum. At the Labor Committee hearing, Dr. Payzant was introduced by two California Congressmen: a Democrat, BOB FILNER, and a Republican, DUKE CUNNINGHAM. Congressman CUNNINGHAM expressed the sentiments of many when he told us:

> Mr. Chairman, there is only one other time I have supported a Democrat in a position like this, and that was when my dad was elected Mayor * * * if you take California politics and put someone in there for ten years—and I am considered a very conservative Republican—and you can win 99 percent of the support across-the-board, that record stands for itself, and I am very proud to stand up for Dr. Payzant.

Dr. Payzant has also won the support of the community. The list of letters of support we have received fills almost five pages. Let me cite a few of those letters:

> National PTA: "Dr. Payzant possesses a professional balance that is unique for a national education leader. He, first and foremost, cares about children. Children have been the driving force of his career and the nucleus of his public service."
>
> San Diego Unified PTA Council: "Dr. Payzant's vision of schools where * * * administrators, staff, and parents work collaboratively to create an optimum and living and learning environment for the particular students at that school is a vision which our PTA Council shares."
>
> Donald Stewart, President, College Board: "Tom has demonstrated his outstanding leadership skills and his comprehensive knowledge of education issues."
>
> Oklahoma State Senator John Rogers: "I believe education leaders should be exemplary in their conduct and in every instance I found Dr. Payzant to be of the highest moral character and possessed of the best qualities of leadership."

I could go on and on, but I think it will be very clear to my colleagues that we have a nominee who is not just an outstanding educator, but also a person of integrity and decency that we would all want for a national education leader.

Dr. Payzant, like virtually every superintendent in the country, has critics who do not share his views of children's needs and the best way for a superintendent to address them. He answered those critics openly, honestly, and fully on July 1 at a Labor Committee hearing, and he received bipartisan support of the committee with a vote of 13 to 4 on July 14.

The time for further debate is passed. This body does not have time to endlessly debate peripheral issues. It is time to confirm Dr. Payzant and let him get to work on helping to solve the deep educational problems of this country.

Mr. President, that is an opening statement. I do not yet see other colleagues on the floor, so I suggest the absence of a quorum and ask unanimous consent that the time of the quorum call be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. KASSEBAUM. Mr. President, I rise in support of the nomination of Dr. Thomas Payzant, to be Assistant Secretary for Elementary and Secondary Education. By all accounts, Dr. Payzant is a fine educator with more than 30 years of experience, first, as a classroom teacher, and then for the past two decades as superintendent of school systems in Pennsylvania, Oregon, Oklahoma, and San Diego, CA, where he has served for over 10 years.

Evidence of Dr. Payzant's qualifications and credentials for this position are underscored by his long tenure as chief of an urban school district like San Diego, a rare accomplishment these days when the average tenure of an inner-city school superintendent averages about 3 years. As a former member of a school board, I have fully recognized what a risky position a school superintendent has today.

Dr. Payzant's decade of service as chief of San Diego Unified School District is a further measure of his ability to satisfy the competing needs and demands of the system's 10,000 teachers and employees, its 125,000 students, their parents, and the increasingly diverse community it serves. That is not an easy position to hold these days, and I think his ability to do so indicates a skill in bringing consensus and thoughtfulness to educational matters.

The primary controversy surrounding this nomination has been his support for the school board's decision to discontinue a special program sponsored by the Boy Scouts which was conducted in a handful of San Diego schools during regular school hours. The school board discontinued this special program on the grounds that the Boy Scouts as a national organization violated the school board's recently adopted nondiscrimination policy regarding sexual orientation. Dr. Payzant supported the school board's nondiscrimination policy against sexual orientation and the school board's decision to discontinue the special program sponsored by the Boy Scouts to the extent it operated during regular school hours.

Contrary to many press reports, the school board's decision did not affect the traditional Boy Scout after-school programs that continue to operate throughout the San Diego school district on and in school property.

Although opponents have attempted to assert that Dr. Payzant recommended the removal of the Boy Scouts from the school district altogether, I could find no truth to those charges. I believe Dr. Payzant's statements that he supports continued access to school facilities for the Boy Scouts' traditional after-school programs. It should be noted for the record that the Boy Scouts would not have been allowed to operate their special nontraditional programs during regular school hours had Dr. Payzant not given them specific authorization. It should also be noted that he is both a former Boy Scout, a former member of the local Boy Scout board, and a parent of former Scouts.

This being said, Mr. President, I wish to emphasize that I strongly disagree with the San Diego School Board's decision even though it applied only to a special Boy Scout program that operated during the regular school hours. Although I question whether any outside group should be allowed to operate programs during regular school hours, because I have tended to believe activities outside the curriculum of the school should be held after school hours, I firmly believe that if any outside group is allowed to operate during regular school hours, the Boy Scouts should be given the same privilege. Moreover, had Dr. Payzant in fact recommended that the Boy Scouts be denied special access to conduct their traditional after-school programs, I would have voted against his nomination. Dr. Payzant, however, simply did not make such a recommendation.

While I do not agree with Dr. Payzant regarding the school board's antidiscrimination policy as it was applied to the special nontraditional Boy Scout program that operated during regular school hours, I believe that this specific issue should be examined in the context of his entire professional record. Dr. Payzant has demonstrated the qualities of leadership and the commitment to improve public education that are essential in his position as Assistant Secretary.

I think it is interesting, Mr. President, to note that this morning there are a number of Boy Scouts in attendance, and I think it is a special honor for us today to have so many visiting Capitol Hill as they are holding their national meeting here in the area over the past weekend.

Putting the school board's decision in its proper context, I find it is indicative of a disturbing trend throughout our country where schools and school boards are becoming increasingly embroiled in issues that detract from the primary mission of teachers and administrators, which is providing the best possible education for every single child in the United States.

The time and energy and value of discussions that go way beyond what I believe need to be the focus of our educational agenda are very troubling to me.

Accomplishments of that task will require someone with substantial experience and a tireless commitment to improving the quality of public education in America. Dr. Payzant certainly has substantial experience, and I believe he has a tireless commitment. I will vote for this nomination. Congress will soon be reauthorizing the Elementary and Secondary Education Act. This legislation presents a real opportunity to better focus our Nation's educational goals. I look forward to working with Dr. Payzant in this endeavor.

I ask unanimous consent, Mr. President, to have printed in the RECORD my questions to Dr. Payzant and his responses, as well as other material relating to this nomination.

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

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR TOM PAYZANT, NOMINEE FOR ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

1. Are the Boy Scouts currently prohibited from San Diego schools facilities for meetings and other events after school?

No. Boy Scouts are not prohibited from using San Diego City Schools' facilities for meetings and other Scout events.

2. Could you explain the events and circumstances that resulted in the school board's decision to terminate the Boy Scout program that was conducted during regular school hours?

The San Diego City Schools Board of Education adopted a non-discrimination policy in December 1992 which included sexual orientation. The policy was at odds with the policy of the Boy Scouts who sponsored several programs during the school day when students are in compulsory attendance. The Scouts also sponsor after school programs in school facilities. I recommended that the School district continue the widespread use of school facilities for Scouting programs after normal school hours, but disallow such programs during the regular day when students are in compulsory attendance. The Board unanimously agreed.

3. Did you ever recommend to the school board that the Boy Scouts not be able to use the facilities after school?

No. I never recommended that the School Board prohibit Boy Scout use of school facilities after school hours.

4. Why were the Boy Scouts affected by the non-discrimination policy and not the Girl Scouts or Camp Fire Girls?

The Girls Scouts and Camp Fire were not affected by the School District's non-discrimination policy because they do not discriminate based on sexual orientation.

5. In March of 1992 you formed a Committee on Gay, Lesbian and Bisexual Issues in Education. The Committee produced a report in June of 1992 with a variety of recommendations. Other than the proposal to add sexual orientation to the school districts anti-discrimination policy did the district adopt any of the other recommendations?

Do you support or endorse all the recommendations in the Committee's report?

The School District implemented the recommendation to add sexual orientation to its non-discrimination policy. The district also is committed to efforts that will result in the elimination of slurs and name calling consistent with the committee's recommendation. The committee recommendations on staff development will be implemented during the 1993-94 school year. The school district has not adopted the committee's other recommendations.

No. I do not support or endorse all recommendations in the Committee's report.

6. It has been reported in the various newsletters in opposition to your nomination that you sponsored and successfully advocated special rights for "homosexual kids within the public school system." Is this accurate?

No. I did not advocate special rights, for, "homosexual kids within the public school system". I believe that every student is special and that his or her needs should be met regardless of gender, race, religion sexual orientation, disability or any other unique characteristic.

7. It has been represented that you sought to bring a workshop entitled Project 10 to the San Diego school district. Could you explain what is Project 10 and what if any role you played in bring it to the San Diego school district?

Project 10 is a counseling program which responds to the needs of and provides support for gay and lesbian youth. It operates in the Los Angeles Unified School District. The Program is not in San Diego City Schools. In September, 1990 the School District In-service Coordinator invited the director of Project 10 to speak at a San Diego workshop for teachers and counselors to discuss the needs of gay and lesbian students. Although I was not directly involved in inviting a representative from Project 10 to participate in the San Diego workshop, I do strongly support staff development programs which will enable educators to better meet the needs of all young people in the schools.

8. It has been reported that you instituted a program that eliminated the F grade from San Diego schools and adopted a policy of automatically promoting elementary students. Could you explain the district grading and promotion policies?

The San Diego Dropout Prevention Roundtable, a group of educators, parents and community people, recommended that the "F" grade in secondary schools be replaced by "no credit". A student not meeting standards to receive a passing grade in a course would be allowed to retake the course under this proposal but would not receive credit and a passing grade until course standards were met. I endorsed the proposal. The Board of Education adopted a modified policy which retains the "F" grade, but allows a student to retake the course and replace the "F" with the new grade. The school district does not have an automatic promotion policy. Students in San Diego are retained when they do not meet promotion standards.

9. You have received national attention and respect for reducing the bureaucracy of the San Diego school district and making individual schools more responsible for their own decision. Could you explain these reforms?

For several years San Diego has been engaged in restructuring to improve teaching and learning for all students. The central office was downsized by about one third during

by tenure while student enrollment grew from 108,000 to 125,000. Each school has a governance team of school staff and parents who work together to make significant decisions about the school's programs and operations. A core academic curriculum has been established. New forms of assessment are being developed and field tested. Over 400 partnerships between schools, businesses and community organizations have been established. School district relationships with employee unions have become more collaborative and nonadversarial. Dropout rates have fallen significantly and student achievement has improved.

10. What will be your most important goal and priority as Assistant Secretary for Elementary and Secondary Education?

My most important short term goal is to work with the Secretary of Education and the Congress on the reauthorization of the Elementary and Secondary Education Act. A continuing goal is to use my 30 years experience as an educator with school districts in seven regions of America to help shape policy that will result in improvement of teaching and learning for all children.

11. What do you believe is the most critical challenge facing public education today?

There are many challenging issues facing public education. I believe we must convince all Americans, not just those with school-age children, that their support of public education is essential and in the interest of everyone. I believe we must form new partnerships between parents and educators as well as the home and the school, while we work together to help all students reach high standards of excellence. I believe we must create safe, positive learning environments in our schools which will enable teachers to engage students in productive learning.

SAN DIEGO UNIFIED SCHOOL DISTRICT,
San Diego, CA, July 29, 1993.

Hon. EDWARD KENNEDY,
Hon. NANCY KASSEBAUM,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND KASSEBAUM: Please accept this letter in response to inquiries relating to San Diego Unified School District requirements for the processing and approval of district contracts. Pursuant to District procedure number 1570, all contracts must be approved by the district's governing body, the Board of Education, unless the power to contract has been delegated by the Board to a district officer.

A person who originally desires approval of a particular contract must have the proposed contract approved by his/her division administrator. For example, a school principal desiring to enter into a contract with a vendor would first be required to obtain the approval of the assistant superintendent to whom that school is assigned. Following such approval by the assistant superintendent, the proposed contract must then be approved by the district's legal office as to form and legality. The contract must next be approved by the district controller to assure that funds are available for expenditure under the agreement. Once the foregoing approvals have been obtained the proposed contract is submitted to the Board of Education for its approval. The Superintendent has no involvement in the approval of contracts. After Board approval the contract is executed on behalf of the district, typically by the district's deputy superintendent in the case of school-related contracts.

All contracts with Social Advocates for Youth (SAY) were generated and processed in the above noted manner. There were six contracts between the district and SAY in recent years. The approval of a contract by the district's superintendent is neither required, nor contemplated, by district procedures. As indicated above, discretionary approvals are required only from the division assistant superintendent and the Board of Education.

With respect to the grievance filed by counselors at O'Farrell regarding the use of the family advocates hired by SAY, that grievance has been settled. The counselors contended the advocate positions should have been staffed with school counselors rather than outside staff hired by SAY. In the settlement of that grievance the parties agreed that the family advocate positions were not the same as school counselor positions. The positions remain staffed with the advocates recruited by SAY.

Please feel free to contact our office if we may be of additional assistance.

Sincerely,

Christina L. Dyer,
General Counsel.
Mélanie Petersen,
Deputy General Counsel.

JULY 29, 1993.

Hon. EDWARD KENNEDY,
Hon. NANCY KASSEBAUM,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND KASSEBAUM: This statement is submitted for the purpose of explaining the history to the agreement between the District and SAY, San Diego for the provision of family advocate services.

O'Farrell Community School was reopened in 1990 under my leadership as Chief Educational Officer with the support of a community planning committee. The director of the San Diego County Department of Social Services, Community Action Partnership (CAP), Mrs. Georgia Tate, was an active member of the planning committee and was very interested in the success of our school.

In 1990, the San Diego Unified School District's Board of Education and the San Diego County Board of Supervisors approved a partnership between O'Farrell Community School and the San Diego County Department of Social Services to co-fund family advocate positions at O'Farrell school. In an effort to improve the coordination of the educational and social service communities, O'Farrell staff, with the assistance of CAP, wrote a Request For Proposals for the provision of family advocate services in conjunction with the similar services to be provided by the San Diego County Department of Social Services. The Request for Proposals was distributed to numerous community organizations in the county.

All written responses to the Request for Proposals were reviewed by a team of O'Farrell staff and staff from the San Diego County Department of Social Services, CAP. SAY was selected for award of a contract by the team which reviewed the responses to the Request for Proposals. The team's decision was based solely on the merits of SAY's proposal. The contract with SAY has been renewed annually since that time.

Dr. Thomas Payzant was not involved in the decision to contract with SAY. The only District personnel involved in the selection of SAY for award of a contract were teachers at O'Farrell and me. Dr. Payzant's wife, Ellen, who I believe at the time was associated with SAY, was also not involved with the decision to award a contract to SAY.

Should you need any further information regarding this matter, please feel free to contact me at (619) 789-7769 (home) or (619) 263-3009 (work).

Dr. BOB STEIN,
Chief Educational Officer,
O'Farrell Community School.

Mrs. KASSEBAUM. Mr. President, I look forward to his confirmation. I look forward to our working together as a Congress with the administration in a renewal of dedication to quality education. It cannot just come from Washington. It must come from all of us working together, and if there cannot be the support from the community and parents to reach that endeavor, no amount of legislation we can pass will accomplish the purpose. But certainly having those such as Dr. Payzant step forward as Assistant Secretary for Elementary and Secondary Education will be a major step in assisting us in being a participant in those efforts toward quality education.

I yield the floor and suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. KASSEBAUM. Mr. President, I further ask that the call of this quorum be equally divided in time.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mrs. KASSEBAUM. Now I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. That is correct.

THE PRESIDENT'S ECONOMIC PLAN

Mr. DOLE. Mr. President, I understand that later today the distinguished majority leader and the chairman of the Senate Finance Committee, Senator MOYNIHAN, and other key Democrat negotiators, who have been working for the past week behind closed doors, are expected to announce the final details of the Clinton economic plan.

As far as Republicans are concerned, nothing we have heard so far changes the fact that we think this is a bad plan that will be bad news for the economy and will not solve the deficit problem.

The glue that holds the Republican Party together is the absolute conviction that the United States cannot spend its way into prosperity and cannot tax its way into prosperity.

No last minute cosmetic changes can hide the fact that the centerpiece for the Clinton economic plan is the largest tax increase in history. This is a "tax-now, cut spending later" plan that will slow down the economy and destroy thousands and thousands of jobs.

We learned yesterday, I must say with great surprise and some shock, I think, that the income tax hikes in this bill will go into effect January 1 of 1993—not next year, but they have already been going on in January, February, March, April, May, June, July and now August. A lot of people are going to find out when this passes that they have been paying taxes all year at a higher rate and did not know it.

Those affected by these new taxes, who file as individuals, have 4 months left to pay for an almost 30-percent increase in their tax bill—a 30-percent increase. For a lot of small business men and women, this increase will have the same effect as a 67 percent tax hike for the remainder of this year.

Keep in mind there are 21 million small businesses and a lot of self employed people who will not pay any increase in tax. Of those 21 million subchapter S corporations and partnerships and sole proprietors, 4 percent create 70 percent of the jobs. Of all of the corporate returns filed, I think 7 percent are subchapter S corporations, and they do not pay corporate rates, the 35 percent. They are going to pay the 45 percent, because it is retroactive to January 1; it is going to be a 67-percent tax hike for the remainder of this year.

On the spending side, the vast majority—I do not think anybody quarrels with this number—80 percent of the promised spending cuts in the plan are delayed until after the 1996 elections. In fact, yesterday, Chairman MOYNIHAN repeated that this plan really does not cut anything; it simply slows the rate of projected spending increases. That has happened in all administrations, but I think most Americans think if you are going to cut, you really cut. We are slowing the increases in Medicare as it affects providers, hospitals and doctors and others, who in the past have been able to shift their costs, but now they cannot do that. It is going to be very difficult and tough on a lot of small hospitals in rural areas.

So I do not believe that is a good deal for America.

Not one Republican voted for the President's budget plan in either the House or the Senate. I cannot speak for my colleagues in the House, but based on what we know about the conference report, it is worse than it was when it left the Senate. I do not see how a single Republican in the Senate can change his or her mind and vote for this package. In fact, it is even worse than the Senate bill because, according to the information we have seen, the conference report has at least as many taxes as the Senate bill.

The income tax increases for businesses and individuals are now retroactive to January 1, all the way back to the Bush administration. You would think that as a courtesy they would move it to when President Clinton was sworn in and not give President Bush credit for the higher taxes.

That is a change for the worse. The conference report has fewer spending cuts and less deficit reduction than the Senate-passed bill.

Anybody who voted against the Senate bill is going to have a tough time explaining how this package is a better deal for America. Some people say, "What have the Republicans done?" I watched Ross Perot struggle a bit on Meet the Press yesterday when he was asked about his plan. He said had he known they were going to ask, he would have brought his charts and figures.

For the record, we have tried to improve the President's plan on this side of the aisle. When the Senate debated the budget resolution in March, Senator NICKLES offered an amendment to eliminate the President's $73 billion energy tax. The amendment was paid for with cuts in the President's proposed spending increases, and the Republicans were united in our support to for this. But, unfortunately, 53 Democrats voted to defeat the Nickles amendment.

Senators LOTT and MACK offered an amendment to eliminate the President's $32 billion social security tax increase, and, again, the amendment was paid for with cuts in the President's proposed spending increases; and, again, we Republicans were united in support of this amendment. But, unfortunately, 52 Senate Democrats voted to kill the amendment.

Later, Senator GRAMM and Senator LOTT offered an amendment to reduce the individual income tax increases, eliminate the energy tax and eliminate the Social Security tax, to be paid for by cutting back on the President's proposed spending increases. Once again, Republicans were united in their support for this amendment, but 55 Senate Democrats voted to kill it.

Adopting the Gramm-Lott amendment would have dramatically improved the President's plan by reducing the proposed tax increases by $206 billion over 5 years without sacrificing any deficit reduction.

Even if the Gramm-Lott amendment had been adopted, the budget would still have called for $89 billion in increased corporate and individual income taxes and user fees over the next 5 years. So even that package had taxes in it. When I hear some of my colleagues say no taxes, I remind them that they offered an amendment with about $90 billion of taxes in it.

Along with the distinguished ranking member of the Budget Committee and my Republican colleagues, I offered a comprehensive Republican alternative to the Clinton economic plan. It would have reduced the deficit by $367 billion over 5 years without raising taxes—without raising taxes. I emphasize that point. Again, that was defeated. Our tax-free alternative was defeated.

So I make the point that I think everybody in the Chamber, Democrat or Republican, wants to reduce the deficit. Certainly the President does. I think everybody agrees with him. There may be some Republicans who think the deficit does not matter, but they are few and far between these days.

Republicans do not believe that all these promised future spending cuts will materialize.

If you ask the average American voter—and I was in North Carolina Saturday and in Ohio yesterday, and we had a chance to see people trying to make ends meet, trying to pay bills and educate their children, and trying to get ahead. They are pretty cynical about Congress and about any administration. They think they know what is happening, and they are probably right. They know we going to have tax increases. The administration says, "Do not worry about it, it is just going to be taxing the rich." I do not think that is the case. A lot of people are going to get a increase from 31 to 45 percent. It started last January.

Most of the people I saw in Ohio and North Carolina said, "I know you are going to raise my taxes, and you are never going to cut spending." If they are right, then we should all be in difficulty around here when it comes election time.

So, Mr. President, everybody wants to reduce the deficit. This is why we support a balanced budget amendment to the Constitution. This is why Republicans favor the line-item veto. We remain fundamentally opposed to the President's plan, because we believe that the best way to reduce the deficit and balance the budget is to cut spending first. A lot of Americans may be willing to make the sacrifice to reduce the deficit, but they are not willing to accept higher taxes for business as usual, and that is what this plan offers.

Across the country, Republicans are working together with Independents and some Democrats to try to defeat the Clinton plan. The Democrats control the White House and both Houses of Congress, so this is an uphill battle. But it is not out of reach. Some of us have been criticized for it. I have said this, and I will say it again: If the package fails, I think we have a responsibility to sit down with the President,

without any preconditions or predisposition, and see what we can do to reduce the deficit.

I know it is a tough vote for my colleagues on the other side of the aisle, but I think it is fair to say that there are always tough votes. I recall in 1985 when we were trying to reduce the deficit without taxes, cutting spending $329 billion over 5 years. One Senate Democrat, Ed Zorinsky, voted with us, and every other Democrat opposed our package.

So it is not unusual for these matters to be fairly partisan.

But, it is still not too late to send a wake-up call to the President. If we can convince the six Senate Democrats who voted against the Senate bill to hold firm and persuade one more Senate Democrat to vote against this plan—and I understand the Senator from Oklahoma said he will vote against the plan—we will have won a major victory for the American people.

I underscore. I am not trying to embarrass the President. I am trying to help him develop a better plan and not get carried away with White House hype.

The statements from the White House boiler room sound like they were written by chicken little. The White House wants us to believe that the world will come to an end if the President's plan is defeated. It will not. If we are successful and defeat the Clinton plan, the sky will not fall.

Again, I go back to January when the Congressional Budget Office, the one the President wants us to rely on, said if we did not do anything the economy would create 9.4 million jobs over the next 4 years. The President said last week if we pass his package we will create only 8 million jobs. It would appear to the average observer we lose a 1.5 million jobs by considering the President's plan. We would like the President to scrap this plan.

If he does, President Clinton can count on help from lots of Republicans who stand ready to meet with him and the Democrat leadership in Congress. No preconditions.

Now, that is not an endorsement of a so-called summit,—I have been to some of them—and it is not an endorsement of tax increases. It is just a commitment by Republicans to try to help the President develop a real deficit reduction plan that works.

We think we can do better than this plan, and we hope to convince the President and his fellow Democrats that we can do it by cutting spending first, and we think that is the way to go.

There are also other ideas, we think, at least ought to be looked at: retroactive and prospective indexing of capital gains and repeal of the stepped-up basis at death. We believe those changes would release a lot of opportunities and create jobs, and we think that it would produce revenue, not lose revenue as the initial estimate is indicated from the Joint Tax Committee.

But, finally, I guess the bottom line is what should we do for the country? What should we do for the taxpayers in the country?

And many taxpayers in the Midwest in about 9 or 10 States, particularly those who live along the Mississippi River, Missouri River, and other rivers are going to have it pretty tough this year when they find out taxes have been retroactively increased to January 1, and if they live in my State of Kansas or any other of the 9 States, it is going to be a blow. They already had one blow. They do not need another blow like this.

It is not too late. It is not too late. I assume we are going to vote on this package Friday. The majority leader said yesterday he has the votes. But it is still not too late for my colleagues to take a good look at this package and reject it for the reasons we have outlined.

Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

Mr. WELLSTONE addressed the Chair.

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

Mr. WELLSTONE. Mr. President, is there a quorum call now?

The PRESIDING OFFICER. The Chair will advise there is not yet a quorum call.

Mr. DOLE addressed the Chair.

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

Mr. DOLE. Mr. President, I have been asked to request that the time I used be charged against the pending nomination.

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

The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I know that Senator FEINSTEIN is going to be down here to speak for Dr. Payzant, but she is not here yet.

So in a moment I think what I will do is suggest the absence of a quorum and the quorum call time be divided equally between both sides.

THE BUDGET

Mr. WELLSTONE. Mr. President, just for a moment I want to stray from the business at hand and maybe respond to the minority leader very briefly.

I feel that in working closely with the minority leader, with the Republicans and Democrats from the Midwestern States, certainly the distinguished Chair knows full well the real devastation and the pain of people who are really struggling in all of our States.

Sometime this week we will bring the disaster relief bill to the floor. I think we must improve on what has been done in the House. I think the first dollar sign is not going to be enough. I think there is going to be yet another disaster relief bill.

I think we have worked to develop a formula for agriculture, and I am committed to changing that, and many, many Democrats and Republicans are. In my own mind I would like to keep that issue separate from the reconciliation bill because I think that one of the things that is significant about this reconciliation bill is that for the first time—and I emphasize this, Mr. President—in a long, long, long, long time people in the country are now seeing some discussion about who pays additional revenue or taxes based upon some principle of fairness. This really is quite a departure. It is a 180 degree turn from what we saw during the decade of the eighties where we made the most regressive tax policy imaginable for people on the top, seeing the marginal rates drastically reduced, and the people in the middle, working people, really having it socked to them.

I emphasize what the President emphasizes over and over again, what the majority leader has emphasized when we are talking about individuals and households with incomes—I forget the exact figure—$115,000 or $140,000-plus as being the ones that will pay a little more in terms of what needs to be done by way of sacrifice either for deficit reduction or for what little investment there is here that is based upon a principle of fairness that the vast majority of people support in this country.

I think what people have really reacted to and really are angry about is when they feel they are ripped off and they feel it is the same people who have the wealth and the income and the power who get all the breaks. This is quite different. I think this establishes a principle of fairness, which we should have had in our tax policy all along and then we never would have built up all of this debt and we would have been able to invest in ourselves and our country.

I just want to express a slight disagreement.

EXECUTIVE SESSION

NOMINATION OF THOMAS W. PAYZANT, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

The Senate continued with the consideration of the nomination.

Mr. WELLSTONE. Mr. President, I do notice the Senator from California is here and I understand that the Senator would like 5 minutes, and I yield

5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized for 5 minutes.

Mrs. FEINSTEIN. Mr. President, I thank you very much, and I thank the Senator from Minnesota for the time.

Mr. President, if there is one job that is difficult to do today it is to be a superintendent of public instruction in the State of California. Our classrooms are overcrowded, our supplies are not adequate, and the needs of our young people are burgeoning.

I rise in support today of Dr. Thomas Payzant, President Clinton's nominee to become Assistant Secretary for Elementary and Secondary Education. I am very proud of this, because Dr. Payzant, I believe, is one of the finest superintendents of public instruction in all of the United States of America.

For the past 30 years, Dr. Payzant has served as an educator and as a superintendent of schools in virtually every region of the Nation. Since 1982, my State of California has benefited from his leadership, and he has lifted the San Diego Unified School District into America's elite class of innovative learning communities.

In December 1992, Dr. Payzant received the Harold McGraw, Jr., Education Prize, which is one of the most prestigious awards in American education.

He has just completed 10½ years as superintendent of San Diego city schools, making him one of only three recent big city superintendents that have survived more than 10 years—contract renegotiation, problems of dealing with the local school board, all the panoply of distress that cause urban superintendents of public instruction very often to go somewhere else.

Leading the San Diego Unified School District is no exception to the problems. It is the eighth largest urban school district in America, and like many of the districts in my State, it has been going through some dramatic demographic changes and an extended period of declining resources.

Despite these challenges, Dr. Payzant has guided the district around pitfalls that have frustrated improvement efforts in many other districts across the country. Let me give you an example: Through his efforts, San Diego has been recognized as one of the country's best urban school districts and a model for other districts to follow. I remember when I was running for Governor and I said to the Department of Education in my city, "Who is the best superintendent to go and see?" They said, "Go to San Diego. They are doing some of the most interesting educational work." His reforms have produced awards and results, and let me give you some of them.

Through the 1980's student achievement in reading, language arts, and math has improved steadily in San Diego. It is especially important to know that progress was made in the beginning to close the achievement gap which exists between African-Americans, Hispanics, Asians, and white students. During Dr. Payzant's tenure, a core curriculum was implemented requiring all students to take rigorous courses in basic academic subjects.

One of the things that I have found that has been the product of education of the last, oh, I would say 15, 20 years, is that we have strayed away from teaching youngsters the basic fundamentals. I submit to you, Mr. President, as I look out at these young faces of pages, I say if you do not have your basic fundamentals, if you cannot read and write, subtract, multiply, divide and add, recognize China on a map, or do the things that are necessary to get that fundamental education, I am convinced you cannot succeed in the workplace as it is today.

It is that much of an imperative.

Dr. Payzant has recognized this and he has provided the leadership that has stressed excellence in education. And that is something that we should never, never compromise.

As a former big city mayor, I am especially impressed with his ability to bring many different people together from different economic, social, and racial environments and form a consensus and move the district on, rather than let the district get tied up in moribund indecision between various groups.

Equally important, he is not only respected for his good administrative and leadership abilities, but for his personal integrity as well. Throughout his tenure in San Francisco, he has upheld his responsibility to educate our young people in the finest of traditions. Those traditions are excellence, learn your fundamentals—reading and writing and arithmetic.

The children of San Diego are better off for the superintendency of Dr. Thomas Payzant. For these reasons, I urge your support of Thomas Payzant.

I thank the Senator.

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

Mr. PELL. Mr. President, I want to express my strong and enthusiastic support of the nomination of Dr. Thomas Payzant to be the Assistant Secretary for the Office of Elementary and Secondary Education. This is a nomination that merits overwhelming approval.

Dr. Payzant is without question a man of great integrity. As one of our Nation's longest-serving and most accomplished urban school superintendents he has gained the respect of educators and administrators nationwide. His superb record has won him national recognition as one of only three recipients of the 1992 Harold W. McGraw, Jr. Prize in Education. The Executive Educator has named him one of the 100 best school administrators in North America.

As superintendent of the eighth largest and often-troubled urban school district in the Nation, he has repaired the school district's integration program, mended the relationship between the business community and the school district, and made progress in beginning to close the achievement gap which exists between African-Americans, Hispanics, Asians, and white students. He has expanded the access to an enrollment in advanced placement programs as well as implementing a rigorous core curriculum. Under Dr. Payzant's leadership, the San Diego City School District has become a national leader in its field testing of alternative assessment of student achievement, as well as faculty and student accountability. His list of accomplishments as a visionary and innovative leader is never-ending.

Most importantly, Dr. Payzant possesses a true commitment to our children, the hope and strength of our future. He has dedicated his life to helping to provide our students with a world-class education, to empowering our teaching force and to encouraging our parents to invest in their children's education. By entrusting the Office of Elementary and Secondary Education to Dr. Payzant we will undoubtedly be ensuring the best possible opportunity for our children to succeed and therefore, for our Nation to succeed.

As we stand poised for what could prove to be a historic reauthorization of the Elementary and Secondary Education Act, it is of immense importance that we have an individual of his recognized leadership and expertise as our Assistant Secretary for Elementary and Secondary Education.

I urge my colleagues to join me in confirming Dr. Thomas Payzant.

The PRESIDING OFFICER. Who yields time?

The Chair would advise that the Senator from Minnesota controls 2 minutes and 22 seconds, the minority side has 32 minutes remaining.

Mr. HELMS addressed the Chair.

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

Mr. HELMS. Mr. President, let me participate in what is perhaps a convoluted debate on various nominations constructed under unanimous consent wherein there are, by actual count, three Senators, including the distinguished occupant of the chair, in this Chamber.

So we can thank the Lord, maybe, for C-SPAN, for television in the Senate. And I must say that I voted against television in the Senate, because I feared it would create some prima donnas when the Senate already had enough of those. But, in any case, I now welcome the great work done by C-SPAN.

Mr. President, Senators may recall the campaign undertaken last year by the homosexual crowd and their allies to try to force the Boy Scouts of America to accept, as leaders and members, homosexuals along with boys who refuse to accept the Scout oath of allegiance to God and country.

Who would have guessed then that if Bill Clinton were elected President, some of the leaders of these arrogant dissidents would be nominated for high-level jobs in the U.S. Government?

Either this year, President Clinton nominated—and the Senate confirmed—Roberta Achtenberg to be Assistant Secretary of Housing for Civil Rights—the same Roberta Achtenberg who led the fight in San Francisco to expel the Boy Scouts from the San Francisco schools and to cut off their United Way funding.

Today, the Senate has before it, and will presumably vote on tomorrow, President Clinton's nominee for Assistant Secretary for Elementary and Secondary Education a man named Thomas Payzant, who, as superintendent of San Diego's public schools, led a similar and successful effort to kick the Scouts out of San Diego's schools.

Where Roberta Achtenberg asked the citizens of San Francisco if they really want [their] children learning the values of an organization such as [the Boy Scouts]—Mr. Payzant told the citizens of San Diego last December in reference to the Boy Scouts:

> We can't tolerate that kind of organization [the Boy Scouts] working with young people." [LA Times 12/16/92]
>
> Since the Boy Scouts have a national policy which forbids homosexuals from being in leadership positions, it would be a violation of district policy * * * to allow them to continue with sponsorship of programs during the regular school day. [San Diego Union-Tribune 12/16/92]

Then, in January, Mr. Payzant said:

> What I can't accept is the underlying assumption that if somebody is gay or lesbian, then there is a greater chance of irresponsibility in terms of improper behavior toward young people. [LA Times 1/11/93]

Mr. President, Mr. Payzant's problem is that he has abused the public trust to discriminate against the Boy Scouts because they do accept the assumption, as do their parents and the majority of Americans, that homosexuals pose a greater than average threat to young people. The statistics prove it.

In light of all the problems currently plaguing our young people—drug abuse, teen pregnancy, gang violence, to name a few—most Americans are proud of the Boy Scouts for standing up for traditional family values in the schools. As the Scouts' San Francisco regional director, Buford Hill, put it:

> It is unthinkable that in a time when worries about drugs, crime, education, youth, and gangs are at an all time high, some would direct their efforts at attacking an organization that has been a bulwark for values and the family.

The leaders in the homosexual movement find the Boy Scouts threatening, very threatening, to the perverse lifestyle of homosexuals. The Scouts are a bulwark for values and the family. The Scouts—and the values they represent—stand as a singularly significant pillar against the homosexuals' efforts to redefine the family to include homosexual couples and to force the rest of us to accept their lifestyle as normal.

Mr. President, some may wish to accept that lifestyle as normal, but not this Senator.

What makes Mr. Payzant's disdain for the Boy Scouts so important is that President Clinton proposes to put him in charge of national policy regarding high schools and elementary schools across the country.

U.S. News & World Report published an article last December, "Hidden Power in Washington: The Federal Jobs That Really Make a Difference," that had this to say about the position to which Mr. Payzant had been nominated:

> One of the hottest spots in Washington. * * * Whoever has this job will be the point person for most of the Clinton school reform agenda. The assistant secretary administers a $9 billion budget, nearly one-third of the department's total, covering everything from Chapter 1 funds to disadvantaged students to teacher training programs.

If confirmed, Mr. Payzant can use his office, and the power of Federal funding, to assert to parents all across the country, as he did to parents in San Diego, that having the Boy Scouts organization working with young people should not be tolerated.

To that I say, "horsefeathers."

Mr. President, Mr. Payzant has other educational ideas worthy of the attention of American parents. In 1982, superintendent of the Oklahoma City public schools, he attacked what he characterized as the ineffectiveness of religious schools. A rather curious statement, he said:

> You don't learn science, history, and government through an entirely religious background. It is not effective. [Daily Oklahoman 3/29/82]

He better look at the statistics on that and the products of church and religious schools. I have a daughter who is a principal of an Episcopal school. She happens to be a Baptist, but that shows how tolerant the Episcopalians are—maybe because she is a pretty good principal.

I can tell you that that school turns out crackerjack young people, and I will compare them with any schools anybody wants to talk about.

Mr. President, during Mr. Payzant's tenure in San Diego, he prohibited teachers from giving failing grades, and mandated that no elementary student be held back to repeat a grade. A principal in one of San Diego's schools summed it up best when he concluded "[t]his [policy] will lead to a position of no standards. It's nonsense."

Also during his time in San Diego, Payzant successfully urged the school board to permit girls to compete with boys in contact sports such as varsity football and wrestling.

From 1985 through 1991 he led an ultimately successful campaign, and despite overwhelming public opposition, established school health clinics that include reproductive, abortion, and contraceptive counseling, referrals, and services among the health programs they offer students from kindergarten through 12th grade.

Payzant also instituted a program in the schools called Project 10 that informs students—falsely—that 1 in 10 of them is homosexual; it also refers children with normal questions about puberty to homosexual groups for counseling where they are often told they are having adjustment problems because they are homosexual.

Superintendent Payzant also set up a system for school programs—like the gifted and talented program—to ensure that the diversity of the student body would be represented in every program. This was simply a requirement that quotas based on race—not merit—would determine which students were able to participate in school programs.

Bear in mind the job for which President Clinton has nominated this man, which nomination the United States Senate is going to confirm tomorrow with a few dissenting votes—the vote of JESSE HELMS being one of them.

Mr. President, the bottom line is that Mr. Payzant's chief interest is not in educating our children, but rather in imposing upon the Nation's schools his own leftwing extremist social agenda. The Los Angeles Times reported in 1986 that:

> Payzant's relish for tackling social issues has embroiled the [San Diego] school board in delicate questions of contraception, family values, privacy, equal rights, and international politics.

But Larry Lester, former San Diego School Board member, perhaps said it best:

> Tom is promoting a social agenda. He is clearly giving direction to the staff to support his ideas of what is appropriate public policy. It is not the business of the school system to be promoting social change. That's beyond its legitimate function. [LA Times 7/27/86]

Mr. President, the wisdom of putting someone in charge of America's Federal elementary and secondary education policy who believes the values of the Boy Scouts of America are unfit for children to learn is like putting the fox in charge of the hen house. For that we can thank the President of the United States.

I shall not vote to put this man in charge of educating America's children. Sooner or later, I suspect the American people will be asking Who did vote to confirm Mr. Payzant.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, let me just respond for a moment or two to the comments of the Senator from North Carolina. From listening to the Senator, you might think that Tom Payzant was involved in an effort to ban the Boy Scouts from San Diego, or you might think that in some sort of way he was anti-Scout. Let me first of all say that kind of attack is one of the things I think has bothered Mr. Payzant most. He was a Scout himself. His son is a Scout. And his daughter is a Girl Scout.

To just simply get the facts straight for the RECORD, for the Senate, what Tom Payzant did in San Diego was he stopped the Learning For Life Program.

This particular program was a program carried out in 15 out of 155 schools during school time. Sixty Scout groups continued to meet outside school time unaffected and they continued to have their program. So there was no banning of the Boy Scouts from San Diego.

In addition, I also need to make it crystal clear that the issue for Mr. Payzant was an issue of equal employment opportunities, that there should not be any discrimination in this regard. That was the why of the decision. The elected school board in San Diego unanimously—unanimously—supported his proposals.

I might also point out on the floor of the Senate right now, by way of response, that Big Brother, Big Sisters, and the Girl Scouts have the same kind of antidiscrimination policy that includes sexual orientation.

Mr. President, I do not have time, given the time I have left on the floor of the Senate, to respond to all that the Senator from North Carolina had to say. But one more time I want to make the point that Tom Payzant is one of the most qualified individuals ever to come before the Senate to be Assistant Secretary for Elementary and Secondary Education. There was bipartisan support in our committee, bipartisan support from both Representatives in San Diego, enumerable accomplishments in San Diego and, for that matter, in other schools in other States, the recipient of the prestigious McGraw Award for Excellence in Education.

I think these attacks are peripheral and marginal and get away from the real issue.

Mr. President, I ask unanimous consent to print additional information in the RECORD.

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

U.S. DEPARTMENT OF EDUCATION,
Washington, DC.

Hon. EDWARD KENNEDY,
Hon. PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND WELLSTONE: I would like to respond to some comments made recently concerning my nomination.

The suggestion that San Diego City Schools are unique in permitting girls to participate in traditionally all-male sports is false. San Diego is not at all unique in this regard. In fact Title IX requires school districts nationwide to provide equal access for boys and girls to participate in sports. Students cannot be barred from participation based on gender if they wish to participate in those sports. As Superintendent of San Diego City Schools I took seriously the responsibility of following the law.

San Diego City Schools did not eliminate the "F" grade from its grading system. Several years ago the San Diego Drop Out Prevention and Recovery Roundtable, a group of educators and community people appointed by the school district, recommended that the "F" grade be replaced by "no credit" in the grading system used in secondary schools. As Superintendent I backed the group's recommendation, but the Board of Education decided to retain the "F" grade in the secondary schools' grading system and allow students to replace the "F" grade once they retake a course and pass it.

Project 10, a program designed to counsel gay and lesbian students, currently operates in the Los Angeles City Schools. It does not now, nor has it ever operated in the San Diego City Schools. As Superintendent, I did not recommend the adoption of Project 10 in San Diego. Several years ago, SDSD began to hear concerns raised about the district's lack of attention to the issues facing gay and lesbian students. The district's response was to arrange a one day staff development program for some district staff. A resource person who works with Project 10 was invited to San Diego for the counselor's workshop on that day. Again, SDSD did not establish a Project 10 program.

With regard to the Boy Scouts, the elected Board of Education adopted a nondiscrimination policy which included sexual orientation. This policy appeared to be at odds with Boy Scout sponsored programs which took place during the regular school day when students were in compulsory attendance. A Boy Scout myself, and long supportive of the programs the Boy Scouts sponsor, I was faced with a very hard decision. After long and thoughtful discussion, I recommended that the school District continue the widespread use of school facilities for Scouting programs after normal school hours, but disallow such programs during the regular day when students are in compulsory attendance. The board unanimously agreed.

The policy affected in-school Boy Scout programs in only four of one hundred and ten elementary schools. The secondary school Career Awareness Program, sponsored by the Scouts was eliminated in eleven secondary schools. After school programs continue in more than sixty elementary schools.

I was quoted in a December 6, 1992 Los Angeles Times article as saying, "we can't tolerate that kind of organization working with young people." This quotation does not reflect the full context in which it was made. I was making the point that it would not be proper to have any outside organization that violates the San Diego City Schools non-discrimination policy work with children during the regular school day when students are in compulsory attendance.

The same article also quoted me speaking about my experiences as a scout in the early 1950s when I ". . . was taught the value of tolerance and inclusiveness and to challenge those who engage in stereotypes and discrimination." "It's ironic," I also was quoted as saying, "that I'm using what I learned as a scout to challenge that organization now . . . the time to discriminate is past if we really believe in those values."

Finally, while school-based health clinics exist in some San Diego city schools, they are prohibited from distributing any kind of contraception. The suggestion that school-based health clinics in San Diego offer advice in the area of abortion is false.

Thank you for permitting me to set the record straight on these issues.

Sincerely,

THOMAS W. PAYZANT.

[From the San Diego Union-Tribune, Mar. 11, 1993]

THE PAYZANT RECORD: STUDENTS BENEFITED FROM HIS REFORMS

The San Diego Unified School District faces an exceptional challenge in finding a replacement for Superintendent Tom Payzant, who is joining the Clinton administration as assistant secretary of education for elementary and secondary education.

During his 10-year tenure in San Diego, Payzant has guided the country's eighth-largest school district around pitfalls that have confounded superintendents in other urban districts.

In the process, he built a national reputation as a reformer who could produce practical results. The 125,000 students here have been better off for his decision to stick with San Diego far longer than is typical for superintendents of major school districts.

San Diego Unified is something of an anomaly among urban districts. It is comparatively free of the violence that plagues New York, Los Angeles, Chicago, Detroit and Philadelphia. The bitter racial and ethnic tensions that have created animosity in these school districts are not common here. To the contrary, integration of the city schools has proceeded during the last 10 years without close court supervision or a corresponding decline in student achievement.

Payzant deserves much of the credit for that.

He was determined from the outset to get the community more involved in schools. Central to his strategy was site-based management, under which administrators, teachers and parents share in the desicion-making at individual schools. This spirit of cooperation has paid dividends both inside and outside the classroom.

San Diego students routinely score above the state and national averages on standardized tests. This is particularly impressive when you consider the diverse nature of the student population.

In fact, San Diego Unified has maintained its student achievement level while undergoing dramatic demographic changes that have lowered test scores in other urban school systems.

Payzant has earned praise for expanding the district's magnet program to promote voluntary racial integration. He pushed for a core curriculum in high schools to ensure that all students have a solid grounding in the basics. He raised the district's graduation requirements. He persuaded more than

400 local businesses and service organizations to give kids a helping hand through tutoring and mentoring programs. And his New Beginnings program at Hamilton Elementary has enabled parents and students to avail themselves of counseling, immunization, dental care and other county social services.

Although this newspaper has differed with Payzant on several policy issues, we've always known him to be a principled proponent of public education. The person chosen to succeed him should be no less committed to the reforms that have helped make San Diego Unified one of the nation's better urban school districts.

[Editorial by Vice President and General Manager Ed Quinn, KGTV, June 21 and 26, 1993]

CONFIRM DR. PAYZANT

A Boy Scout basher? Tom Payzant? We don't think so.

But some folks are calling him that, saying that when Payzant sat here in the board room as San Diego's school superintendent, he tossed the scouts out and promoted gay values.

These accusations could spell trouble for Payzant's nomination to be an assistant secretary of education. A Senate committee may hold hearings on the nomination because of the protests from a few folks filled with misinformation and inaccuracies.

The fact is that Payzant followed district policy when he said scouts couldn't do activities during class periods because they ban homosexuals from leadership positions. But he also made sure scouts could meet at schools after classes—that's fair.

We think Tom Payzant ought to be confirmed by the Senate, and that Senate committees have a lot better things to do with their time than engage in a witch hunt. We hope Payzant's confirmation comes soon.

That's our opinion. What's yours?

[From the San Diego Union, Feb. 10, 1990]

CHALLENGES

During his seven-year tenure as superintendent of the San Diego Unified School District, Tom Payzant has often generated progress and controversy in equal measure. This newspaper has never hesitated to criticize his policies whenever they appeared not to serve the best interests of students. Nevertheless we have always respected Mr. Payzant as a consummate professional. More importantly, the record shows that he has brought about significant improvements in the city schools.

We endorse, therefore, the school board's unanimous desire to persuade Superintendent Payzant to remain in San Diego rather than accept a potential offer to head the school system in Dade County, Fla.

Mr. Payzant's primary interest in the Miami job appears to stem from the challenge of guiding the nation's fourth-largest school district. But the challenge of making the nation's eighth-largest district the best it can be is no less compelling.

Despite Mr. Payzant's many accomplishments in San Diego, much remains to be done. For instance, overall student test scores have risen steadily during the last seven years. Yet the scores of black and Hispanic students have been slow to improve. To address this problem, he has begun to implement a common core curriculum throughout the district, ensuring that all students receive a solid grounding in the basics. But it will be several years before the curriculum is in place at all schools.

The district's successful magnet program, promoted strongly by Mr. Payzant, has helped to integrate the school system and enabled thousands of students from widely different backgrounds to receive specialized instruction. On the other hand, Gompers Secondary School, which has long been the pride of the magnets, has developed serious problems that need to be resolved.

Superintendent Payzant deserves credit for the district's ambitious restructuring program to promote school-based decision-making in place of micromanagement from the Education Center. This concept, which empowers principals and teachers to make major decisions that directly affect their students, has been adopted by 40 of the district's 152 schools. This good idea has improved staff morale and should bring about greater accountability. The continuation of this program could well depend on whether Mr. Payzant remains on the job.

Although Mr. Payzant's drug and dropout prevention programs have pointed the district in the right direction, a continuity of committed, aggressive leadership is required to make headway in solving these problems, which inflict thousands of San Diego students each year.

Since assuming his duties seven years ago, Superintendent Payzant has thrived on the challenge of raising the educational standards in the city schools. Having guided the district to new heights, he now has the opportunity to take it even higher.

[From the Los Angeles Times, Aug. 3, 1986]

HIGH MARKS FOR PAYZANT

Ever since the civil rights movement began in the 1950s, local school boards have often been given the unwelcome task of refereeing between factions pushing for and resisting social change.

The trustees of the San Diego city schools have faced a steady series of difficult social problems in recent years, perhaps not entirely coincidentally during the tenure of Supt. Thomas W. Payzant.

Looking at the social issues Payzant has brought to the board—as Times staff writer Leonard Bernstein recently did for the current year—one finds topics that have only a symbolic relationship with education, such as condemning South African apartheid, and those that go to the heart of educational opportunity, such as eliminating the unfair practice of "tracking" students.

Also represented are controversies over attempts to address the societal problems students bring with them to class, such as Payzant's decision to allow undercover narcotics officers to infiltrate campuses and his unsuccessful proposal to create a school health clinic.

Critics of Payzant have accused him of having a liberal social agenda that he seeks to impose on the school board. But he argues that most of the issues have come to the surface in a natural way, and he has simply brought them to the board's attention. He plans to continue doing that, without knowing what the next prickly topic to confront them will be.

It is unfair to paint a one-dimensional portrait of Payzant as a superintendent more interested in social change than education. He got high marks from the school board in his recent job performance review.

Although he was admonished to improve communications with principals and teachers, he was praised for improving student discipline and reducing absenteeism, implementing several new education programs and conducting a study of the district's future enrollment.

It is inevitable that social issues will continue to burden the schools as long as society's conflicts are propelled by people wanting more out of life for their children—and as long as the public school represents the fulcrum of American aspiration.

Although we have not always agreed with the ultimate decisions, we think the superintendent and the current school board generally have dealt with these issues in a responsible way and to their credit.

Tom Payzant has showed that he's both sensitive and realistic about these problems, and in his four years here he's handled them well.

LETTERS RECEIVED CONCERNING THE NOMINATION OF DR. THOMAS W. PAYZANT AS THE ASSISTANT SECRETARY OF EDUCATION FOR ELEMENTARY AND SECONDARY SCHOOLS

LETTERS OF SUPPORT

Education groups

1. Keith Geiger, President, National Education Association
2. Gordon M. Ambach, Council of Chief State Officers
3. Richard D. Miller, Executive Director, American Association of School Administrators
4. Shirley N. Weber, President of Board of Education, San Diego City Schools
5. Samuel G. Sava, Executive Director, National Association of Elementary School Principals
6. William M. Soult, President, National School Boards Association
7. Albert Shanker, President, American Federation of Teachers
8. Dr. Timothy J. Dyer, Executive Director, The National Association of Secondary School Principals
9. Dena G. Stoner, Executive Director, Council for Educational Development and Research
10. Stanley N. Katz, President. American Council of Learned Societies
11. Pat S. Henry, President, The National PTA
12. William Crane, President, San Diego Teachers Association
13. Donald M. Stewart, President, The College Board
14. Ruth Mitchell, Associate Director, Council for Basic Education
15. A. Graham Down, President, Council for Basic Education
16. Dale Carson. Assistant Superintendent for the California Learning Assessment System, California Department of Education
17. Davis Campbell, Executive Director, California School Boards Association
18. Carol M. Barker, Secretary and Vice President, Associational Affairs, The College Board
19. Peter D. Relic, President, National Association of Independent Schools
20. Gregory R. Anrig, President, Educational Testing Service
21. Harry C. Weinberg, San Diego Superintendent of Schools
22. William E. Ritter, Jr., President, San Diego City Schools Peace Officers Association
23. Karen Leveridge, Director, Education Department, Oklahoma State Chamber of Commerce and Industry
24. Laura F. Murray, Principal, Homewood-Flossmoor Community High School District 233
25. Dr. Peter B. Holland, Superintendent of Schools, Belmont, Mass.
26. Sarah S. Heckcher, College Board Trustee, Springside School
27. Patt Sloan, President, San Diego Unified PTA Council

28. William D. Dawson, Acting State Superintendent of Public Instruction, Sacramento, Calif.
29. Arnold L. Mitchem, Ph.D., Executive Director, National Council of Educational Opportunity Associations
30. Michael Casserly, Executive Director, The Council of the Great City Schools
31. Sartee C. Ruffin, Jr., Executive Director, National Alliance of Black School Educators, Washington, D.C.
32. Homer D. Peabody, Jr., M.D., Director, Rees-Stealy Research Foundation
33. Vahac Mardirosian, Executive Director, Parent Institute for Quality Education
34. James J. O'Connell, Executive Director, Council of School Superintendents

Business/Chamber of Commerce

1. Kay Davis, Executive Director, Greater San Diego Chamber of Commerce
2. William H. Kolberg, President, National Alliance of Business
3. Philip C. Blair, President, MANPOWER Temporary Services, Washington, D.C.
4. Mel Katz, Executive Director, MANPOWER Temporary Services, Washington, D.C.
5. Gilbert Partida, President Greater San Diego Chamber of Commerce
6. Sophie Sa, Executive Director, Panasonic Foundation, New York, NY
7. Murray L. Galinson, President, San Diego National Bank
8. David E. Janssen, Chief Administrative Officer, County of San Diego
9. Harold W. McGraw, Chairman Emeritus, McGraw-Hill, Inc.
10. Frances R. McCrackin, Assistant Vice President, San Diego Trust and Savings Bank
11. Jack McGory, City Manager, The City of San Diego

Universities

1. Jerome T. Murphy, Professor and Dean, Harvard University
2. Dennis Palmer Wolf, Senior Research Associate, Harvard University
3. Evonne Seron Schulze, Board of Trustees, San Diego Community College District
4. Fred M. Newmann, Director of Center on Organization and Restructuring of Schools, University of Wisconsin
5. Author E. Hughes, President, University of San Diego
6. Richard C. Atkinson, Chancellor, University of California, San Diego
7. A.P. Gallego, Chancellor, The San Diego Community College District
8. Elizabeth K. Stage, California Science Project, University of California
9. Theodorew R. Sizer, Chairman, Coalition of Essential Schools, Brown University
10. Stanley Chodorow, Associate Vice Chancellor—Academic Planning—Dean of Arts and Humanities, University of California, San Diego
11. Thomas B. Day, President, San Diego State University, California
12. Audrey Cohen, President, Audrey Cohen College
13. Lauren B. Resnick, Direct or, LRDC Co-Director, New Standards
14. Paul Saltman, Professor, University of California, San Diego

Civic groups

1. The Rev. George W. Smith, Christ United Presbyterian Church of San Diego
2. Richard A. Collato, President, YMCA of San Diego County
3. R.E. Dingeman, Scripps Ranch Civic Association

Government

1. David E. Janssen, Chief Administrative Officer, County of San Diego
2. Jack McGroy, City Manager, The City of San Diego
3. Jim Roache, Sheriff, County of San Diego
4. Lucy Killea, California State Senator
5. Mike Gotch, Assembly California Legislature
6. Freddye Williams, Oklahoma House of Representatives
7. Tom Connolly, Assembly California Legislature
8. George H. Russell, Director, Lane County Human Resources and Management Services Department
9. Valerie Stallings, Councilmember, The City of San Diego
10. Deirdre Alpert, Assembly California Legislature

Personal letters

1. Richard A. Loescher, M.D., Eugene, Oregon
2. Thomas L.W. Roe, Eugene, Oregon
3. Steven J. Davis, M.D., La Mesa, California
4. Marion C. Krider, Silver Spring, Maryland
5. Leon W. Parma, La Jolla, California
6. Richard A. Burt, San Diego, California
7. Dorothy L.W. Smith, San Diego, California
8. Kate H. Klumpp, San Diego, California
9. Kenneth R. Rearwin, California

The PRESIDING OFFICER. Who yields time?

The Chair notes that the minority controls 15 minutes 26 seconds yet remaining on this nomination.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, parliamentary inquiry. Since the manager of the bill for the nomination is here—and I think I can speak for the Republicans—is it proper to ask for the yeas and nays now, even though there is not a sufficient second by arithmetic?

I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I will suggest that Senator COATS is on his way to speak on this nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COATS. Mr. President, I know we are running close to time on the Dr. Payzant nomination.

Let me ask, how much time is remaining?

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. COATS. I wonder if in that 30 seconds I could ask unanimous consent to speak for 5 minutes on the nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

The Senator from Indiana has the floor.

Mr. COATS. I thank the Chair.

Mr. President, today the Senate is considering several nominations, two of which have come through the committee on which I serve, the Labor and Human Resources Committee.

First, let me just briefly talk about the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities. As you know, there has been some controversy relative to his nomination. I have carefully looked at the material, read the evidence. I have personally met with Dr. Hackney for an extended discussion in my office. I questioned him at length in committee.

On that basis, while I do have reservations about his past actions and some of his judgment, I have found these to be reservations and questions, not disqualifications. And so I intend to support the nomination of Dr. Hackney when it comes to this floor. I know that will be the next item. I will have more to say, or at least submit a more detailed statement on that.

Mr. President, as to the nomination of Dr. Thomas Payzant to be Assistant Secretary of Elementary and Secondary Education, I opposed his nomination in committee and intend to vote against him in this chamber.

I am doing so because I have not been able to satisfy in my own mind Dr. Payzant's position relative to a number of issues. His policies, like them or not, are more of the same which has lead our public school system to the level of mediocrity I think most who have looked at the situation understand. Dr. Payzant is simply going to continue, in my opinion, the same types of policies, maybe with a little more zest and a little more enthusiasm but I do not believe with any more successful results than what has been tried in the past decade or two.

But my main concern, the thing that disturbs me the most has been Dr. Payzant's personal involvement in removing the Boy Scouts from the San Diego public school system.

At the recommendation of his own task force on gay, lesbian and bisexual issues Dr. Payzant changed the schools' discrimination code to include sexual orientation as a protected class, and then used it to drive the Boy Scouts out of the school. Dr. Payzant was quoted in the Los Angeles Times in December of 1992 as saying of the Boy Scouts; "We cannot tolerate that kind of organization working with young people."

During the hearing I asked Dr. Payzant directly. I said, Dr. Payzant, did you really mean that statement? Is that statement an accurate quotation from you by the Los Angeles Times? Did you really mean that we cannot tolerate the Boy Scouts working with young people? I did not talk about

working with young people during the school day or after the school day or what type of program they were providing in the school. I just simply said is that an accurate statement and do you stand by it? And he absolutely reaffirmed that statement and said I absolutely do stand by it.

He resigned from the board of directors of the San Diego Boy Scout chapter as a consequence of that.

It is important to note I think that Dr. Payzant at that hearing affirmed that the program that the Boy Scouts were bringing to the San Diego public schools in no way discriminated against homosexuals or promoted any type of antigay agenda. It had nothing to do with that. It was a program that had to do with an entirely different subject, and Dr. Payzant admitted that what the Boy Scouts were teaching and assisting with in the schools absolutely had nothing to do with the policy that he had initiated. But he said we cannot tolerate that type of organization working with young people, which I find not only disturbing, but very, very curious.

On two separate occasions the San Diego school district legal office stated that the Learning for Life Program taught by the Boy Scouts was not discriminatory. I quote from their legal opinion.

> Neither the Learning for Life Program nor the in-school scouting program contains any discussions relating to gay rights issues. Consequently, we see no support for the contention that sexual orientation discrimination is occurring within these programs.

That is Dr. Payzant's legal counsel. This is not our legal counsel. This is not legal counsel for the Boy Scouts. This is Dr. Payzant's legal counsel, the people he turned to to say, give me your legal opinion as to whether the Learning for Life Program presented by the Boy Scouts in any way discriminates or violates this ordnance that I put through.

So Dr. Payzant took these actions against the Boy Scouts despite his own legal counsel's opinion, despite the fact that the parents in his school district, by apparently more than a 3-to-1 ratio, according to the Los Angeles Times article, wanted the Scouts to stay involved in the program. The local Parent Teacher Associations formally asked that the Scouts not be ousted, with Dr. Payzant's move very, very directly to have them removed.

Mr. President, it seems to me that the Clinton administration has a real distaste for the Boy Scouts of America because they keep sending us nominations of individuals who appear to have taken it on almost as a crusade to drive the Boy Scouts from their respective jurisdictions.

First, we saw Assistant Secretary for Housing at HUD, Roberta Achtenberg, come before this body. She was, as has been pointed out on this Senate floor, very actively involved in removing Boy Scouts from the San Francisco area, funding of their program and so forth.

Second, we have seen the Clinton Interior Department support a decision to ban the Boy Scouts from volunteering in national forests in the West to help clear the trails as the Scouts have done for many, many years—typical Scouting activity. But because the organization does not believe that when you are working with young boys it is a wise policy to have acknowledged homosexuals as Scout leaders camping out, working with the boys because they feel that presents some problems, they now, with the support of the Clinton administration, are no longer able to help clear trails or clear brush or do the things that Scouts engage in in our national forests.

Now we see a nominee for Assistant Secretary for Education holding a very important position, Dr. Thomas Payzant, who says we cannot tolerate that kind of organization working with young people.

I do not understand what the administration has against the Boy Scouts. I do not understand why they continue to send nominees that have been so actively involved in removing Scouts from a number of jurisdictions and organizations in this country. That disturbs me. I could not get what I thought were reassuring or reaffirming answers from Dr. Payzant when he came before our committee.

Mr. President, the most disturbing thing of all is what appears to be now the spin coming out of the White House. Apparently somebody down there has decided that they are in a little bit of political heat, sending up these nominees and having all of this anti-Scout focus pointed toward the administration. So they have now come up with something to present the opposite image. It is ironic that today, August 2, the very day we are discussing the nomination of the man who says we cannot tolerate that kind of organization working with our young people, this very day, the President and Mrs. Clinton are hosting members of the Boy Scouts at the White House. They have put out a memorandum to all Members of Congress:

> Today is "Scouts in Uniform Day" at the White House. Monday, August 2, 1993, from 8 until 12 noon, any Scout in uniform is invited to the White House. No tickets are required. Admission is on a first-come first-serve basis.

The memorandum states President and Mrs. Clinton are pleased to invite all Members of the Boy Scouts to a special Monday, self-guided tour of the White House. They tell them where to park and so forth.

> If the groups are interested in giving the First Family souvenirs or commemorative patches, they would be most pleased to accept them. The patches will become part of a permanent collection. The First Family is excited about having these young people visit the White House and we hope that your constituents will take advantage of this opportunity.

Some people would call that spin doctor. The White House has done a much better job at it since it hired Mr. Gergen. I have no idea whether this is Mr. Gergen's idea or not. All I know is that the public relations office at the White House has done a lot better job of trying to cover their tracks when they find themselves in political trouble. And as such, someone has decided that—Mr. President, I wonder if I could have 1 more minute; I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving right to object, I will not object. I just wanted to apologize to the Senator. The reason I am a little reluctant to go any further is I have been here for several hours ready to debate. I have to leave.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Indiana is recognized for 1 additional minute.

Mr. COATS. I thank my friend from Minnesota. I thank the Chair.

I find it more than ironic, I really find it hypocritical, that on the day the White House would bring up the nomination, and the Senate would bring up the nomination of an individual who said we cannot tolerate that kind of organization working with young people, that the President and First Lady have issued an invitation to those same young people to cordially invite them to the White House, and say that they are excited about having them visit them in the White House.

The White House cannot have it both ways. Either this is an organization that they are proud to host in the White House and to have present souvenirs and commemoratives to the President and First Lady, or they are supportive of individuals who occupy high positions in this administration who are bound and determined to undermine and destroy this fine organization.

They ought to decide which one it is. Because in doing the public relations spin at the White House on the same day they are bringing up an individual who says we cannot tolerate these kinds of young people, this kind of organization working with young people, to me is an irreconcilable difference.

With that, I thank the Chair, and I yield back whatever time I have remaining.

Mr. GORTON. Mr. President:

> The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.

President Clinton has sent this Senate several nominees whose actions and stated ideologies are in direct conflict

with this classic principle of tolerance articulated by John Stuart Mill. The Constitution empowers a President to choose whomever he wants to serve in his administration, but the Senate has the responsibility to give its advice and consent to the President's choices. With respect to nominees who serve at the President's pleasure, I have always been inclined to grant the President a wide latitude in his choices. Consequently, I have consented to nearly all of the President's nominees, including many with whom I disagree philosophically. The Secretary of the Department of Labor, Robert Reich, and the Secretary of the Department of Health and Human Services, Donna Shalala are two individuals whose nominations I consented despite profoundly different political views.

What is unacceptable to me and to many thoughtful Americans are nominees who are intolerant of conflicting views, who have used or are likely to use political power to punish their opponents or to pursue policies destructive of the social fabric which binds us together as Americans, or who are indifferent to fundamental constitutional principles. President Clinton, regrettably, has sent the Senate at least four such nominees including Roberta Achtenberg, Lani Guinier, Sheldon Hackney, and now, Thomas Payzant.

The central question for Members of the U.S. Senate debating the nomination of Thomas Payzant to be Assistant Secretary for the Office of Elementary and Secondary Education is his acceptance or rejection of the classic principle of tolerance articulated by John Stuart Mill. The blatant intolerance and hostility the nominee has shown in public office and the misuse of his political power to inhibit the programs and the exercise of the rights of those with whom he disagrees.

There is a crucial distinction between legitimate advocacy of an agenda and a hostile and irresponsible intolerance of those who do not share that agenda, between spirited advocacy and punitive harassment.

Dr. Payzant crossed this line during his well-known campaign against the Boy Scouts of America while he served as superintendent of the San Diego City School District.

In March 1992, Payzant formed a Committee on Gay, Lesbian, and Bisexual Issues in Education. The committee produced a report in June 1992, with a variety of recommendations including a proposal to add sexual orientation to the school district's antidiscrimination policy.

In November 1992, Payzant brought the findings and recommendations of the committee to the school board which unanimously adopted the recommendation to add sexual orientation to the antidiscrimination policy.

In December 1992, Payzant recommended to the school board that based on the new district antidiscrimination policy and the Boy Scouts membership policy prohibiting homosexual troop leaders, the Boy Scouts be prohibited from conducting programs during regular school hours. After-school programs were permitted to continue. During this debate, Payzant stated that:

> Growing up in the last 1940's and early 50's as a Boy Scout, I was taught the values of tolerance and inclusiveness and I find it rather ironic some 40 to 50 years later, that I am using what I learned as a Scout to challenge an organization that in the 1990's apparently doesn't understand that you can't have values in conflict and mixed signals to send * * * we can't tolerate an organization with that kind of policy working with young people.

Mr. President, the Boy Scouts of America have been an integral part of the American experience for more than 80 years, developing character, resourcefulness, and patriotism in more than 90 million young men. It is a voluntary, private association that has made membership and participation choices well within the American tradition while not relying on public funds. Just recently, a Federal court of appeals held that the Boy Scouts can retain their "duty to God" pledge and deny membership to those who refuse to take the oath. The court said civil rights laws do no apply because Boy Scouts is a private organization, not a "place of public accommodation." The Scouting movement deserves respect and support and is entitled at least to tolerance from those who disagree with it.

Like Roberta Achtenberg, Bill Clinton's choice for Assistant Secretary at the Department of Housing and Urban Development, Payzant seems to tolerate only those with whom he agrees. He brands as intolerant those who simply disagree with his agenda. Most troubling, he has used the power of his public office to pursue his agenda by forcing the Boy Scouts out of school during school hours.

That misuse of power, that narrow intolerance, disqualifies him from a position of far greater power to implement and enforce Federal education policy designed to create a more educated, open and tolerant society.

Regrettably, Dr. Payzant, Ms. Achtenberg, Dr. Hackney, and Ms. Guinier have failed what I call the Barnette test of tolerance. In 1943 the Supreme Court held, in West Virginia Board of Education versus Barnette, that it was unconstitutional to compel public school students to salute the flag. In that famous opinion rejecting the use of political power to impose a regime of religious intolerance, Justice Robert H. Jackson wrote:

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

I cannot vote to confirm Dr. Payzant, or nominees to other offices, who do not meet that standard of fairness and tolerance of diversity, a standard at the heart of our American tradition.

The PRESIDING OFFICER. All time has therefore expired on this nomination.

The yeas and nays having been ordered. The vote will occur Tuesday, August 3, in accordance with the order of July 30.

The Chair recognizes the Senator from Pennsylvania, Mr. WOFFORD.

NOMINATION OF SHELDON HACKNEY OF PENNSYLVANIA TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. WOFFORD. Mr. President, I rise now to ask unanimous consent that the Senate proceed to the nomination of Sheldon Hackney under a time agreement previously entered into. This request has been cleared by the minority.

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

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Sheldon Hackney of Pennsylvania to be Chairperson of the National Endowment for the Humanities.

The PRESIDING OFFICER. Under the previous order, the debate on this nomination is limited to 5 hours, equally divided, and controlled between the Senator from Massachusetts, Mr. KENNEDY, or his designee and the Senator from Kansas, Mrs. KASSEBAUM, or her designee.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WOFFORD. Mr. President, I rise in strong support of the nomination of Sheldon Hackney to head the National Endowment for the Humanities. And I appreciate the Senator from Indiana noting his support, as was the case with all members of the Labor and Human Resources Committee.

Sheldon Hackney is a son of the South, but he is also an adopted son of Pennsylvania. We have seen him in action as the president of the University of Pennsylvania for the past 12 years as he has ably steered the university and helped build its reputation for excellence and scholarship. He has earned our respect, friendship, and support.

Sheldon Hackney is a distinguished scholar, writer, and teacher. As a historian of the South, he has received the Southern Historical Association's prize for best work in southern history and the Albert Bevridge Prize in American history. He has served with great distinction as the provost of Princeton University, the president of Tulane

University, and most recently, as president of the University of Pennsylvania.

In his 12 years at Penn, Dr. Hackney has forged much closer ties to the community, rebuilt and strengthened the undergraduate curriculum, and enhanced the university's role as one of the leading research institutions in the world.

The chairman of Penn's board of trustees, Alvin Shoemaker, recently said:

Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives.

I ask unanimous consent that the citation for the honorary degree given this June to Sheldon Hackney be printed at this point in the RECORD, along with Mr. Shoemaker's letter.

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

[University of Pennsylvania, Philadelphia]

FRANCIS SHELDON HACKNEY

A prize-winning historian in the Progressive tradition, you honed your analytical skills—while learning to learn from history—in scholarly studies of the society and the defining myths of the South. In a succession of leadership roles at elite institutions, you invariably reached out to less privileged communities of learners, acting on a deeply-held belief that today's educator has responsibility to all of our children.

Arriving at the University of Pennsylvania from the presidency of Tulane, you set your imprimatur on the community—by setting up house in West Philadelphia, the first chief executive to live at the heart of campus since colonial times. Your cordial welcome to all groups is fabled—as is your hospitality to all points of view, your conviction that disagreement and dissent are the hallmark of a healthy university. A listener and a voice of moderation yourself, as Penn's 21st head, now practically the longest-lived president in the Ivy League, you "Planned Penn's Future"—and did not meet a student who wasn't having a terrific time. Overseeing a preeminent strategic planning process, a renewal of undergraduate education along with an expanding research base, and the work of conservation and development at the nation's most beautiful urban campus, as the University's endowment quadrupled you helped cultivate the world's most generous alumni and friends in an ambitious, highly successful Campaign. For over a decade, you dealt with the ambiguities and contentiousness of a huge, complex, diverse, multi-national university—and still found time to teach that other notable era, "The Decade of the Sixties."

As life, yet again, happens while you were planning something else, we will miss your exemplary civility, inclusivity and humor—if not always your Commencement movie reviews. Congratulating you on an outstanding watch at Penn, Sheldon Hackney—officer, gentleman, and both teacher and maker of history—with glee, and some sadness, we now turn the tables to confer on you a well-earned token of your university's appreciation, the honorary degree, Doctor of Laws.

Mr. WOFFORD. In a previous life, I spent 12 years as a college president. I know something of the challenges of heading a university, especially in a time of sharp debate in a diverse and changing society. We are all aware that there has been some controversy at the University of Pennsylvania this spring. But I know from experience that hardly a season goes by without controversy on a college campus. Most college presidents are charged with being too liberal by some and too conservative by others, too interventionist by some, and too removed by others.

That is the life of a college president. So if absence of controversy is the standard for confirmation, then no college president need apply.

We have all heard—and undoubtedly will hear more—about two widely publicized cases on the Penn campus. In one case, Dr. Hackney was criticized for not intervening in the university's judicial process that clearly had gone awry. When I was a college president, I witnessed how these judicial procedures and codes were growing and longed for the days when a college president or dean could rely on the more traditional, direct techniques of calling students into their offices to immediately resolve problems.

According to the chairman of Penn's board of trustees:

One can debate whether Penn's student judicial procedures are effective or appropriate. But having established such a process, the university's president could not intervene in the middle of it.

And before leaving Penn, Sheldon Hackney initiated a comprehensive review of established guidelines and called for an end to the policy that inappropriately relied on judicial processes to resolve this type of incident on campus.

Questions have also been raised about an incident involving a group of students who confiscated an entire edition of the school's newspaper, the Daily Pennsylvanian. During his confirmation hearing before the Labor and Human Resources Committee, members of the committee, led by Senator ORRIN HATCH, asked thoughtful, constructive, probing questions. Sheldon Hackney responded in a forceful, clear, and direct way. The way he answered our questions and the way he took on the controversies at Penn convinced even the most skeptical members of the committee. Two of the members from the other side of the aisle indeed told me after the hearing that it was one of those rare occasions when they came in with their minds fixed, they thought, against him, and after the long, careful probing they had a chance to do, they changed their minds.

That is why every member of the Labor Committee, Democratic and Republican, liberal, moderate, and conservative, voted to confirm Sheldon Hackney. Every member. We might not each agree with every statement that was made or action that was taken at Penn, but we were all convinced that at no time did he compromise his commitment to free speech or academic freedom. At the time of the incident, as in response to a question from Senator HATCH, Dr. Hackney made clear that free expression is the paramount value of the university.

I was proud that the Senate Labor Committee did not use this Presidential nomination to—now I am paraphrasing Senator DANFORTH's remarks, which I will return to later, "* * * make a political point or further a philosophical position to establish our own moral superiority or to embarrass a President. The American people are tired of that politically lucrative form of divisiveness." But others feel it is perfectly fair to condense a career of over 30 years into a couple of well-publicized incidents. Nominees are used as pawns by extremist groups to advance their own political agendas.

Citizens United, a group that brought us the infamous Willie Horton ads of 1988, is now leading the charge against Sheldon Hackney. Not known for their support of or interest in the humanities, as far as I know, Citizens United is now portraying itself as the protector of first amendment rights. Their real goal was made clear by the group's political director, David Bossie, who said: "Free speech is not our main focus. Our goal was and is to defeat Bill Clinton."

The now routine practice of trashing political appointees was described by Senator DANFORTH. Writing in the Washington Post, Senator DANFORTH said:

Why risk the reputation you worked so hard to earn by subjecting yourself to what can become of Presidential nominees? All that you worked a lifetime to build can be wiped out in the months that will pass between your nomination and the confirmation that may or may not follow. * * *

The real issue is whether there are any limits as to how far we can go in using a presidential nomination for purpose of making a political point or furthering a philosophical position or establishing our own moral superiority or embarrassing the President of the United States, whatever party may at the time occupy the White House.

Today, there are no such limits, and no limits will or should be supplied by rule of law. If there is to be some minimum standards of decency we accord Presidential nominees, it will arise from an expression of disgust by the American people for what we are doing to nominees who previously have lived exemplary lives, and that disgust will reflect our sense that those who have been nominated are more than stand-ins for political positions; they are human beings. Until that recognition dawns upon us, my advice is, if the President calls, just say no.

I ask unanimous consent that Senator DANFORTH's article be printed in the RECORD.

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

[From the Washington Post, June 25, 1993]

A PRESIDENTIAL NOMINATION? FORGET IT

(By John C. Danforth)

If the president calls to say that he will nominate you for a job subject to confirmation by the Senate, just say no.

The president's call should be a cause of great personal satisfaction. Presidents don't offer nominations to just anyone. That he has offered you an important position in his administration shows that a lifetime of hard work has paid off. Your achievements are known even to the president of the United States. Thank the president profusely for the honor. Then just say no.

Why risk the reputation you have worked so hard to earn by subjecting yourself to what can become of presidential nominees? All that you have worked a lifetime to build can be wiped out in the months that will pass between your nomination and the confirmation that may or may not follow.

First you will submit to the administration details about the most intimate aspects of your life. Have you ever smoked dope? How about your sex life? What clubs do you belong to? Often, if officials in the administration feel that you are not an obvious embarrassment, your files will be turned over to the FBI for a background check. That means that the FBI will make house calls on at least three-dozen of your neighbors, friends and business associates.

What the FBI uncovers is supposed to be confidential. Don't count on it. Your file will be reviewed by the administration and then by at least one member of each party in the Senate. College-age drug use, while generally not a cause of disqualification, may be leaked to the media to the humiliation of you and your family. The fact that public disclosure of FBI files is a violation of both federal law and Senate rules should be of no comfort to you. Determined opponents are not deterred if leaking information will serve the purpose of defeating a nomination. Media recipients of the leak will claim the highest principle of their trade when they protect the leaker.

The carnage of presidential nominations now litters the landscape of Washington. Hiring illegal aliens, whether or not it violated the law, now is grounds for withdrawal of a nomination. So is failure to file Social Security tax returns for babysitters. A request for a deposition by the Securities and Exchange Commission can end a nomination, as can provocative law review articles written by a professor. And, in the * * * of an assistant secretary of Housing and Urban Development, the nominee's sex life, while not sufficient to cause her defeat, became the subject of a nationwide telephone campaign.

This trashing of presidential nominees is not done in private. It is not a matter of something coming up quietly that suggests the nominee is unfit for the job at hand. Rather, the whole episode is played out on the front pages of the daily press and at the top of the evening news. Forevermore, the esteemed jurist will be known as the person with the illegal babysitter, and the writer of scholarly articles will be known as a Quota Queen.

The next controversial nominee will be Sheldon Hackney, the president's choice to chair the National Endowment for the Humanities. Hackney is under fire for his "politically correct" handling of various racial controversies during his presidency of the University of Pennsylvania.

One would hope that university campuses would be centers of civil discourse, where racial and ethnic groups live in harmony. But, alas, that is not always the case. Young people, eager to try out the new experience of freedom from parental control, test the limits of the university's commitment to free speech. The result is speech that is intentionally outrageous and offensive. Meanwhile, members of minority groups, sensitive to insults, challenge the school's administration to prove its commitment to respecting minority rights.

It is a difficult challenge for university administrators to keep the peace on campuses where uproar is more the rule than the exception. Some administrators do the job better than others. Some seem too ready to appease one group or another in the name of preserving campus order. A case can be made that Hackney went too far in his efforts to placate outraged black students and that free expression suffered.

But what is the point in raising this issue in the context of Hackney's nomination? He is not being considered for a new position in university administration, and his ability to deal with campus crises seems irrelevant to the job of chairing the NEH. The president has chosen this man to implement the administration's policies. The president will be accountable for his performance in office. The mission of the NEH is to "promote progress in the humanities" by making grants to individuals, institutions and organizations. Surely Hackney's background as a distinguished scholar, author and teacher qualifies him for this work.

The attack on Hackney for his management of the University of Pennsylvania, while unrelated to the mission of the NEH, is directly related to the politically lucrative field of racial and ethnic divisiveness. If the racial turmoil of a university campus can be transported to Washington, the political benefits are enormous.

The real issue is whether there are any limits to how far we can go in using a presidential nomination for the purpose of making a political point, or furthering a philosophical position, or establishing our own moral superiority or embarrassing the president of the United States, whatever party may at the time occupy the White House.

Today there are no such limits, and no limits will or should be supplied by rule or law. If there is to be some minimum standard of decency we accord presidential nominees, it will arise from an expression of disgust by the American people for what we are doing to nominees who previously have lived exemplary lives. And that disgust will reflect our sense that those who have been nominated are more than stand-ins for political positions. They are human beings.

Until that recognition dawns upon us, my advice is: If the president calls; just say no.

Mr. WOFFORD. Mr. President, I am glad that Sheldon Hackney did not say "no" when the President asked him to take this challenging assignment.

During the confirmation hearing, we saw the real Sheldon Hackney, not the caricature that so many have tried to draw. We saw a man of accomplishment as a scholar and administrator at the University of Pennsylvania, Princeton, and Tulane. We heard a man who understands how the humanities can transform lives. And I ask unanimous consent that the full statement of Sheldon Hackney before our committee be put in the RECORD by unanimous consent at this point.

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

STATEMENT OF SHELDON HACKNEY, NOMINEE FOR THE POSITION OF CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES, JUNE 25, 1993

At first glance, my life does not appear to be one that was ever in need of transformation, yet I can bear personal witness to the sort of personal transformation that I believe the humanities have the power to accomplish.

I was born and raised in Birmingham, Alabama, the third son of a thoroughly Methodist family that eventually included five sons, the offspring of a marriage that is now in its sixty-fourth year. My childhood was spent in the Great Depression and World War II, and I was acutely aware that my world was one of scarcity and vulnerability. Nevertheless, my childhood was unproblematic, at least if one doesn't count my being continuously terrorized by my older brothers.

My father was a newspaperman before the war. As that was not the era of the journalist as hero, and as his family was large, when he returned from the Navy he set himself up in business buying and reselling war surplus material. His business evolved, and he eventually did very well.

As I went through public school in Birmingham, like most children of middle-income families, I could imagine various futures for myself, each of them honorable and productive, but I never imagined the life I have actually had. That life was opened up for me in part because of two superb History teachers at Ramsay High School, Mary McPhaul and Ellen Callen, and in part because I loved to read. My mother read to us a lot when we were young, and when I was a bit older I remember listening wondrously to her practicing the dramatic book readings that she did for literary clubs around the city, legitimate theater not having a very lively presence in Birmingham then. Although reading was a bit of magic for me, I was thoroughly imprisoned in the myth that real boys did not work very hard in school and real men were men of action rather than thought.

The major reason, however, that the world was saved from having yet another lawyer was my older brother, Fain, whom I worshipped. He was charismatic and multi-talented and very imaginative, so that he was always the leader in the neighborhood and the one who would organize our play, not only the standard games like kick-the-can and hide-and-seek, but elaborate war games and a game we called "town" in which everyone had a role selling something, and Fain was always the banker because he could draw so well and make beautiful dollar bills. My brother, Morris, always got the lemonade concession and ended up with all the money that Fain had issued from the bank.

Fain was a young man of grandiose projects, usually too grand ever to finish but always exciting enough to draw in everyone else. Despite all his talent, he had an uneven academic record, reflecting his enthusiasms and his lack of focus, but he had a great time and made all those around him have a great time also. He went off to the University of Alabama where parties were then known to occur. He had a wonderful time his freshman year, and his abysmal grades showed it.

Something happened to him that following summer, and I don't know what the transforming event or experience was. In any case, he became a different person. He started reading books that were not required for school. He began to listen to classical music, to write poetry, and to talk of serious subjects. He transferred to Birmingham Southern College and started to work at his courses. I was fascinated.

Part of his plan for remarking his life was to become a Navy pilot, which he did. When I went off to Vanderbilt on a Naval ROTC scholarship, he was on the West Coast and then in Japan flying amphibious patrol planes. Letters from him were not only reports of adventures in exotic places but accounts of what he was reading and thinking and guilt-producing questions about my intellectual life, which even at Vanderbilt could be as sparse as one wanted it to be.

It was at about this time, because of Fain's example, if not his specific recommendation, that I was captured by the novels of William Faulkner, Ernest Hemingway, and especially Thomas Wolfe. I am almost embarrassed to remember how much I identified with Eugene Gant, a young Southerner coming of age by trying to read his way through the Harvard library. Vanderbilt was saturated, of course, with the tradition of the Fugitive poets and the Agrarians, and I studied them with appreciation. Though the Agrarians had taken their stand twenty years before in very different times and had since then taken diverse political paths, the big questions they had raised (about what is the good life, and what is the value of tradition, and what is the function of government, and what are the perils of modernity) were common and lively topics of debate among my friends.

We also talked of race relations, an omnipresent concern of Southerners black and white that was intensified by the Supreme Court's ruling in the Brown case that put an exclamation mark in the middle of my college years. For reasons that I find difficult to explain, but that probably have to do with my religious training, I had broken away from southern white orthodoxy even before going to college and had concluded that racial segregation was wrong. As a historian, I have continued my interest in race because it is a major factor in American history. As an individual, I have continued my commitment to racial equality because I believe it is right and that group relationships are one of the major unresolved questions on the domestic scene. In the more formal curriculum at Vanderbilt, Dewey Grantham, Herb Baily and Henry Swint in the History Department increased my interest in History.

I was devastated by the death of my brother in a military plane crash in Japan in 1954 during the summer after my sophomore year. He had meant so many things to me that it was not until years later that I realized that his most important gift to me was to give me permission to use my mind in serious ways, to risk pursuing a subject that I enjoyed, to spend my life in pursuit of education for myself and for others. Watching him change, and being lured into the pleasures of thought as a way of enhancing experience, transformed my life and gave it purpose.

After three years on a destroyer and two years teaching weapons at the United States Naval Academy in Annapolis, I went to Yale to study under C. Vann Woodward, the leading historian of the South and the man who became the most important influence on my career as a historian and on my devotion to academic freedom, intellectual honesty, free speech, and the obligations of collegiality. I had been attracted to Woodward not only by his reinterpretation of the history of the South from Reconstruction to World War I, but by his subtle exploration, in the essays collected in The Burden of Southern History, of what it means to be a Southerner and what the history of the South means to the nation and the world.

After Yale, I joined the faculty of Princeton where I worked away at becoming the best teacher and scholar I could possibly be while raising a family and doing the sort of committee assignments and quasi-administrative tasks that faculty are called upon to do. My career as a historian, fact, was diverted because I kept saying yes to such requests. When William G. Bowen became President of Princeton in 1972, he invited me to become Provost. The slippery slope turned into a water chute. I became President of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major responsibility in universities has prepared me to lead the National Endowment for the Humanities. For the past generation, universities have provided tough environments. University presidents operate in a sea of powerful and conflicting currents. To succeed, one must have a clear sense of strategic direction, a fundamental commitment to the core values of the University, the strength to persevere through contentious times, and the ability to gain and keep the support of a variety of constituencies. I have not only survived in that environment, I have proposed, and my institutions have thrived.

Among the values that I hold dear is a belief that a university ought to be open to all points of view, even if some of those views expressed are personally abhorrent. I take some pride in having protected the right to speak of such diverse controversial figures as Robert Shockley at Princeton, King Hussein of Jordan at Tulane, and Louis Farrakhan at Penn. The university should belong to all of its members and not be the exclusive domain of any particular person, group, or point of view.

During my twelve and a half years at Penn, I have made the undergraduate experience my highest priority. Penn has revamped the general education components of the curriculum in each of its four undergraduate schools, provided a livelier sense of community through the creation of freshman houses within the residential system, added a reading project that asks freshmen to read a common book and then to discuss that book in seminars during orientation week and throughout the year, revised our advising system, revitalized the freshman seminar program, and drawn senior faculty into the teaching of introductory courses. I have increased the diversity of the Penn student body and worked hard to sustain an inclusive and supportive atmosphere on campus, to provide a campus in which everyone has a very strong sense of belonging and in which our animated debates are carried out with civility. I have also created a new sense of partnership with the neighborhoods around us, as a close working relationship with the school system of the City of Philadelphia, and a national model program of volunteerism that I institutionalized a year ago by establishing the Center for Community Partnerships to stimulate and coordinate the involvement of faculty, staff and students in off-campus service activities.

Universities exist to create new knowledge and to preserve and communicate knowledge. The NEH, as a sort of university without walls, through its research, education, and public programs, is engaged in the same effort. I am dedicated to the proposition that we can improve the human condition through knowledge and that our hope for tomorrow in this troubled world depends on the sort of understanding that can come through learning.

I have great respect for the NEH. It is the single most important institution in American life promoting the humanities, and it has a long record of accomplishment. I believe there are things that can be done to extend and broaden the impact of the NEH as it fulfills its statutory task of stimulating the humanities.

I like to think of the humanities as human beings recording and thinking about human experience and the human condition, preserving the best of the past and deriving new insights in the present. One of the things that the NEH can do is to conduct a national conversation around the big questions: what is the meaning of life, what is a just society, what is the nature of duty, and so on. In this big conversation, it is not the function of the NEH to provide answers but to insure a discussion, to create a forum in which all voices can be heard.

Because they are not just for the few but for everyone, no single approach to the NEH mandate is adequate. There is a need for balance among research aimed at creating new knowledge, educational programs to insure that the humanities are creatively and invitingly represented in the curricula of our schools and colleges, and public programs to draw everyone into the big conversation. Those three activities should be related to each other and should be mutually supportive.

The country has never needed the humanities more. We not only face the challenges of a new geopolitical situation and the problems of adjusting to economic competition in a new global marketplace, but we face a crisis of values at home. What is happening to family and community? Who are we as a nation and where are we going? What holds us together as a nation and what do citizens owe to each other? What is the relationship of the individual to the group in a society whose political order is based upon individual rights and in which group membership is still a powerful social influence.

Even more importantly, the humanities have the capacity to deepen and extend to new dimensions the meaning of life for each and everyone of us. They have the capacity to transform individual lives, not necessarily in the external circumstances of those lives, but in their internal meaning.

Every human experience is enhanced by higher levels of knowledge. When I listen to a piece of music, I may like it and think it beautiful, but the person who knows the historical context of its composition understands what the composer was trying to accomplish technically and can compare the composition and the performance to others will get infinitely more out of the experience than I will. That is why I enjoy talking about common experiences with people who will see it through a lens different from mine. The task of the NEH is to enrich the conversation and bring more people into it.

The premise of my approach to the tasks of the National Endowment for the Humanities is simple but profound. The more you know, the more you hear and see and feel. The more you know, the more you can know. The more you know, the more meaningful life is. Such can be the gift of the NEH to the American people.

Mrs. BOXER assumed the Chair.

Mr. WOFFORD. Madam President, I find it hard to believe anyone can read that full statement without being moved as members of the committee

were. We heard a man of strong clear convictions.

Madam President, I have known Sheldon Hackney for many years now. He is thoughtful, quiet, careful. But do not for 1 minute underestimate the strength and leadership that underlies these traits. He is steady, strong, and wise. It is these characteristics that the Labor Committee saw and heard, and it is these characteristics that will make Sheldon Hackney an outstanding chair of the National Endowment for the Humanities.

In considering Sheldon Hackney's nomination, the Labor and Human Resources Committee lived up to its tradition of fairness and bipartisanship in unanimously recommending this nomination. I hope that the full Senate will act in that same spirit and that the better angels of our nature, as Lincoln hoped, will rise to the occasion again today.

I urge my colleagues to support this nomination.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Madam President, all of us are aware of what George Bush called "the political correctness thing." It is a thing, all right, but when one examines it closely, including the cause-and-effect aspects of it, political correctness is—as someone has noted—a radical philosophy which despises, and seeks to rewrite, the history of our Nation and Western civilization.

It has the unmistakable appearance of advocating that rights and benefits be awarded and distributed on the basis of group identity and not on individual merit.

Madam President, if you pause to think about it, it becomes clear that the adherents of political correctness somehow almost always challenge any dissent from their beliefs. And they do it with what has been described as group intimidation, forced re-education or official censure.

Which gets me around to the problem with Sheldon Hackney, the nominee for Chairman of the NEH; Mr. Hackney's problem is that he is recognized as one of the most prominent apologists for political correctness.

Which may be exactly what President Clinton wants as his Chairman of the National Endowment for the Humanities; it may be what every other Senator is willing to accept; but this Senator simply cannot, in good faith, support Dr. Hackney's nomination based on the record. I bear him no personal animus, but I cannot be a party to confirming his nomination.

It is both interesting and instructive that Dr. Hackney has run into opposition from such disparate voices as the Wall Street Journal, Charles Krauthammer and Richard Cohen of the Washington Post, Nat Hentoff of the Village Voice, George Will, and the Washington Times. All of these, and many others, have declared that Dr. Hackney is the wrong choice to head the National Endowment for the Humanities [NEH].

Charles Krauthammer may have put it best when he said and I quote him directly:

> Sheldon Hackney * * * is, unfortunately, a perfect example of the failure of nerve—the failure of intellectual honesty, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney to the Chairmanship of the National Endowment is to endorse those failures

Madam President, one is obliged to wonder if President Clinton was aware of these failures when he submitted Dr. Hackney's name to the Senate.

For example, Dr. Hackney supported an effort to prohibit the ROTC—the Reserve Officer Training Corps—from operating at the University of Pennsylvania because, guess why, the military refuses to permit open homosexuals to serve in the Armed Forces.

Also, Senators may have heard of the student at Penn who in frustration referred to a rowdy group of black sorority women as "water buffalo" when the commotion they were making outside his dormitory interrupted his studies. Even though water buffalo is not now, and has never been, a racial slur, the student was prosecuted for having made a racially offensive statement under the speech code at Dr. Hackney's university. Come on. What phony baloney—and Dr. Hackney was a part of it.

In 1985, a popular instructor at the University of Pennsylvania was forced to apologize and undergo a sensitivity and racial awareness session after a group of minority students objected to his reference in class to himself, blacks and Jews as ex-slaves, even though the teacher is himself Jewish.

And just a few months ago, Dr. Hackney defended the actions of a group of minority students at his university who stole 14,000 copies—almost the entire run—of the campus newspaper because they disagreed with an editorial in that edition of the paper. Dr. Hackney saw nothing wrong with that. Many others see a whole lot wrong with it.

Mr. President, I will ask unanimous consent that a more detailed discussion of these events—all of which occurred during Dr. Hackney's tenure at Penn—be printed in the RECORD at the conclusion of my remarks.

Madam President, this is the same Sheldon Hackney who so vigorously defended the alleged right of the National Endowment for the Arts to use taxpayer funds to pay for sickening obscenity parading under the false flag of "art."

I am putting quotation marks around "art" because it is not art. It is pornography.

For example, Dr. Hackney wrote the following, and I regard it as nonsense, in the September 1989 issue of the Chronicle of Higher Education: He wrote:

> The issue is not whether Mr. Mapplethorpe's images are pornographic or Mr. Serrano's sacriligious, or about whether their work is art or whether they are artists.

I say paranthetically, to heck it is not the issue. It is exactly the issue when you are expending public funds for anything.

Dr. Hackney continued, I quote:

> The question is whether our government, having decided to support the arts, should be involved in attempting to suppress certain forms of expression in an attempt to cleanse public discourse of offensive material.

Then he goes on to say:

> Some people or groups will be offended from time to time but * * * the price of excellence—

An interesting choice of words, I might add, but let me finish the quote:

> and the price of a vibrant artistic scene is the risk of occasional offense to someone's sense of what is appropriate to display or say in public.

But let us compare this statement, Madam President, with what Dr. Hackney wrote less than 10 months later, because Dr. Hackney is not even consistent. Note what he had to say in the July 1990 issue of Academe magazine in defense of his university's so-called hate speech code prohibiting all speech that "creates an offensive living or work environment." He tries to have it both ways. Dr. Hackney wrote:

> My own judgment is that we should be able to define racial harassment in such a tight way, perhaps as words uttered in a face-to-face encounter that are intended to inflict emotional damage, that we will be able to outlaw verbal terrorism without chilling the open expression of ideas.

If ever there was a convoluted, backfilling statement on an issue of philosophy, that is it. He cannot have it both ways, but frankly a lot of people are letting him have it both ways including, I am sad to say, the members of the Labor Committee that conducted his nomination hearings.

That Madam President, is an example of Dr. Hackney's convoluted double standards. According to Dr. Hackney, Congress is and should be prohibited from imposing any restriction on the content of offensive art or speech paid for by the taxpayers, but the University of Pennsylvania and Dr. Hackney can punish and censor any student or professor for speaking freely—in cases where no taxpayer money is involved—if Dr. Hackney and his associates happen not to approve of the speech.

Dr. Hackney's "free speech for me, but not for thee" double standard would be amusing if it were not for President Clinton's efforts to grant Dr. Hackney the power to make a significant impact on this Nation's culture.

I recall, Madam President, about 10 years ago a fellow named Bill Bennett

came to Washington to become Chairman of the NEH. This was prior to his later becoming Secretary of Education. One of Bill Bennett's great contributions to the NEH was his infusing the agency with the courage to stand up to the smug bureaucrats and their acolytes in academia who, until then, had pretty much dictated who and what was favored in the disbursement of NEH funds.

Madam President, the problem is that, once confirmed, Dr. Hackney will undo the good Bill Bennett achieved at the NEH. Dr. Hackney's record gives fair warning that that will be the case, and that is reason enough for this Senator to oppose his nomination.

I do not like to vote against him. I know he is a fine man and all the rest of it, but his record goes against him.

Perhaps the Wall Street Journal said it best in its editorial on June 25 when the Journal's editors wrote:

> Simply put, the question before Senators is whether a university president who has compiled so sorry a record of appeasement in line with the prevailing political winds as Mr. Hackney has, should sit at the helm of the National Endowment for the Humanities, disbursing huge sums of taxpayer money in the form of grants. Imbuing NEH, that is, with the ethos of the American campus today.
>
> If Senators had any real concern for the message the confirmation of Mr. Hackney would send about university free speech and the importance of choosing leaders to defend it, they would vote no on his confirmation.

Madam President, before Dr. Sheldon Hackney is granted the power to influence and shape our Nation's culture as Chairman of the National Endowment for the Humanities, let us take a closer look at his record as president of the University of Pennsylvania and the events I have alrady alluded to that occurred during his tenure.

(1) THE "WATER BUFFALO" CASE

This past January an Orthodox Jewish student at Penn—Eden Jacobowitz—called a rowdy group of black sorority women water buffalo when the commotion they were making outside his dormitory window made it impossible for him to study.

Young Mr. Jacobowitz was immediately charged with making a racially offensive statement under Penn's hate speech code. Even after anthropologists and others were willing to testify that the term "water buffalo" is not now—and never has been—a recognized racial slur, the university's judicial officer still ruthlessly pursued the case—even asking Jacobowitz if he had been thinking racist thoughts at the time.

She did offer him a deal, however. If he would: First, allow the University to permanently label him a racist on his college transcript; and second, undergo sensitivity training, then she would allow him to remain a student at Penn. Some deal.

Eden Jacobowitz understandably refused being branded a racist for life without even a hearing on the merits. Hooray for him. He knows the difference between right and wrong and has the courage to stand by those convictions, unlike Sheldon Hackney, who refused to intervene on behalf of common sense and fairness—even after the university's prosecution of Mr. Jacobowitz became patently absurd.

As the Wall Street Journal pointed out, only after a "national outpouring of scorn and mockery for the university's obvious loss of prudence, adult judgment, and common sense * * * did Mr. Hackney conclude that the university's legal machinery, designed to punish offensive speech, needed overhauling."

(2) HOMOSEXUALS FIRST, AMERICA'S SECURITY SECOND

Dr. Hackney recently spoke out in favor of the homosexual community's efforts to kick the ROTC off the University of Pennsylvania campus because the military refuses to allow open homosexuals to serve in the Armed Forces. By supporting this campaign, Dr. Hackney demonstrated a callous disregard for the students at his university who want to serve their country by joining ROTC.

(3) THE EX-SLAVE COMMENT

In 1985, a popular instructor at Penn, Murray Dolfman, was forced to apologize and undergo a sensitivity and racial awareness session in order to keep his job. His offense: the previous fall he had offended four black students by referring—as he had for years—to himself, blacks and Jews as ex-slaves. Mr. Dolfman, who is himself Jewish, made this reference in an effort to make the class discussion about the 13th amendments's prohibition on slavery more pointed.

Several times during the months following his comments, Mr. Dolfman had his classes interrupted by protesting students. Dr. Hackney did nothing to stop the interruptions and instead acquiesced in Mr. Dolfman being harangued and punished by Dr. Hackney's subordinates at the university.

(4) THE CAMPUS NEWSPAPER CASE

Shortly after the water buffalo

Dr. Hackney's staff at the university refused to punish or even reprimand these students for stealing and destroying the newspapers. Incredibly, the only person university authorities charged with any infraction in the incident was the library security guard—for trying to stop the minority students from stealing the papers.

Dr. Hackney downplayed this blatant theft, destruction of property and denial of the first amendment rights of the students who had written the newspaper. He dismissed the theft of the newspapers as a protest activity and stated that "two university values, diversity and open expression stand in conflict * * * we must work to narrow the distance * * * precluding their peaceful coexistence."

Claptrap, Madam President. I rarely agree with liberal Washington Post columnist Richard Cohen, but he hit the nail on the head about this gutless moral equivocating by Dr. Hackney when he wrote:

> Hackney's refusal to vigorously condemn the seizure of the paper and to punish the offending students creates an insurmountable hurdle to his nomination.

Madam President, these are a few of the events cited by the varied voices opposing Dr. Hackney's nomination. So that Senators may have a more complete picture of Dr. Hackney than has been presented by his supporters, I ask unanimous consent that the following articles be inserted in the RECORD at the conclusion of my remarks.

First, the June 25, June 9, and April 26, 1993, editorials on Sheldon Hackney's nomination from the Wall Street Journal, respectively titled, "Mr. Hackney's Nomination," "The Other Guiniers," and "Buffaloed at Penn."

Second, Charles Krauthammer's June 25, 1993, column in the Washington Post titled, "Spineless at Penn."

Third, Richard Cohen's July 6, 1993, column in the Washington Post titled, "Sheldon Hackney's Dangerous Balance."

Fourth, Nat Hentoff's May 4, 1993, column in the Village Voice titled, "Civil Wars on Campus."

Fifth, George Will's April 29, 1993 column in the Charlotte Observer titled, "The PC Nominee: Clinton's choice for endowment sacrifices freedom of expression to political correctness."

Sixth, the May 2, 1993 Washington Post editorial titled, "Speech Code Silliness."

Seventh, the June 25, 1993, Washington Times editorial titled, "Sheldon Hackney's Turn."

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

[From the Wall Street Journal, June 25, 1993]

MR. HACKNEY'S NOMINATION

The Senator's sitting at the hearings—to begin this morning—on President Clinton's nominee for head of the National Endowment for the Humanities can be certain of at least one thing. They will not be toiling in obscurity. Thanks to recent notorious events at the University of Pennsylvania, led until recently by President Sheldon Hackney, the Senate Labor and Human Resources Committee's deliberations over Mr. Hackney's nomination will have, to say the least, an attentive national audience.

It's hardly necessary by now to explain why. Mr. Hackney is the university head who presided over the world-famous water buffalo case, which saw a Penn freshman charged with "racial harassment" and Penn's administration in full cry, pressing the case. They did this, Mr. Hackney told us early on, because the administration had to "abide by the procedures that are in place." Moreover, he went on, those procedures were in his view "just and fair."

He has evidently since changed his mind, in light of the national outpouring of scorn and mockery that greeted the university's obvious loss of prudence, adult judgment or

common sense. Only after the publicity—and after the sorority women dropped their charges—did Mr. Hackney conclude that the university's legal machinery, designed to punish "offensive" speech, needed overhauling.

No overhauling can fix what is wrong with university harassment codes, which deserve to be consigned to oblivion along with their bizarre "legal" machinery. But more to the point, those codes and their machinery did not come out of thin air. They were produced by compliant university administrators cut from the same fine cloth as Sheldon Hackney, who end up arguing that they have no choice but to follow the "procedures." Over the past decade, obliging administrators brought those procedures and "solutions" into being in order to appease the grievances of activist students and professors. The administrators wrought what they no doubt believed to be considered rules and guidelines for the punishment of "offensive" speech and the maintenance of "civility"—and the cadres of the politically correct ran with them.

Empowered thus by administrators, and imbued with a chronic sense of victimization, the campus activists commenced to do what activists are most interested in doing—which is to act. Confronted with the resulting tide of absurd accusations and prosecutions over "insensitive" or "harassing" language, university administrators retreat, as Mr. Hackney has repeatedly done, into right-minded meditations on the importance of civility and free expression. Talk, as they say, is cheap.

The Senators at today's hearings might begin by asking some hard questions about Mr. Hackney's response to the seizure, by a group of minority activists, of an entire press run of the Penn student paper, the Daily Pennsylvanian. It would tell them volumes about the candidate's ability to act in defense of free speech, as opposed to his ability to form eloquent meditations on the subject.

Mr. Hackney and friends have spent considerable time in recent weeks complaining that "conservatives" have distorted his views and that he roundly condemned the taking of the papers. What Mr. Hackney in fact did after the theft was to issue a statement awash in pious evenhandedness, which repeatedly exculpated the seizure of the papers as "a protest activity."

A note from CBS's Mike Wallace, published in our letters column last week, chides us for judging Mr. Hackney by his mistakes and adds: "he has inevitably fumbled. Who hasn't?" We were deeply moved by Mr. Wallace's solicitiousness on behalf of those who make mistakes, and wait with interest to see whether his concern for fairness might one day be extended to the public figures mercilessly flayed and garroted on "60 Minutes" every week.

Like Mr. Wallace, other supporters of Mr. Hackney attest again and again to his civility and sensitivity. These are stellar virtues indeed. But perhaps there is something in the air breathed around university buildings that disconnects them utterly from the virtues of courage and leadership.

Mr. Hackney's mishandling of the water buffalo affair and newspaper thefts is bad enough. But the much more insidious problem with the Sheldon Hackneys of American university life, and their number is legion, is that instead of courage, we must listen to their casuistry about "tolerance"; instead of leadership, we must bear their silent complicity in the suppression of honest opinion.

We all know about Eden Jacobowitz; we'll never know hoe many professors or students gag words and opinions down their throats now, lest some 19-year-old authoritarian call out the disciplinary machinery, cheerleading faculty and TV cameras—while the school's president draws the blinds to let "the procedures" grind forward.

When Penn scholar Murray Dolfman—accused of a ludicrous charge of racism for trying to bring home the significance of the 13th Amendment—had his classroom invaded by "protesters." President Hackney had not a word to say in defense of Mr. Dolfman's academic freedom, nor was he moved to discipline the disrupters. On the contrary, it was Mr. Dolfman whom "the procedures" forced to make a public apology and to attend a "sensitivity" training class.

Simply put, the question before the Senators is whether a university president who has compiled so sorry a record of appeasement in line with the prevailing political winds as Mr. Hackney has, should sit at the helm of the National Endowment for the Humanities, disbursing huge sums of taxpayer money in the form of grants. Imbuing NEH, that is, with the ethos of the American campus today.

If the Senators had any real concern for the message the confirmation of Mr. Hackney would send about university free speech and the importance of choosing leaders actually willing to defend it, they would vote no on his nomination. As it is, this Democratic nominee will be voted upon by Democrats Ted Kennedy, Claiborne Pell, Howard Metzenbaum, Chris Dodd, Paul Simon, Tom Harkin, Barbara Mikulski, Jeff Bingaman, Paul Wellstone and Harris Wofford. We hope all those self-gagged professors who think their beliefs and interests are tied to Democratic politics will attend to the content and outcome of today's hearing.

[From the Wall Street Journal, June 9, 1993]

THE OTHER GUINIERS

Though President Clinton has cut his losses with Lani Guinier, the lingering question is why she was ever appointed. What does it say about a White House appointment process when a President himself has to read law review articles before anyone notices a problem?

That question seems especially apt because of two other widely rumored Clinton nominees who could be this President's next confirmation headaches. Word is that Sheldon Hackney will get the nod at the National Endowment for the Humanities (NEH), while Stanley Katz will run the National Archives. Their appointment would identify Mr. Clinton with the academic elites who have made "political correctness" the dominant ethic on American campuses.

Mr. Hackney is by now well known as the president of Penn who tried to prosecute a freshman for shouting "water buffalo" at some raucous black women. This was deemed a crime against "diversity." Only after near-universal uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1991 he spoke out in favor of kicking ROTC from Penn unless the military began to admit openly gay men and lesbians. And Mr. Hackney saw only a "conflict" between "diversity and open expression" when some Penn students stole 13,000 copies of a student newspaper they found offensive.

Nat Hentoff, the liberal columnist, has written about a Penn lecturer, Murray Dolfman, who was forced to apologize and undergo a "sensitivity and racial awareness" session a few years back. Mr. Dolfman's sin? He had tried to make his popular lectures on the 13th amendment more pointed by referring to blacks and Jews (referring to ancient Egypt) as "ex-slaves."

On the other hand, Mr. Hackney was quick to denounce Jesse Helms for his attacks on federal subsidies for "PissChrist" and other "art." The "best protection we have found for a democracy is an unregulated market in expression," he wrote at the time, apparently without irony. Mr. Hackney's double standard suggests a man who'd dispense federal arts money according to a similar bias.

As for Mr. Katz, he was a lead prosecutor in the celebrated 1991 campaign against Carol Iannone's nomination to the advisory board of the NEH. As president of something called the American Council of Learned Societies (CLS). Mr. Katz ginned up a letter campaign to Democratic senators, who defeated her as somehow unqualified. But her real sin, as Democratic Senator Daniel Patrick Moynihan pointed out in defending Ms. Iannone, was that she had attacked "political correctness" in articles in Commentary magazine.

The learned Mr. Katz then fired off a letter so amazing that Mr. Moynihan had it placed in the Congressional Record. "ACLS is the largest humanities organization in the world," Mr. Katz wrote to his home state Senator. "Might it not have been a good idea for someone on your staff to inquire into our reasons for opposing Iannone? Or don't you care what we think? Or why we think it? I am simply appalled that a fellow Democrat, intellectual and academic should resort to such scandalous and irresponsible imputation of bad motives. What should I make of your own?"

Mr. Moynihan must now be wondering what he should make of a White House that would nominate someone who had so insulted the chairman of the Senate Finance Committee. Were Mr. Clinton's personnel aides all asleep during the Iannone fight? Did they bother even to clear their choice with the Senator they need more than any other to pass the wobbly Clinton tax program?

The Katz choice would suggest a White House arrogance that borders on the delusional. At least the Hackney nomination is attributable to personal ties, since Mr. Hackney's wife served on the board of the Children's Defense Fund with Hillary Clinton. But this is the same Hillary Clinton who recently gave a fine speech at Penn deploring political correctness. She could prove this was more than rhetoric by asking her husband to drop the Hackney nomination.

The bigger point here is that Mr. Clinton needs a personnel process that can somehow avoid such potential disasters. Instead he has aides who think Lani Guinier and Sheldon Hackney are in the mainstream. It's a mystery to us that Al From of the centrist Democratic Leadership Council is writing op-eds in the New York Times instead of flagging these potential disasters from inside the White House. Without such advice, the President will only suffer more Lani Guiniers.

[From the Wall Street Journal, Apr. 26, 1993]

BUFFALOED AT PENN

A freshman, the latest victim of the ideological fever known as political correctness, goes on trial at the University of Pennsylvania today. It's not irrelevant to note that the head of this institution, Sheldon Hackney, is President Clinton's nominee to head the National Endowment for the Humanities—and a man, university spokesmen insist, committed to free speech. That's reassuring to

know, especially in light of the goings on at Penn.

There the disciplinary furies of the speech police have descended on freshman Eden Jocobowitz for shouting out of the window. Mr. Jacobowitz, it seems, was studying in his dorm room after midnight, when women members of a black sorority camped outside his window began stamping their feet and screaming and generally whooping it up. Irate, Mr. Jacobowitz yelled that they were water-buffalo and that if they wanted to party there was a zoo nearby.

Thus began one of the more Kafkaesque chapters in the ongoing campus follies. The campus police rushed up and asked other dorm residents—some of whom in fact had been shouting racial slurs—if they had yelled out of the window. All of them denied it. Only Eden Jacobowitz stepped forward to say he had been yelling out of the window. The police asked the dorm residents if they knew the race of the noisemakers, and were told no—except for Eden Jacobowitz, who said yes. But that, he told the police, had nothing to do with his anger.

Mr. Jacobowitz, who thought one should not lie to the police would pay a price for his forthrightness. He had yet to learn what they don't teach at freshman orientation; namely he had now entered a world where a change of racism or sexism is as good as a conviction.

The racial harassment case mounted against him reads like something from the theater of the absurd. The campus judicial inquiry officer, Robin Read, determined that the student had intended a racial slur by the reference to water buffalo, which she said suggested "large black animals that like in Africa." The student's reference to "zoo," Ms. Read charged, was also racial—notwithstanding the fact that it is a term commonly applied on campuses to noisy fraternity houses, as in the movie "Animal House." In the course of her continuing inquiry, Ms. Read asked Mr. Jacobowitz if he had been having "racist thoughts" the night of the crime. He had no such thoughts, he assured her.

Despite this official's determined believe that "water buffalo" is a racial slur, a variety of experts who could be expected to know a racial slur when they hear one, disagreed. Dr. Elijah Anderson, a leading black ethnographer and sociologist at Penn, has offered to testify in Mr. Jacobowitz's behalf, that water buffalo is not a racial slur, direct or indirect. Professor John Roberts, director of Afro-American Studies at Penn, and several other of the university's authorities on Afro-American culture and black-white relations emphatically agree.

Penn Professor Dan Ben-Amos, an expert in black folklore provided the key to the question of the water buffalo referenced. When he determined that the student had attended Yeshiva and knew Hebrew, he suggested that the student had quickly translated an extremely common Hebrew word, "behameh," which literally means "water oxen" but is used in everyday language to mean fool or thoughtless person. It has no racial connotations whatsoever.

In the course of her interrogations, Ms. Read offered the freshman a deal. There would be no further charges if he would agree to hold a racial sensitivity seminar in his form and also agree to have a harassment charge noted on his transcript. Mr. Jacobowitz refused the offer, which is why he is now on trial, facing the possibility of expulsion from Penn if found guilty. What happens to him at today's tribunal should be of interest to anyone concerned with the state of reason and sanity on the campuses today.

[From the Washington Post, June 25, 1993]

(By Charles Krauthammer)

SPINELESS AT PENN

The only reason to regret Bill Clinton's abandonment of Lani Guinier is that it deprived the country of an open debate on the question of racial quotas. If the president sticks by another friend, Sheldon Hackney, his nominee for chairman of the National Endowment for the Humanities, and if the Senate Labor and Human Resources Committee holding hearings on his nomination today has any gumption, we shall have a debate on political correctness.

Hackney, president of the University of Pennsylvania, became a symbol of political correctness when, on April 15, a group of minority students, offended by a rightwing columnist at the student newspaper, The Daily Pennsylvania, stole and destroyed nearly its whole press run of 14,000 copies.

President Hackney's statement "On the Campus Controversy of April 15-16," as he delicately called this little piece of campus fascism, gives the fecklessness new meaning. It forthrightly promised to reassign to desk duty a campus security officer involved in the "altercations" that occurred when he tried to prevent the theft or, as Hackney put it, "in the ensuing altercations between security personnel and some of the students involved in this protest activity against the editorial policies in the Daily Pennsylvania," (More delicacy. Destruction of a press run is a "protest activity." But then, what is any book-burning if not a protest against editorial policy?)

Hackney also appointed two committees to investigate the strained relations between minority students and campus police. A separate brief statement promised that "any violation" of university policy banning newspaper confiscations "will be pursued through the university judicial system."

What was Hackney's view of this violation of free speech? "Two important university values now stand in conflict," namely "diversity and open expression," he wrote. "We must work together to narrow the distance that now seems to preclude their peaceful coexistence."

This spineless moral equivalence between writing a newspaper and destroying a newspaper was too much for 16 Pennsylvania Law School faculty. They jointly signed a letter saying the obvious: "The important university values of diversity and open expression were not in conflict here. The offensive columns in no way prevented the university from carrying out its policy of diversity. . . . Removal of the newspaper struck at the heart of the most fundamental diversity which the university should foster—diversity of thought, views and expression."

Hackney is a man who at a 1990 conference on "Academic Freedom and Artistic Expression" denounced Jesse Helms for trying to cut off federal funding for the Mapplethorpe exhibit. "My own career is built on knowing when and when not to compromise," he said flatteringly. "I generally see compromise as a virtue, but I get very nervous when fundamental principles are at stake."

So, protecting federal funding for Mapplethorpe is a fundamental principle not to be compromised. But protecting his own student newspaper from destruction by an offended group is another matter. In this case, Hackney's duty is to try "narrowing the distance"—the subtitle of his craven statement on the "campus controversy"—between writer and trasher.

President Hackney's other brushes with free speech have occurred when, under his leadership, Penn adopted codes that ban hurtful—racist, sexist etc.—speech.

One can debate the merit of speech codes. But there is no debating the merit of the defense of speech codes that Penn issued on April 28. It is a disgrace. The suppression of free speech is presented as yet another clash of values: "freedom of expression" vs. "freedom of expression for all."

What does this mean? Try to follow. "Racist hate speech," says the university, can have the effect of preventing the "full participation" of those subject to that hate speech "in the academic community." Indeed it can have the effect of "preventing some members of the community from exercising their right to participate in [the] marketplace of ideas." How? Presumably, the emotional distress produced in those offended inhibits them from speaking. Hence allowing unfettered free speech really prevents "freedom of expression for all" (i.e., for the offended).

Now, had the university been honest it would simply have said: On the one hand there is open expression, and on the other there is the pain that such open expression can cause. And on those occasions where the pain is very great, we care enough about those pained that we are prepared to curtail free speech. Hence speech codes.

Not a great argument, not very constitutional, but at least honest. Penn's argument, on the other hand, that curtailing speech is really an expansion ("for all") of free speech is a travesty, a classic Orwellianism—unfreedom is really greater freedom—of the kind one now routinely finds in that swamp of political correctness that is the American academy.

Sheldon Hackney has had a distinguished academic career. He is a noted historian. He is a man of obvious good intentions. He is also, unfortunately, a perfect example of the failure of nerve—the failure of intellectual honesty, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney (the most exquisitely named public figure since former Perot spokesman Orson Swindle) to the chairmanship of the National Endowment is to endorse those failures.

[From the Washington Post, July 6, 1993]

SHELDON HACKNEY'S DANGEROUS BALANCE

(By Richard Cohen)

Gregory Pavlik is not my cup of tea. The 21-year-old former columnist for the University of Pennsylvania's student newspaper is a mighty conservative young man. He thinks Martin Luther King is unworthy of a commemorative holiday and does not like affirmative action one bit, especially as it has been applied at Penn. Some who have read him regularly say he's an acolyte of Pat Buchanan—one of those guys who punctuates his writing with a sneer.

Pavlik is about to become famous. He figures in the controversial nomination of former Penn president Sheldon Hackney to be chairman of the National Endowment for the Humanities. Pavlik's columns so infuriated many of Penn's black students that in April they seized the entire press run of the Daily Pennsylvanian and trashed all 14,200 copies of it. In letters and statements, the black students explained why—their feelings had been hurt.

Hackney understood. He condemned the seizure of the newspaper but commiserated with the black students. "Two important university values now stand in conflict," he

said in a statement released after the papers were trashed. One was freedom of the press, and the other was Penn's attempt to make minority students feel "comfortable." Penn must uphold "freedom of expression as the supreme common value," Hackney wrote, but it must also become "a diverse and welcoming community." With that, he took no action against the students who had seized the newspaper.

The statement falls only a tad short of the outright supine. It is hardly a ringing defense of the First Amendment—a constitutional right, not a "value"—nor a vociferous condemnation of what amounted to a fascistic snit. The balance that Hackney attempted—he twice referred to the "pain" felt by the black students—is a bogus one. It's immaterial that someone's feelings were hurt.

What matters is truth or, at minimum, the attempt to get at it. This is what a university is all about. After all, opposition to affirmative action is hardly limited to white racists. Arthur Ashe was similarly disposed. As for the suitability of Martin Luther King as a national hero, I happen to disagree with Pavlik—but so what? The offended black students ought to ask themselves what would have happened if King's speeches and writings—offensive to many whites at the time—were censored. Freedom of the press is not a protection afforded the press; it's a protection afforded the people.

The black students seemed not to appreciate that point. Fine. They are young, and angry and have little historical perspective. That's where the university steps in. It is a custodian of our culture. Its role is to instruct, to show that a bad idea is rebutted by a better one—not by what amounts to violence. Bruised egos are often the collateral damage, as the Pentagon might put it, of a frank exchange of ideas. But in a letter to the Philadelphia Inquirer, 202 black students and faculty members expressed only one concern: Their feelings were hurt, and they did not feel welcome on campus.

Hackney's tour de force in other-handedness, coupled with some other genuflections in the direction of political correctness (his passive acceptance of speech codes, for instance) has made him the target of conservatives. This leaves me perplexed: How did conservatives become the sole guardians of our First Amendment rights and intellectual inquiry in general?

The answer is this: Too many liberals, steeped in a knowledge of racial injustice and its consequences, have crossed the line from empathy with the plight of minorities to a sympathy for whatever they do. I understand what the black students are saying, but my empathy with their wounded feelings does not extend to sympathy for their actions. The kind of "pain" Hackney mentioned is not life-threatening and is subjective. As any newspaper reader knows, pain—along with the comics—is part of the package.

Sheldon Hackney is a virtuous man, the personification of a cliche: both a gentleman and a scholar. But his nomination to a prestigious federal post presents liberals with the opportunity to assert that the values they held dear during the McCarthy period and Watergate, the ones they fought for when the government abused its power during the Vietnam era or, to be almost quaint, when it censored books and movies, are still part of our ideological creed.

Hackney's refusal to vigorously condemn the seizure of the paper and to punish the offending students creates an insurmountable hurdle to his nomination. A longtime civil rights advocate, he meant well, but by being so solicitous to the black students, he patronized them as people and failed them as their teacher. He is an odd choice for a post whose title contains the word "humanities." In fact, he is the wrong choice.

[From the Village Voice, May 4, 1993]

CIVIL WARS ON CAMPUS

(By Nat Hentoff)

No group is a reliable defender of free speech—although individuals within groups may be. During the 1970s, much of the Jewish Establishment in the United States was vicious in attacking those Jews, including some rabbis—active in the civil rights and antiwar movements—who objected to Israel's human rights violations in the Occupied Territories. I knew a rabbi in St. Louis who was treated as if he was a traitor to all the Jews who ever lived. And from vigilantes, I received death threats because of what I had written about Palestinian rights being violated.

Recenty, a white conservative columnist in the Daily Pennsylvanian angered a number of black students at the University of Pennsylvania. Instead of writing an answer or picketing the paper or boycotting the paper, they confiscated just about the entire run of an issue—some 14,000 copies—and threw them into the garbage.

A group calling itself the Working Committee of Concerned Black and Latino Students said the protest had been directed at "the blatant and covert racism continually perpetrated by both institutions and individuals on the University of Pennsylvania campus."

If white students had done the same thing in furious reaction to what a black columnist had written, I expect these Concerned Black and Latino Students might have demonstrated against so raw a violation of the black columnist's free-speech rights.

I've covered many censorship stories around the country—by perpetrators on the right and on the left—and no one has ever admitted being a censor. They all say they had the right to suppress speech that was harmful.

At the University of Pennsylvania, the Concerned Black and Latino Students not only claim they had the moral right to try to destroy all the copies of the daily newspaper but they also insist that it was a "legal protest."

Now dig this. This ranks as one of the lamest excuses for what was undeniably a deliberate suppression of speech. The Concerned Black and Latino Students—as Mary Jordan reported in The Washington Post (April 17)—declared that "not only are the papers free, but there exists no explicit restriction on the numbers of papers that any given student may remove."

Can you imagine Malcolm X—if he had ever done anything like this, which he never did—diluting the impact of his act in order to swivel out of any real responsibility for it?

Meanwhile, the head of the University of Pennsylvania, Sheldon Hackney—who is the very model of a politically correct university president—tepidly said he regretted that because of this hijacking of the papers, "two important university values—diversity and open expression—seem to be in conflict."

This is a man with the courage of a Bill Clinton. Hackney will soon be in charge of the National Endowment for the Humanities—chosen by Clinton. Some opponents of his predecessor, Lynn Cheney, think Hackney will be open of mind and heart. They will instead be in the presence of a cautious company man. Unorthodox applicants for grants—independent and irreverent in their view and research—are not likely to be welcomed.

Now look at what Hackney implied in his statement on the stolen papers. If you have diversity on campus—more blacks, more Asians, more Latinos, etc.—then there's going to be a conflict with open expression. Where the hell does Hackney get the idea that all blacks, Latinos, and Asians want to suppress expression they don't like? Some do. Some Jews do. Some Catholics do. But to reach the utterly shallow notion that diversity and open expression are in chronic conflict is to set up yet another prejudicial stereo-type of blacks and Latinos.

What Hackney should have said, if he'd had the courage, was that in this particular instance open expression in the newspaper had been treated with destructive contempt, and the culpability should be the same for the Concerned Black and Latino Students as it would be for any white group that destroyed a day's run of a newspaper.

Hackney and some other college presidents are engaging in a form of patronizing paternalism. These young black students—so the reasoning goes—cannot be expected to take full responsibility for such acts as preventing other students from reading their newspaper. The black students are frustrated and angry, and we must understand that.

Many of them are indeed frustrated and angry. But the answer is to deal straight—to do something real about the roots of the frustration and anger. Not treat them as if they were "special" kinds of people. That's not respect. That's a con game.

I've lectured at a lot of colleges, and with very few exceptions—as at Oberlin in Ohio and Kean College in New Jersey—the presidents I meet are ignorant of how to get people who do not look like each other to see "the others" as individuals. You don't have to like all of them, or most of them, as individuals. But it's a start to breaking down group stereotypes.

Depending on the size of the college and the composition of the student body, there are a number of ways to begin direct, uninhibited dialogue among diverse students; between diverse students and faculty; and between diverse students and administrators.

A couple of year ago, I saw truly open expression among students during a nearly three-hour meeting at a college with blacks, whites, Asians, gays, and lesbians. There was rage and parody and hurt and frustration and cleansing anger, among many other emotions. But there was no longer any mistaking of individuals for groups, although there was, not a large extent, group loyalty. I hope those kinds of meetings continued there. They ought to take place at every campus.

Some months ago, I was in Washington at a meeting of the B'nai B'rith Hillel Foundations Center for Campus Study. Among those speaking were student leaders at the Hillel centers of their colleges. They were talking about Jewish-black tensions on their campuses.

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Andi Milens of Washington University in St. Louis said she became friendly with officials of the Association of Black Students, and then told of this incident:

"A Jewish student on campus is a blatant racist. In response to a book sale where one of the black sororities was selling an obviously anti-Semitic book, he had a watermelon sale. Another Jewish student intervened, talked to the black students and said,

'Look, He doesn't speak for us.' And I called up my friend in the Association of Black Students and said, 'What do you want me to do? You know he's a racist, and that we don't ascribe to his beliefs. What do you want to hear from me?'" He told her, and she issued a Hillel statement saying just what she told him.

The Jewish racist got worse, putting up flyers falsely quoting black speakers. Andi Milens and her friend from the Association of Black Students conferred, and he suggested that a letter be printed in the paper "from as many Jewish organizations as possible saying that this person doesn't represent the Jewish community."

Ten Jewish organizations signed the letter, and it was resoundingly clear, throughout the campus, that the Jewish racist represented only his noxious self.

Then came the notorious ad that appeared in a number of college papers around the country. The ad said that the Holocaust had never taken place. It's like telling blacks that slavery had never taken place.

The Jewish students at Washington University held a protest—a protest against the ad, not against the college paper's right to print it. There were Christian organizations at the protest, along with the Gay and Lesbian Community Alliance. But what about the Association of Black Students? Andi Milens called a leader of the association, and he said, "Tell us what to do. That's it." Members of the Association of Black Students came to the protest, and one of its leaders spoke. He emphasized that racism and anti-Semitism go hand in hand, and you can't fight one without fighting the other.

* * * * *

At some campuses, Jews understand that black students have no patience with anyone telling them whom they can or cannot invite. Some black students tell the students from Hillel, "You want to protest, go ahead. But don't tell me whom I can and can't have."

And Jewish students have indeed protested the appearance of—among others—Leonard Jeffries at Harvard and other campuses.

Andi Milens said at the Hillel meeting in Washington: "We're learning that the black students and the Jewish students have very different agendas. They're doing their own thing, and we have to respect that."

That respect, however, is not synonymous with bland passivity when black students invite an anti-Semitic speaker to campus. You can respect the right of a black student group to invite whomever they want while also maintaining your own self-respect by passing out leaflets—as Jewish students did at a recent Leonard Jeffries appearance at Duke University—saying, "We're against racism!" Against prejudice directed at anyone on campus.

Ross Werner of the University of Virginia said of the administration there that it seems "very interested in maintaining peace and calm. However, I have found very few individuals within the administration who are actually dedicated to working out some of the deeper underlying problems—and trying to create a less segregated university. It seems to me that the university is often interested in window-dressing, not in addressing many of the intergroup relations problems."

To begin to end the civil rights wars on campus, blacks, Jews, and others can count only on themselves. Not on the administration or the faculty. They have to form alliances based on mutual understanding and respect. It's as corny and simple and effective as that.

[From the Charlotte Observer, Apr. 29, 1993]

THE PC NOMINEE

(By George Will)

WASHINGTON.—An institution, we are told, is the lengthening shadow of a man. If so, official mischief at the University of Pennsylvania is of interest because Penn's president, Sheldon Hackney, is President Clinton's nominee to head the National Endowment of the Humanities. So consider the cases of Gregory Pavlik and Eden Jacobowitz.

Pavlik is one of many columnists for the student newspaper, The Daily Pennsylvanian. Robustly right-wing, he is comprehensively offensive to the politically correct. He is often extreme and heavy-handed, which is to say he is squarely in the tradition of undergraduate journalism.

And he is the reason why, two weeks ago, some black students met delivery trucks early in the morning, seized almost all 14,000 copies of the paper and dumped them in trash bins. The trashers offered this defense: "Not only are the papers free, but these exists no explicit restriction on the number of papers that any given student may remove." President Hackney's mincing description of this assault on press freedom. Papers "were removed from their regular distribution points."

Hackney's first statement was of regret that "two important university values, diversity and open expression, seem to be in conflict." A remarkable statement, that. It is clearly craven yet has no clear meaning. (Does the "diversity" value mean that some groups but not all groups that are part of the university's diversity have a right not to be annoyed?)

A few days later Hackney's even limper defense of the First Amendment was: "Taking newspapers is wrong." But also: "I recognize that the concerns of members of Penn's minority community that gave rise to the last week's protests are serious and legitimate." What "concerns" are "legitimate"—concerns that right-wing opinion is being published?

The university will investigate whether—yes, whether—the trashing of the paper violated freedom of expression. The severity of this investigation can be gauged by all official's statement that the university will take into account the fact that those who suppressed the newspaper "did not see their protest in the context of its being an infringement of free speech."

Hackney's credential as a defender of free speech are academically orthodox. He defends federal subsidies for Robert Mapplethorpe's homoerotic exhibits and says disapproving things about Sen. Jesse Helms, thoughts not perilous on campus. He is a First Amendment fundamentalist, but with a selectivity that suggests political calculation.

ALLEGED SLURS

The latest victim of Hackney's doctrine of balancing "diversity" (or "sensitivity") against free expression is Eden Jacobowitz. Late one evening he and others in his dorm were bothered by a noise gathering of black students outside. He and others shouted at the noisy students. Some persons shouted racial epithets. Jacobowitz shouted "Will you water buffalos get out of here?"

When campus police arrived, others who had shouted denied doing so. Jacobowitz said he had, and that he knew the race of the people he was shouting at, but he adamantly, denied shouting any racial slurs.

In subsequent proceedings against Jacobowitz, one of the university administration's thought and speech enforcers demanded to know if Jacobowitz had been having "racist thoughts" that night, and insisted that the phrase "water buffalo" was racist. However, various scholars, black and white, have defended Jacobowitz. He was for 12 years a Yeshiva student and on the fateful night be used the English translation of the Hebrew word "behameh." It means water oxen, and in slang means a thoughtless, foolish person.

The Hackney administration tried to get Jacobowitz to plea bargain. I would stop persecuting him if he would accept the punishment preferred by totalitarian regimes and American campus liberals—re-education, in the form of "sensitivity" training. He refused.

Hackney's university is mild, "understanding" almost condoning when a politically incorrect columnist is a black group's excuse for brownshirt tactics against a newspaper. But the university is ludicrously aroused by Jacobowitz's supposed violation.

As Hackney heads for Washington to superintend the disbursement of millions of dollars to scholars, the Chronicle of Higher Education reports: "Scholars praise Hackney as even-handed, moderate."

[From the Washington Post, May 2, 1993]

SPEECH CODE SILLINESS

Campus Speech Codes outlawing racially offensive speech have not, on the whole, fared well in the courts: Those at the universities of Michigan and Wisconsin, for instance, were successfully challenged as unconstitutionally "overbroad and vague." For an illustration of those terms and the absurd difficulties and injustice to which they can lead, a disciplinary saga unfolding at the University of Pennsylvania provides a sobering example.

The facts of the case, which has gotten extra attention because University of Pennsylvania President Sheldon Hackney is President Clinton's nominee to chair the National Endowment for the Humanities, have an antic quality. A freshman named Eden Jacobowitz is said to have shouted out his dorm window at a group of black sorority students who were making noise, calling them "water buffalo" and saying there was a zoo nearby if they wanted to party. When school authorities asked if anyone in the dorm had shouted racial epithets—apparently some other students had—Mr. Jacobowitz told them what he had shouted but said it was not a racial epithet. Nonetheless, school disciplinary authorities are now investigating whether his words are actionable under Penn's speech code. One college official reportedly asked him whether he had been thinking "racist thoughts" at the time.

As a constitutional matter, "overbroad" means that a policy can cover behavior that isn't prohibited as well as behavior that is; "vague" means the person engaging in the behavior can't tell beforehand whether it will be ruled prohibited or not. That's speech regulation in a nutshell. Bad enough that this incident has led to lunacies like the involvement of a panel of racial epithet scholars, who combed through linguistic history to ascertain that "water buffalo" has never been used as an ethnic slur toward blacks; that another expert should rejoin that Mr. Jacobowitz may have been translating a Hebrew, non-racial insult meaning "oxen"; that one faculty member would characterize water buffalo as "large, dark primitive animals that live in Africa," only to debate whether water buffalo live in Africa. All of that merely amplifies what should have been

clear already, the futility and intrinsic self-destructiveness in clamping down on speech because it offends somebody.

The Penn speech code has been characterized by a local ACLU chapter as "one of the worst" at universities, and its prohibitions include any "verbal or symbolic behavior" that, among other criteria, "is intended by the speaker or actor only to inflict direct injury on the person or persons to whom the behavior is directed; or is sufficiently abusive or demeaning that a reasonable, disinterested observer would conclude that the behavior is so intended; or occurs in such a context such that an intent only to inflict direct injury may reasonably be inferred." We have added the italics; note that this astonishingly expansive formula does not allow the speaker's interpretation of his own words to be accepted over the interpretation of a listener or third party.

Educational institutions should educate, not least about racism and the need to fight it with stronger arguments; this, not suppression, continues to be the best way to combat offensive speech when, inevitably, it occurs. But that responsibility to educate is also a serious one. It's shameful and ridiculous for such institutions to then squander the moral high ground in the argument by pressing insupportable, trivial positions. Mr. Hackney ought to speak on this subject before he is confirmed to his new job, which after all is about education too.

[From the Washington Times, June 25, 1993]

SHELDON HACKNEY'S TURN

Being a Clinton administration nominee is clearly not a bed of roses. But hope springs eternal, and today yet another ambitious soul will trust his name and reputation to the White House handlers who are supposed to steer him through the Senate confirmation process. His name is Sheldon Hackney.

Mr. Hackney is president of the University of Pennsylvania. He is seeking the chairmanship of the National Endowment for the Humanities (NEH). But many people will know him better as the man who made water buffaloes the most discussed animals of the spring season after Stephen Spielberg's dinosaurs.

Will Mr. Hackney be the right man to step into the footsteps of Lynne Cheney, the endowment's previous and highly capable chairman? Observers of the academic scene have found him personally to be a man of integrity and a scholar of note. His long career has included posts at Princeton and Tulane universities.

However, the incidents relating to Penn's speech code that have come to light in the past few months have not been reassuring. The speech code promulgated under Mr. Hackney's stewardship has been used selectively, and sometimes irrationally, against those whose views are construed not to be in line with mainstream (that is, in this context, left-wing or Marxist) political views on campus. In the case of Eden Abramowitz, the student who yelled "water buffaloes" at a group of noisy nighttime revelers who happened to be black girls and almost got himself expelled as a result, Mr. Hackney's failure to stop a patently absurd and unfair prosecution does not reflect favorably on his judgment or leadership abilities.

Perhaps Mr. Hackney himself believes that Draconian punishment is truly needed to stamp out the pervasive evils of racism, homophobism and other assorted -isms, on the nation's campuses. He may well believe that—many academics do these days—and if he does, it will be illuminating to hear him say so. A lot of people do not share that view, of course, believing that the greater danger today is the restrictions on freedom of expression that occur whenever the content offends a particular, "politically correct" constituency.

On the other hand, it may be that Mr. Hackney himself is uncomfortable with the prevailing trends in academia but is not confident enough or strong enough to buck them. It could be that Penn's student-life program has been run mainly by officials with their own agendas. Mr. Hackney has eloquently defended the free exchange of ideas, though as far as can be told, mostly when the ideas in question belonged to the left-liberal part of the political spectrum. Some years ago, he vigorously defended Penn's exhibition of Robert Mapplethorpe photos. However, when it came to defending the campus newspaper's right to publish columns critical of the university's affirmative action program, his response has been pretty lukewarm. Suspicions of a double standard at work would seem justified.

As in the case of the National Endowment for the Arts, it is clear that people don't have a constitutional right to federal funding, be it of their art or their research. Still, the least one should expect from an agency such as the NEH is that grant applications be judged on their educational value or their scholarly merit, as opposed to their political affiliation. An NEH chairman has to believe in high standards and open academic inquiry. That is why the Senate Committee on Labor and Human Resources today must ask of Mr. Hackney whether he does indeed believe in these things. If he does not, then clearly he is not the man for the job. If he does, the senators will need assurances that he can stand up to the pressures of the quota crowd and the politically correct academic community. There is no doubt those pressures will be intense.

Mr. HELMS. Madam President, let me say something most sincerely, as I conclude, Madam President. I do hope that all of Dr. Hackney's critics will be proved wrong. I pray that I will be proved wrong. And if I am proved wrong, I will acknowledge it publicly and apologize to Dr. Hackney. But seeing no possibility of that happening, I feel obliged to vote in opposition to his nomination.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

MR. WOFFORD. Madam President, my colleague from North Carolina raises serious issues. Members of the Labor and Human Resources Committee raised similar questions—all of those questions, indeed—and more during Sheldon Hackney's confirmation hearing.

My colleagues on the committee asked difficult, thoughtful, probing questions. These questions were answered to our satisfaction and the committee voted unanimously to confirm Dr. Hackney.

This past spring was not an easy time at the University of Pennsylvania. The Labor Committee fully examined each incident. The members of the Labor Committee did not agree with every action that was taken by the university or every statement that was made. But I think each Senator left the hearing with a greater understanding of the challenges facing university presidents today.

Now, as to the specific points just made by the Senator from North Carolina, let me at least respond to the most notable errors of fact.

The first example of what was called a failure of nerve had to do with the ROTC, where it was stated that he had opposed the ROTC on campus. Senator KASSEBAUM put that question to Sheldon Hackney.

I ask unanimous consent that all of her questions and Sheldon Hackney's responses be printed in the RECORD at this point.

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

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR SHELDON HACKNEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT OF THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harassment against Mr. Jacobowitz was justified? If so, please explain why.

I did not think the charge of racial harassment was justified. Penn's policy is very narrowly focused. It applies only in situations in which racial or ethnic slurs are used in face to face encounters and with no other intent than to inflict harm. The facts of the case do not meet these criteria. In addition, because of the misapplication of the policy and the confusions that abound in this case, I have come to feel that even though civility is very important in an educational setting it is a mistake to try to enforce it among members of the campus community through rules and penalties administered through a judicial system.

2. In retrospect, do you believe you should have intervened in the university judicial process brought against Mr. Jacobowitz, or do you stand by your action not to intervene?

As awful as the spring was, I still think it was not appropriate for me to intervene in the judicial procedure. There is no provision for the President or for any officer of the University to intervene. To have intervened would have called into question the legitimacy of the entire system that handles dozens of cases every year, denied to the complainants their right to have their complaint adjudicated by a faculty-student hearing panel, and thrown the campus into an even more divisive crisis than the one through which it actually lived. Had the system worked properly, and a hearing panel heard the case, I believe that justice would have prevailed. As it turned out, the case came to a close when the complainants withdrew their charges.

3. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1993, please explain your reaction at the time of the incident, including the complete statement issued by your office.

I append the statements issued at the time of the incident. I believe they make clear that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

4. Please describe in detail what your administration did to identify and bring charges against those responsible for the

Daily Pennsylvanian theft? Has anyone ever been charged in the theft? If so, what was the result in terms of penalties meted out?

The Committee on Open Expression (an important faculty-student committee that monitors the Open Expression guidelines) has ruled that the incident was a violation of the Open Expression Guidelines, thus making clear that charges would be brought. A number of students apparently involved in the incident have been identified and will face judicial procedures when they return to campus for the fall term. The one senior involved has had a "judicial hold" put on his transcript, meaning that he must clear up his disciplinary status before receiving his degree or being able to have his transcript sent to employers or graduate schools. In view of the seriousness of this case, the Vice Provost for University Life has appointed a respected senior faculty member to serve as the Special Judicial Inquiry Officer for this case.

5. Do you believe your response to the incident was appropriate considering the seriousness of the act in the context of First Amendment rights to free expression?

Yes, although I do wish now that in my original statement I had not used a formulation that was so easily taken out of context and misrepresented. If I could write the document again, I would undoubtedly use language that was even clearer and stronger in condemning the confiscations.

6. Your responses to the Jacobowitz affair and to the newspaper theft incident have been characterized as employing a double standard on the issue of free expression. What is your response to that charge?

The charge is absolutely false. Throughout my career, I have defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum, left, right and center. I have repeatedly done so when under considerable pressure to cancel appearances of controversial speakers or to discipline students or faculty who have earned the disapproval of persons or groups on the campus and off. The list of speakers whose security arrangements I have personally supervised is a veritable who's who of controversy over the past 20 years, from William Shockley to Louis Farrakhan and all shades of opinion between.

One incident in particular has been used to suggest that I am less than even handed. In the early 1980s, the South African Ambassador to the United States accepted an invitation to speak from a student group. The student group was then informed that University policy (which preceded my arrival at Penn) required host groups to pay all the costs of invited speakers, including security costs. Special security required for the South African Ambassador would have incurred substantial costs. The student group therefore withdrew the invitation. As soon as I heard of this situation and realized that it was based on a University policy, I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the speaker from disrupting the event. The new policy was thus in effect when all subsequent speakers, including Louis Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of speaking engagement by artist Andres Serrano on the University of Penn campus in 1989-90, you refused to order the removal of campus sidewalk graffiti depicting anti-religious and graphic sexual symbols. Please explain what occurred.

As with so much that the Wall Street Journal has reported about me, the facts are wrong in important respects, highly distorted in other respects, and the story presented in a misleading way. Early on the morning of April 13, 1993, members of Penn's groundskeeping crew arrived on campus to find, written in chalk, graffiti depicting religious and sexually graphic and offensive symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundskeeping crew, on its own initiative, immediately washed off this graffiti. Later that day the students—members of a gay rights group on campus—who had originally done the graffiti writing, protested to Penn's Assistant Vice Provost for Student Life that the erasure of the graffiti violated the University's Guidelines on Open Expression. The Committee on Open Expression, following precedent, found that the graffiti was protected speech as long as the graffiti was temporary and did not permanently deface University property. Members of the group returned the next day and renewed their graffiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not related to Andres Serrano's visit to Penn, which took place on December 5, 1990.

8. Please explain your criticism of the Helms Amendment as it pertained to the work of artists, Robert Mapplethorpe and Andres Serrano.

I did criticize the language of the Senate amendment to the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill—which Congress wisely did not include in the final version of the appropriations legisaltion—was impossibly vague and overbroad. The Helms amendment to the FY90 appropriations bill would have imposed unworkable content restrictions, and I believe that Congress has been wise in its judgment not to adopt it.

9. The Wall Street Journal reported that you proposed banning ROTC from the University of Pennsylvania campus in 1990 because of the military's prohibition on gays and lesbians serving in the military. Is this true?

As with a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a product of the NROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

10. You have been quoted in the past as stating that the impact of "political correctness" on American university campuses is "greatly exaggerated." Do you believe that "political correctness" contributes to the free exchange of ideas and tolerance of different points of view in American academia today?

The term "political correctness" is almost hopelessly vague and imprecise. It began as a term of self-derision, and now it has taken on a life of its own as a caricature of a certain kind of liberal left orthodoxy that is so solicitous of the interests of groups that can claim the status of having been victimized by society that the general interests of the University are of secondary importance and at times even the search for truth is threatened. Fortunately, "political correctness" does not dominate. American campuses, thought it is something about which faculty and academic leaders ought to worry about. I believe that I am representative of the broad mainstream of the American professoriate that sees danger in any potentially intolerant orthodoxy, but that may also see partial merit in some ideas that may be part of a "politically correct" position.

Mr. WOFFORD. She said:

The Wall Street Journal reported that you proposed banning ROTC from the University of Pennsylvania campus because of the military's prohibition on gays and lesbians serving in the military. Is this true?

Dr. Sheldon answered:

As with a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a product of the NROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

I might add, if you note the biography of Sheldon Hackney, you see he gave distinguished service in the military service in connection with and after his service in the ROTC.

Then it was said that the trashing, the destruction of copies of the Daily Pennsylvanian in April 1993 had evoked no opposition from Sheldon Hackney. That is also not true. The distinguished Senator from North Carolina has stated that Sheldon Hackney saw nothing wrong with the destruction of those papers.

I submit the statement for the RECORD of April 22. I ask unanimous consent the full statement be printed in the RECORD.

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

STATEMENT APRIL 22, 1993

The following statement was issued by University of Pennsylvania President Sheldon Hackney today in response to last week's events involving the removal of copies of the independent student newspaper, *The Daily Pennsylvanian*, by students protesting its editorial policies:

Freedom of expression is essential to academic life. At Penn it is foremost among our core values, and we are committed to upholding it. The University has long-established policies to protect it.

Taking newspapers is wrong, as I made clear in a policy statement four years ago and reiterated at the time of last week's events and restated again this week.

Those who are accused of violations of University policies will be subject to the provisions of the University's judicial system. Due process in determining the guilt or innocence of any accused party is essential. We shall not take shortcuts.

I recognize that the concerns of members of Penn's minority community that gave rise to last week's protest are serious and legitimate. We have worked hard to make Penn a place in which everyone could feel full membership. The University is, and will remain, committed to that goal, and it is working diligently to achieve it.

In the final analysis, the aim of a diverse and free forum for ideas in which all are welcome and able to participate will be achieved only when all members of the community listen more carefully and respond less defensively to the views and concerns of others. I urge the Daily Pennsylvanian's staff and editors and those who object to its editorial, reportorial and staffing practices to work together to resolve their common concerns.

Allegations have also arisen of police misconduct in the handling of last week's events by University police and security personnel. There is now a process in place to determine what occurred and to respond appropriately once those facts have been determined.

These events have also highlighted questions about the appropriateness of some standard police procedures within the special circumstances of a university community. Those questions are being reviewed by a special commission, and the University's Division of Public Safety will use its findings to revise its training and procedures as appropriate.

A modern university is the focus for all of the tensions that exist in our society. As such, it must remain steadfast in its commitment to all of its core values, especially when those tensions produce conflicts that we must work to resolve. We shall not do less.

SHELDON HACKNEY,
President.

Mr. WOFFORD. I will just read the following excerpts.

Freedom of expression is essential to academic life. At Penn it is foremost among our core values, and we are committed to upholding it. The University has long established policies to protect it.

Taking newspapers is wrong, as I made clear in a policy statement four years ago and reiterated at the time of last week's events and restated again this week.

It is wrong also to say that no action was taken in regard to the students who destroyed those newspapers.

On the contrary, a number of those who were apprehended and apparently seizing the newspapers were, in fact, arrested. Some of them were handcuffed. All of them who have been identified are part of a university process of discipline. The one student who graduated before the proceedings could come to a close this fall had his papers withheld, which means that he cannot use his transcript to be sent to employers or to graduate schools until the matter has been cleared up.

In view of the seriousness of this case, the vice provost for university life has appointed a respected senior faculty member to serve as a special judicial inquiry officer in the case of those students who seized that newspaper.

Those are just a few examples of how the caricature of Sheldon Hackney that has appeared in some publications has no basis in fact.

Mr. WOFFORD. Madam President, I suggest the absence of a quorum. I ask unanimous consent the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WOFFORD. Madam President, Senator PELL is the Senate sponsor of the legislation that established the National Endowment for the Humanities in 1965. He has chaired or been the ranking member of the subcommittee on Education, Arts and Humanities since then. He has a continuing involvement with the life of this agency.

Mr. PELL. Madam President, I rise to add my strong endorsement to the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

Dr. Hackney is a man of tremendous stature and intelligence who will bring years of scholarly and administrative experience to this important position. His impressive record includes 18 years as the president of two major universities—Tulane and the University of Pennsylvania. Prior to this he was provost and professor at Princeton University.

As my colleagues know, I have long been involved in the life of the Humanities Endowment and will continue to do all I can to support and encourage its work. I know that it will be a great pleasure working with Dr. Hackney in the years ahead.

Much has been made in the press of a few incidents that occurred at the University of Pennsylvania during Dr. Hackney's tenure there. Dr. Hackney provided such thorough and satisfying answers when asked about these issues in his confirmation hearing that committee members voted unanimously—17–0—to recommend his confirmation to the full Senate.

Finally I want to say how fortunate we are that President Clinton has nominated such an outstanding figure in the academic community to take on this leadership role in the humanities. I applaud the President for his inspired choice.

I urge my colleagues to join me in voting to confirm Sheldon Hackney.

Mr. KENNEDY. Madam President, I am pleased to recommend that the Senate confirm the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

Dr. Hackney is a superb appointment for this position—he is a distinguished historian, scholar, and college administrator. The has been a leader in our national academic community for the past 30 years, bringing great distinction to himself and the institutions he has served.

The Labor and Human Resources Committee approved the nomination unanimously—and that consensus is a great tribute to Dr. Hackney's brilliant credentials. With bipartisan support and this strong mandate, Dr. Hackney will be able to provide strong leadership at the Humanities Endowment.

The Endowment is an important agency that offers Federal support for advanced scholarly research. It plays an effective role in encouraging academic work in the humanities.

Dr. Hackney has had a remarkable career and lifelong commitment to public service. He has outstanding professional qualifications for this position.

One impressive aspect of Dr. Hackney's career is his unequivocal view that the humanities belong in all of our lives.

At the University of Pennsylvania, where he most recently served as president, Dr. Hackney undertook a series of initiatives to make the university a more effective part of its community in the city of Philadelphia.

During the confirmation process, a handful of critics raised questions about two incidents that occurred recently on the Penn campus. The hearing in the Labor Committee provided ample opportunity to examine these incidents in full.

Dr. Hackney was able to explain the facts to the satisfaction of the committee members—and discount the flimsy allegations against him.

I am convinced that Dr. Hackney is a strong advocate for free expression. He has often spoken of the importance of including all points of view in the humanities. He will oppose any attempt to impose any concept or orthodoxy or political correctness on the grantmaking process.

I am especially pleased that Dr. Hackney, by training, is an historian. His knowledge, understanding and perspective in this area will be of great value to the agency. He has a clear sense of the Nation's past and an equally clear vision of its future.

His stature in the academic community will also be a great asset to the Agency which, along with its sister Agency, the National Endowment for the Arts, has been on a political rollercoaster in recent years.

Dr. Hackney offers the Humanities Endowment a vision and temperment that will set the course for the Agency for its second quarter century. Under his leadership the Agency will, I am sure, do an effective job of achieving its promise.

I commend President Clinton for his nomination of Dr. Hackney, I urge the Senate to confirm him.

Mr. WOFFORD. Madam President, this is not a partisan matter. I do not know of any nomination that has had such bipartisan support.

I ask unanimous consent to print in the RECORD and read, in part, the letter from Mrs. Walter H. Annenberg.

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

WYNNEWOOD, PA,
June 3, 1993.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: As a member of the Board of Trustees of the University of Pennsylvania, I offer the strongest endorsement of Sheldon Hackney for the position of

Chairman of the National Endowment for the Humanities and I urge the Senate Labor and Human Resources Committee to approve his appointment without reservation.

Since becoming Penn's 21st chief executive in 1981, Dr. Hackney has focused on a range of institutional needs, including curricular reform, research enhancement, development and long-range planning, public involvement, and internationalization, and he has achieved an exceptional record as a national leader in each of these areas. In spite of this, in difficult situations, Dr. Hackney has proven that he can bring together complicating elements to produce a constructive solution. But such accomplishments are even more meaningful in the context of Dr. Hackney's deep and abiding commitment to freedom of expression.

In recent months, two incidents on the Penn campus have put Dr. Hackney's personal and institutional values to the test. In both cases, in spite of intense media coverage, President Hackney demonstrated not only remarkable restraint in dealing with the deluge of publicity but also great integrity in helping to continue a "wholesome and mutually supportive campus community."

One episode involved the printing of racially hostile commentaries in the independently operated campus newspaper and the resulting confiscation of that publication by some minority students. The second episode involved a white student's alleged racist slur in response to excessive noise by several black sorority women. Both incidents raised a host of complicated legal issues, especially First Amendment protections. In his handling of these and other incidents throughout his term as president, Sheldon Hackney has steadfastly articulated freedom of expression, civility, and respect as the core values of the University. He has made it clear on numerous occasions that the Bill of Rights provides for certain freedoms but it does not give people the freedom to abuse that concept.

Walter and respectfully ask you to give Sheldon Hackney an opportunity to serve his country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania.

Senator Kennedy, please give this your most careful consideration. I cannot imagine President Clinton putting forward a better candidate from either the Republican or Democrat standpoint.

Sincerely,

Mrs. WALTER H. ANNENBERG.

Mr. WOFFORD. Madam President, she writes:

As a member of the Board of Trustees of the University of Pennsylvania, I offer the strongest endorsement of Sheldon Hackney for the position of Chairman of the National Endowment for the Humanities.

* * * he has achieved an exceptional record * * * remarkable restraint in dealing with the deluge of publicity but also great integrity helping to continue a "wholesome and mutually supportive campus community."

She mentions the incidents we have talked about and then says:

In his handling of these and other incidents throughout his term as president, Sheldon Hackney has steadfastly articulated freedom of expression, civility and core values of the university. He has made it clear on numerous occasions that the Bill of Rights provides for certain freedoms but it does not give people the freedom to abuse that concept.

Walter and I respectfully ask you to give Sheldon Hackney an opportunity to serve his country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania.

Please give this your most careful consideration. I cannot imagine President Clinton putting forward a better candidate from either the Republican or Democrat standpoint.

Madam President, I also ask unanimous consent to print in the RECORD a letter from the cultural adviser to Gov. Robert Casey, of Pennsylvania, Sondra Myers.

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

OFFICE OF THE GOVERNOR,
Harrisburg, PA, June 10, 1993.

Senator HARRIS WOFFORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR HARRIS: It is with great enthusiasm that I commend to you the confirmation of Sheldon Hackney as Chairman of the National Endowment for the Humanities. I bring to this endorsement extensive knowledge of an experience with the Endowment and with Dr. Hackney.

As a former chair of the Pennsylvania Humanities Council and a past president of the Federation of State Humanities Councils, I have worked with the Endowment for over twenty years. The agency, although modest in size, is of primary importance in fostering and supporting research and dissemination of ideas which are critical to Americans' understanding of our own history and of our knowledge of the world and our place in it.

As a nation we are at a crossroads. We are entering a new millennium, one which presents us with the challenges of maintaining our precious legacy of democracy in a climate of a domestic and international change. The NEH is the leading federal agency to nurture understanding of ourselves and others. It requires, more than ever before, the leadership of one who is deeply grounded in the disciplines of the humanities and who has the skills, experience and vision to guide this major agency into the future.

I have had the privilege of knowing Sheldon Hackney since he came to Pennsylvania to assume the presidency of one of our premier academic institutions. During this tenure at the University of Pennsylvania, the institution has made enormous strides in developing—academically and economically, and, critically important, too, in its responsibility to the community.

Dr. Hackney is amply qualified for a position of national leadership. His intellectual acuity, his integrity of character and his overriding concern for the public good are qualities that insure a well conceived and well managed Endowment, one which will preserve the principles and purposes which informed its creation by the Congress. It will be an agency for the people.

Dr. Hackney is not a ideologue; he is a pragmatic idealist, in the tradition of our Founding Fathers, who has a passionate commitment to learning and a profound knowledge of its importance to the future of American democracy.

I have full confidence that he would serve the Nation Endowment for the Humanities with honor and distinctions. Hope and trust that the committee will confirm his nomination with all due speed and confidence.

Sincerely,

SONDRA MYERS,
Cultural Advisor to the Governor.

Mr. WOFFORD. "I also ask unanimous consent to print in the RECORD several other items, including a letter from the president of the American Council on Education.

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

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, July 22, 1993.

Time Magazine Letters,
Time & Life Building, Rockefeller Center, New York, NY.

TO THE EDITOR: In its haste to tell a sensational story at the expense of former University of Pennsylvania president Sheldon Hackney, President Clinton's nominee to head the National Endowment for the Humanities ("Wine and Cheese Liberal—At Taxpayer's Expense," July 26, 1993), Time neglected to tell the whole story.

The piece claims that Penn "admitted misspending. . . nearly $1 million in federal grants earmarked for academic research." But the story fails to note that Penn received over $890 million in research grants during the five years covered by a government audit. In other words, the amount in question is roughly one-tenth of one percent (.001) of the total received. Time also neglected to mention that Penn repaid the money in dispute.

Few organizations, public or private, can match this performance. Indeed, if Dr. Hackney demonstrates equally good stewardship of the taxpayers' money as chairman of HEH, he should get a medal.

Sincerely,

ROBERT H. ATWELL,
President.

JUNE 24, 1993.

Hon. HARRIS WOFFORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR HARRIS: Enclosed please find a letter which has been forwarded to the Philadelphia Inquirer, the Philadelphia Daily News and the Philadelphia Tribune. It is the feeling of the people whose names are typed below that Sheldon Hackney deserves the support of this entire region by reason of the major contributions he has made on all our behalves. We hope that he will have your support in the United States Congress. That support will be very much appreciated by all of those whose names appear below the letter and by the undersigned.

Sincerely,

MILTON A. FELDMAN.

ESTÉE LAUDER COMPANIES,
New York, NY, June 24, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I'm writing you in support of the nomination of Dr. Sheldon Hackney to head the National Endowment for the Humanities. I serve on the Board of Trustees of the University of Pennsylvania, and therefore have known Sheldon Hackney intimately over the entire time of his tenure at the University. Simply stated, he is a man of extraordinary talent, brilliance, and deep humanitarian convictions.

I urge you and your fellow Senators to confirm his appointment . . . it will be a great step for the Nation.

With warmest personal regards.

Sincerely,

LENARD A. LAUDER.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1993.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Building, DC.

DEAR TED: I want to add my voice to those supporting Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

The nation is fortunate that an individual of Dr. Hackney's caliber has been nominated to head the NEH. Dr. Hackney has served with distinction for the past 12 years as president of the University of Pennsylvania. He served as president of Tulane University from 1975 to 1981 and as provost of Princeton University from 1972 to 1975.

Dr. Hackney is a noted scholar of the Southern United States and an award-winning author. He is also a professor of history at Penn who regularly teaches undergraduates. He has conducted one of the most successful fund-raising campaigns in higher education history at Penn and has been an effective leader in community activities and education organizations.

Dr. Hackney's efforts have built the University of Pennsylvania's reputation as a leading research university that provides a superb undergraduate education. He has emphasized teaching, research and service as the three central missions of modern research universities.

I believe his outstanding record and life achievements make him ideally suited to head the NEH. I have complete confidence in his abilities and judgment, and I urge you and the members of the Committee to give his nomination favorable consideration.

Sincerely,

JOSEPH M. MCDADE,
Member of Congress.

THE METROPOLITAN MUSEUM OF ART,
New York, NY, June 21, 1993.

Hon. EDWARD M. KENNEDY,
Senate Russell Office Building, Washington, DC.

DEAR TED: I am writing you to express support for Sheldon Hackney to be Chairman of the National Endowment for the Humanities. Your support for his candidacy is critical to his approval by the Senate.

I have known Sheldon well for 15 years and have watched his entire presidency at the University of Pennsylvania. Indeed, my son was one of the many young people who were privileged to be at Penn during Sheldon's tenure. We have seen Sheldon and his wife on many occasions over these years. We shared "donors" to the Met and the University of Pennsylvania so I know him to be a much respected and effective president, fundraiser, and soul-mate in the non-profit world.

My sense of Sheldon is based on long years of discussion and observation during my years as American Ambassador to Venezuela, then to Czechoslovakia and for the last seven years as a museum president. He is a strong, intelligent and humane leader, the likes of which the U.S. Government only rarely attracts into its service. Throughout his career and indeed, throughout his life, Sheldon has advocated and practiced policies that encourage free and open expression of competing views.

Sheldon will bring to this important job the humanist tradition of a historian and a family tradition rooted in the same spirit. For more than a decade he has run one of our finest universities with a sterling record during a difficult time for the academy. Few university presidents have accomplished as much with so little uproar during this past twelve years as Sheldon.

When you look closely at his record, I am sure you will determine that he will make an outstanding leader of the National Endowment for the Humanities. I hope that you will be one of those who welcome his appointment.

Sincerely,

WILLIAM H. LUERS,
President.

Below, the Chairman of the Trustees of the University of Pennsylvania shares with the campus his message to the Trustees upon the resignation of President Sheldon Hackney.

A MESSAGE TO THE UNIVERSITY COMMUNITY,
APRIL 16, 1993

We were delighted to learn earlier this week of President Clinton's intention to nominate Sheldon Hackney as the next Chairman of the National Endowment for the Humanities. While it is difficult indeed to imagine Penn without Sheldon, this is a magnificent opportunity for him and one that reflects well not only on him but also on Penn.

Sheldon's appointment, which is yet subject to Senate confirmation, has accelerated what has been his intention to step down at the successful conclusion of the Campaign for Penn. However, taking many factors into account, including the uncertain timing of the Senate hearings, Sheldon informed me earlier this week that he intends to resign as president of Penn no later than June 30, 1993, to give the Trustees the opportunity to begin immediately the search for Penn's next president and to identify an acting president to serve in the interim. The executive committee met yesterday on campus; we have begun to convene the consultative committee to advise us on Penn's next president and will be prepared to announce the acting president next week.

Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives, leading one of higher education's most thorough and effective institutional planning processes. While maintaining its strong regional base, Penn's student body has become nationally and internationally diverse. Looking toward Penn's long-term future as well as its current operations, Sheldon has continued our tradition of solid fiscal management. His presidency has seen endowment increase five-fold to top $1 billion for the first time in history. The Campaign for Penn is fast becoming one of higher education's legends, already having raised $955.3 million toward the $1 billion goal, and providing funding for 122 endowed chairs, the highest number in the history of higher education development efforts.

Beyond these successes, Sheldon leaves the lasting imprint of his multifaceted efforts that strengthened Penn's reputation as a leading research university that provides a superb undergraduate education, his leadership of nationally-recognized activities that place Penn in the vanguard of university-community partnerships, and his firm and clear devotion to creating a humane and civil environment for all members of Penn's community.

As we look to the future, we do so with a strong foundation of outstanding faculty, students, administrators and staff, a solid financial base, and a reputation for being the best managed institution of higher education in the country. Thanks to Sheldon and all of those who have been part of his team, the University of Pennsylvania is well positioned to continue its emergence as, in his words, "the leading international research institution that really cares about undergraduate education." As we move to form the consultative committee to advise the Board of Trustees on candidates for Penn's next president, we do so with confidence. Penn is an exciting place to be, and its leadership is one of higher education's most compelling posts. I have no doubt that we will attract an outstanding group of candidates.

Finally, I am sure you join me in wishing Sheldon and Lucy the very best as they move into the next phase of their extraordinary lives.

Sincerely,

ALVIN V. SHOEMAKER.

THE SHELDON HACKNEY I ADMIRE

The Lani Guinier battle is over, but another one looms, this time not about a professor at the University of Pennsylvania, but about the president of that same Ivy League redoubt, Sheldon Hackney, whom Bill Clinton has nominated to chair the National Endowment for the Humanities, where Lynne Cheney used to sit.

For the past dozen years, Mr. Hackney has run Penn admirably. Before that he was president of Tulane University and earlier, provost at Princeton. He is a teaching historian by trade, his major scholarly preoccupation his beloved South. Unlike Ms. Guinier, it is not his writings that have triggered hostile reaction to his nomination from the editorial writers of The Wall Street Journal; instead, what has riled his critics are recent events at Penn in which Mr. Hackney, you aver, went out of his way to coddle minorities. You paint him as the wimpish captive of the forces of political correctness.

I should explain that this man is my friend and that I know him well enough to suggest that perhaps you should get to know him and his academic management style better before you fulminate against him further, for this is a strong, gentle, quietly courageous man whose years in academe have been distinguished and almost universally applauded.

It is obvious that university campuses today are yeasty, sometimes quarrelsome places, especially urban campuses like Penn, where each year more and more minorities come to study, to exercise their intellects and their emotions. Each year new tensions develop, new muscles are flexed, group for group, minority for minority. But Mr. Hackney has labored to make Penn a place of comity despite the conflict quotient; and this at a time that Penn's undergraduate minority enrollment has grown from 13% to 30%.

He is about to undergo the Washington ritual of Senate confirmation hearings, during which no doubt he'll be asked, among other things, about those recent events described by one writer as "racial sensitivity gone haywire," which called down on him the wrath of those aforementioned critics. In the best of all worlds, perhaps, university campuses would spawn more light, less heat, but those—apparently—are not the conditions that prevail at many campuses across America.

Mr. Hackney has dealt with various eruptions over the years, including protests against the predictable spectrum of invited speakers from Farrakhan to Reagan; despite all, he has succeeded by and large in keeping the peace at Penn. Addicted to freedom of speech for all comers, he has inevitably stumbled. Who hasn't? But for his critics to define him, his convictions and his career in terms of those virtually solitary fumbles is unfair and dishonest.

If Sheldon Hackney's fine stewardship of a great university can be so misrepresented, it is not difficult to comprehend why capable others who might be called upon to serve in Washington would think thrice before subjecting themselves to similar misinformed, occasionally malicious, politically motivated calumny.

MIKE WALLACE,
Correspondent,
CBS/60 Minutes.

NEW YORK.

THE NATIONAL HUMANITIES ALLIANCE

ACTIVE MEMBERS OF THE NATIONAL HUMANITIES ALLIANCE

American Academy of Religion
American Anthropological Association
American Association of Museums
American Association for State and Local History
American Council of Learned Societies
American Folklore Society
American Historical Association
American Musicological Society
American Philological Association
American Philosophical Association
American Political Science Association
American Society for Aesthetics
American Society for Eighteenth-Century Studies
American Society for Legal History
American Sociological Association
American Studies Association
Association for Asian Studies
Association for Jewish Studies
Association of American Colleges
Association of American Geographers
Association of Research Libraries
College Art Association
Commission on Preservation and Access
Shelby Cullom Davis Center for Historical Studies Princeton University
Federation of State Humanities Councils
The George Washington University
History of Science Society
Independent Research Libraries Association
Linguistic Society of America
Medieval Academy of America
Middle East Studies Association
Modern Language Association
National Council of Teachers of English
National Humanities Center
Organization of American Historians
Phi Beta Kappa Society
Renaissance Society of America
Research Libraries Group
Social Science Research Council
Society for the History of Technology
Society of Biblical Literature
Special Libraries Association
Speech Communication Association
Teachers for a Democratic Culture

ASSOCIATE MEMBERS OF THE NATIONAL HUMANITIES ALLIANCE

African Studies Association
American Dialect Society
American Library Association
American Numismatic Society
American Society for Theatre Research
Association of American Law Schools
Association of American University Presses
Center for the Humanities, Wesleyan University, Connecticut
College English Association
Commowealth Center for Literary and Cultural Change, University of Virginia
Community College Humanities Association
The Council of the Humanities, Princeton University
The Hastings Center
Institute for Advanced Study
Institute for the Humanities, University of Michigan
Institute for the Medical Humanities, University of Texas Medical Branch, Galveston
Institute of Early American History and Culture, College of William and Mary
International Research and Exchanges Board
Midwest Modern Language Association
Northeast Document Conservation Center
Philological Association of the Pacific Coast
Popular Culture Association
Shakespeare Association of America
Sixteenth Century Studies Conference
Society for Ethnomusicology
Society of Architectural Historians
Society of Christian Ethics
South Atlantic Modern Language Association
South Central Modern Language Association
Doreen B. Townsend Center for the Humanities, University of California, Berkeley
University of California Humanities Research Institute, University of California, Irvine
Virginia Center for the Humanities

Mr. WOFFORD. I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield myself up to 12 minutes of the time allocated to the minority, in opposition to this nomination.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LIEBERMAN. Madam President, I rise regretfully in opposition to the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities. I do so without pleasure, may I say, because this nominee is, by all accounts, a distinguished scholar and a decent man. Indeed, I spoke to Dr. Hackney recently and found him to be as thoughtful, charming, and well-intentioned as his many supporters promised me he would be. But I have decided that I cannot in good conscience vote to support his nomination for this particular office.

The National Endowment for the Humanities and our great universities, including the University of Pennsylvania, share an important and principled mandate: the pursuit of knowledge through the unfettered expression of facts, opinions and values, disciplined only by the requirement that such expression be open to debate and to scrutiny.

The first amendment of our Constitution embodies this principle with respect to government. For obvious reasons, our private universities have no such constitutional counterpart. We must rely primarily on the steadfastness to this principle by our universities' leaders for its preservation and for its vitality.

History is unfortunately replete with examples of the damage that can result when members and leaders of university communities, however well-intentioned, succumb to the pressures of the moment. The noble fight against Soviet communism led to the blacklisting of some faculty. The ignoble specter of racism and bigotry led otherwise honorable men and women in our academic communities to impose quotas—religious, ethnic, racial quotas—on the admission of students from various minority groups or prevented scholars who were members of those minority groups from becoming tenured faculty members.

We now look back on these and other periods with shame and remorse, as well we should. I am convinced that we will also look back on today's speech codes and similar examples of the rule of political correctness with that same shame and remorse. Speech codes, however well-motivated, violate the principle of free speech and are ultimately patronizing because they suggest that the targets of offensive speech are incapable of confronting that offensive speech, of fighting its insensitivity or intolerance or ignorance directly by refuting it. In fact, the very effort to explore the meaning, motivation, and effect of specific expressions of speech in a judicial setting has, in my opinion, a chilling effect on university communities and takes us down a path that can lead to no good.

So, too, obviously, do attempts to explain or justify attempts to prevent the distribution of unpopular opinions and ideas.

And that brings me now to these two episodes at the University of Pennsylvania during this past spring.

In one, a group of students who did not like the tone and content of a series of columns that had appeared in the student newspaper, the Daily Pennsylvanian, took it upon themselves to confiscate 14,000 copies of one edition on a given day of that newspaper before it was distributed.

Instead of condemning that act in unequivocal terms for what it was—an outrageous assault on freedom of speech, freedom of the press, and a criminal act, namely, the theft of newspapers that did not belong to them—instead of doing that, Dr. Hackney's immediate reaction was to express sympathy with the students' frustration that led them to steal the newspapers. That is nonsense and, sadly, it is nonsense that, according to a column by Nat Hentoff in this Saturday's Washington Post, is being repeated at too many of our great universities across the country today.

Dr. Hackney did pay tribute in his statement to the preeminence of free speech in our society. But as I read that statement, that elevation of free speech was smothered in a statement that was otherwise loaded with the kind of Orwellian truisms on the so-called conflict between free speech and diversity that also have become too common on our campuses.

Sixteen professors at the University of Pennsylvania's Law School saw this. They understood the need for a statement of unequivocal clarity on this event; namely, the theft of these newspapers. They spoke out. I applaud them for it, and I ask unanimous consent that a copy of their public statement, their letter, be printed in the RECORD.

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

ON REMOVAL OF DPS

(The following was submitted under the title "Open Letter to President Hackney.")

The undersigned are members of the Law Faculty. We believe that the deliberate removal from circulation of 14,000 copies of The Daily Pennsylvanian calls for us to state three points with unequivocal clarity.

First, the removal of the newspaper because it published writings by one columnist which some students found offensive was a flagrant violation of freedom of thought and freedom of discussion. It was a direct denial of the principle which is most basic to the University's mission. It was conduct which cannot be excused or tolerated.

Second, the fact that the newspapers were confiscated as an act of protest cannot excuse it or make it any less tolerable. Those who disagree are, of course, entitled to protest, but not be attempting to silence those with whom they disagree.

Third, the important University values of diversity and open discussion were not in conflict here. The offensive columns in no way prevented the University from carrying out its policy of diversity and its many programs to promote understanding.

Removal of the newspapers struck at the heart of the most fundamental diversity which the University should foster—diversity of thought, views and expression. It may well be that the University has not done all that should be done to promote racial diversity. That must occupy a high place on the continuing agenda. But we disserve democratic values if, in our efforts to promote that diversity, we chill diversity of expression.

Clyde W. Summers, Jefferson B. Fordham Professor Emeritus.

Stephen B. Burbank, Robert G. Fuller, Jr. Professor.

Colin S. Diver, Dean and Bernard G. Segal Professor.

William B. Ewald, Assistant Professor.

Michael A. Fitts, Professor.

Frank I. Goodman, Professor.

Robert A. Gorman, Kenneth W. Gemmill Professor.

John O. Honnold, William A. Schnader Professor.

Leo Katz, Professor.

Seth F. Kreimer, Professor.

A. Leo Levin, Leon Meltzer Professor Emeritus.

Richard G. Lonsdorf, Professor of Psychiatry and Law.

Charles W. Mooney, Jr., Professor.

Stephen J. Morse, Ferdinand Wakeman Hubbell Professor.

Edward B. Rock, Assistant Professor.

Edmund B. Spaeth, Jr., Senior Fellow.

Mr. LIEBERMAN. Madam President, as an example of the slippery slope, the dangerous path down which these proceedings can go, I ask unanimous consent to print in the RECORD excerpts from the report of a panel of university administrators appointed to study the theft of those copies of the Daily Pennsylvanian on April 15, 1993.

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

[From the Wall Street Journal, July 26, 1993]

DOUBLETHINK AT THE UNIVERSITY OF PENNSYLVANIA

Following are excerpts from the report of a panel of University of Pennsylvania administrators appointed to study the theft of one entire press run of the student newspaper. The papers were seized all over campus by black activist students opposed to The Daily Pennsylvanian's editorial content.

The report, which criticizes security guards, absolves the students of any wrongdoing—except failure to show I.D. cards. The panel analyzed what supposedly transpired at each of the campus sites involved.

A related editorial appears today.

INDIVIDUAL INCIDENTS ON APRIL 15, 1993

1. Biomedical Library/Johnson Pavilion (6:52 a.m.): Incident involving two students and two officers responding to a call from a School of Medicine security guard.

The panel found that one officer behaved in a discourteous manner toward the students by ordering them to leave before determining who they were or giving them an opportunity to explain their presence. The panel found that his actions violated Section 8.4.02 of the "UPPD [University of Pennsylvania Police Department] Policies and Procedures Manual" and should be reviewed by his supervisor for possible disciplinary action.

The panel found that the Medical School security guard behaved appropriately by contacting the UPPD.

The panel recommended that all security personnel receive training on working and interacting with people from diverse backgrounds. This training should include information about the diversity of the Penn community and the expectation that all members of the community should be treated with civility and respect regardless of race, color, sex, sexual orientation, religion, national or ethic [sic] origin, age, disability, or status as a disabled or Vietnam era veteran.

2. Blockley Hall/Johnson Pavilion (7:48 a.m.): Incident involving two students, one Medical School security officer, one Medical School Supervisor of Security, one security officer . . . and four police officers responding to a call to UPPD that "A black male at Blockley Hall tried to take all the DP's [Daily Pennsylvanians]."

The panel found that one officer behaved in an unprofessional manner in violation of Section 8.4.02 of the "UPPD Policies and Procedures Manual" by cursing at the student and used excessive force . . . by striking the student with his baton. The panel also found that the officer failed to conduct a proper and thorough investigation because he neglected to interview the security personnel who were in pursuit.

3. David Rittenhouse Laboratories (8:20 a.m.): Incident involving two students, four officers, and the UPPD dispatcher. When two officers stopped the students carrying a large trash bag outside of DRL, they were informed by the students that this was a protest action.

The panel found that the responding officer . . . violated Section 5.22.0 of the "UPPD Policies and Procedures Manual" by not requesting that a supervisor be dispatched to the scene in response to a demonstration.

The panel found that the dispatcher violated UPPD Divisional Directive 92.08 by making a command decision without consulting a supervisor.

4. University Museum/Sports Medicine (8:16 a.m.): Incident involving two students, a Museum security guard, a Museum administrator and two officers. The Museum administrator pursued the students, who took the DP's from Kress Gallery, and caught up with them in Weightman Hall, where he made a "citizen's arrest" and detained the students.

The panel found that the Museum administrator's actions in pursuit of the students were inappropriate after they left the property of the University Museum and not in accordance with the authority and responsibility of his job functions. His actions should be reviewed by his supervisor for possible disciplinary action.

The panel found that the students should have shown their Penn cards.

In summary, the panel concluded that once the incident occurred at DRL [David Rittenhouse Laboratories], the UPPD should have recognized that the removal of the DP's from at least three different locations was a form of student protest and not an indicator of criminal behavior. According to the University's "Emergency Procedures Protocols" . . . the UPPD should have contacted the Office of the Vice Provost for University Life as soon as it recognized that the students were involved in a form of protest. Once the VPUL was notified of the protest, Open Expression Monitors would have been dispatched to observe and monitor the students' actions, in compliance with the existing Open Expression Guidelines. Since this act was a form of protest and not a criminal offense, it would have been more appropriate for Open Expression Monitors, not police officers, to mediate and attempt to resolve any further conflicts that resulted from the removal of the DP's. The Open Expression Monitors could have informed the students about the Open Expression Guidelines, notified them if their actions violated the Guidelines, and identified students who violated the Guidelines.

RECOMMENDATIONS

It is vital that all UPPD personnel receive additional training about appropriate responses . . . to student demonstrations and protests. This training must include extensive information on the University's Open Expression Guidelines [and] the role and responsibility of Open Expression Monitors.

The UPPD Policy on handcuffs, Section 5.7.06, should be reviewed . . . to ascertain if there are circumstances when it may be inappropriate to handcuff detainees . . . The application of any newly implemented policy should be monitored . . . to ensure that the policy is applied consistently, is nondiscriminatory, and has no adverse impact on any group of people. After the policy is implemented, data should be maintained by the Department on the race and sex of individuals handcuffed, nature of offenses, and reasons for handcuffing.

As an example, in going from episode to episode, describing students taking the newspapers, being seen by security officers of the university:

The panel found that one officer behaved in a discourteous manner toward the students by ordering them to leave before determining who they were or giving them an opportunity to explain their presence. The panel found that his actions violated section 8.402 of the

"University of Pennsylvania Police Department Policies and Procedures Manual" and should be reviewed by his supervisor for possible disciplinary action.

Another incident in which they describe a museum administrator, two officers and a security guard saw students taking these newspapers from a university art gallery, caught up with them in a neighboring building, pursuing them, where one made a so-called citizens arrest and detained the students. And I quote:

The panel found that the museum administrator's actions in pursuit of the students were inappropriate after they left the university museum and not in accordance with the authority and responsibility of his job functions. His actions should be reviewed by his supervisor for possible disciplinary action.

No mention of the fact that we have here a university official who has just seen students—I do not know whether he was able to identify them—at that point running off with something that did not belong to them, a large number of copies of the newspaper. Finally, and I quote again:

In summary, the panel concluded that once the incident occurred at David Rittenhouse Laboratories, the University of Pennsylvania Police Department should have recognized that the removal of the Daily Pennsylvanians from at least three different locations was a form of student protest and not an indicator of criminal behavior.

I just disagree with that and again present it as evidence of the problems that occur when we do not give freedom of speech the absolute accord that it deserves.

The second episode this spring, again showing while the speech clauses in the theory of their formulators may be reasonable efforts to promote civilized discourse, in application they are not only unworkable but destructive—in the second episode a group of students in one of the dormitories shouted at another group of students who were celebrating noisily outside the dormitory late one night. Some of the comments shouted out, it is alleged, were obnoxious; some, it is alleged, may have included racial epithets. Only one of the students in the dormitory owned up to shouting anything.

Now, again, obnoxious statements are, unfortunately, not atypical of late-night shouting on college campuses. But here, because of this speech code, the full machinery of the University of Pennsylvania speech code came into play. Complaints were actually filed by the students who had been allegedly making noise against the one student who acknowledged that he had shouted out the window. He was subjected to an investigation of his alleged violation of the University of Pennsylvania speech code.

At an early stage of the proceeding, after an initial investigation by one member of the investigatory panel—I gather a faculty member—the student was effectively offered a plea bargain. I am taking a little bit of liberty in using the term plea bargain, but a suggestion was made to him that if he agreed to go through sensitivity training the complainants would probably drop the complaint and it would all be over.

That just should not happen at a university community, no matter how outrageous a statement. The outrageousness of a statement should be confronted with facts or by simply walking away and not giving any heed to those statements, not by creating a mechanism which had an investigator suggest to this student that if he goes for sensitivity training the complaint would be withdrawn.

He, the student, refused that suggestion. Ultimately, the complainants decided not to pursue their complaints and that case has ended. But, unfortunately, it again illustrates the destructive nature of these codes, which require a judicial-like setting to evaluate the nature of speech—which is the beginning of a problem right there in our society—as to content and meaning, and require a panel or judicial tribunal to determine whether that speech should be punished or not.

A free society, Madam President, cannot countenance the establishment of such judges, no matter how well-intentioned, of what we or our children at universities can or cannot say. That, as I have said, is a slippery slope all of us should have the instinct not just to avoid but to condemn clearly and unequivocally.

In response to criticism in the Wall Street Journal of his behavior in these cases, and particularly in this case I have just described, Dr. Hackney wrote a letter to the Wall Street Journal this spring, and again in it I think we see that he is well intentioned but ultimately I think too ambivalent and off point on the critical role and respect we should give to free speech. Dr. Hackney says:

Freedom of expression is the paramount value at Penn and we are unwavering in our commitment to protect it. To that end we have well-established policies to protect open expression, and we have very deliberate and fair procedures for judging alleged violations.

Then he goes on to say:

Penn is a special kind of community. Not only does it put the free exchange of ideas at the core of its being, but it strives to ensure no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs intended only to wound, rather than to enlighten.

Once we begin to strive to ensure that no member of the community is prevented from full participation by being intimidated by speech, we are on the road to censoring speech and undercutting the basic freedom of a university community.

Madam President, I ask that the full text of Dr. Hackney's letter to the Wall Street Journal be printed in the RECORD.

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

LETTER TO THE EDITOR

I write to correct the unfortunate impressional left by your editorial of April 26 "Buffaloed at Penn," about a student disciplinary case now pending the University of Pennsylvania. Although I am not permitted by federal law or university policy to discuss the facts of the case, I can put in into context.

Freedom of expression is the paramount value of Penn, and we are unwavering in our commitment to protect it. To that end, we have well-established policies to protect open expression, and we have very deliberate and fair procedures for judging alleged violations.

Penn is a special kind of community. Not only does it put the free exchange of ideas at the core of its being, but it strives to ensure no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs intended only to wound, rather than to enlighten.

Whether a student has engaged in racial harassment according to our very narrowly defined policy is now up to a judicial panel of students and faculty to determine. If errors are made, ample avenues of appeal are available after the judicial panel has reached its conclusion.

Those who think they know what the outcome should be are impatient with the process, but that process must be allowed to run its course.—Sheldon Hackney, President, University of Pennsylvania.

The PRESIDING OFFICER. The Chair might advise the Senator he has spoken for 15 minutes and 53 seconds.

Mr. LIEBERMAN. I thank the Chair. I ask unanimous consent for an additional 5 minutes to conclude my statement.

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

Mr. LIEBERMAN. Madam President, to sum up, let me say this. Speech obviously can be noxious and it can be hateful. In such circumstances, it is perfectly appropriate—indeed, it is essential—for members of the university community and especially the leader of a university community, its president, to speak out and confront those ideas. That is the proper role of education and of educators. But it is not proper for an educator, for a university president to condone, tolerate or seek to put in perspective either the suppression of free speech, as evidenced by the criminal act of stealing newspapers, or the chilling discouragement of free speech in a proceeding that presumes that certain kind of offensive words must be sanctioned and punished as evidenced in the second case that occurred this spring.

Madam President, speech codes and other attempts to suppress what is not politically correct, what is not politically fashionable at a given moment in our history simply cannot be tolerated. And in our time, they must be stopped,

they must be eliminated, they must be withdrawn from our university life.

Leaders in that battle should be leaders of the university community, the presidents of our universities. I respectfully suggest that in this battle there really is no room for equivocation or compromise. The president of a university is the trustee of a great and proud tradition of freedom in university communities. That goes back through the course of Western civilization, and has been upheld with intensity, force, and zeal, particularly in America's university system.

Being a university president is a great privilege. And with it comes great responsibilities.

I fear that if we overlook the violation of those responsibilities, we will have only ourselves to blame for the further diminishment of one of the most fundamental principles upon which this society rests. So, although I know that in most regards Dr. Hackney was, by the testimony offered by Senator WOFFORD and others, a superb president of the University of Pennsylvania, and while I accept the fact that he is a distinguished scholar and certainly a decent man, I believe that the same critical principles that I have discussed, the primary principle of freedom of speech which distinguishes our society, is at the heart of the work of the National Endowment for the Humanities which Dr. Hackney has been nominated to head. And because I am profoundly troubled by the way in which he presided over the University of Pennsylvania during the time when it adopted and enforced speech codes, and because I am profoundly troubled by the ambivalence of his response to the theft of those 14,000 copies of the college newspaper, I shall vote against the nomination of Sheldon Hackney to lead the National Endowment for the Humanities.

I thank my colleagues for their charity in the time given to make this statement.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I think the fact that we have the nomination of Dr. Hackney and Ms. Acheson both before us for consideration, Dr. Hackney to head the National Endowment for the Humanities and Ms. Acheson to be an Assistant Attorney General, it is a sad commentary on the partisanship that prevails within these committees. If this had taken place under a Republican President with both of those nominees being Republicans, there is no way in the world they would have come to this floor. On Dr. Hackney, they would have said he trampled all over the freedom of speech. On Ms. Acheson they would have said, "Oh, she belonged to a club that discriminated and only resigned just in time when she was nominated." Those are the exact facts. She belonged to the country club in Brookline for many years that clearly had discriminated.

It seems to me very, very unfortunate that we have this double standard existing within the committees because we all served during the years when President Reagan and President Bush were nominating various candidates. An entirely different standard, different than that applied to Ms. Acheson and Dr. Hackney, applied.

I am going to vote for both of those nominees. I do not think the transgression that Dr. Hackney made was something that we can applaud by a long shot. But I have heard from many who have known him for many, many years and do not think that one or two transgressions, if you would, should cause his nomination to fail.

So I am going to give them the benefit of the doubt. I do not think our Republic is going to collapse if Dr. Hackney is nominated, and indeed many people think he is an excellent individual.

Ms. Acheson, likewise. I will support her because I think that somebody who belongs to a club that perhaps she was not very active in, and a club in some fashion discriminates—I do not think that makes that person a bigot. But I think we ought to have the same rules apply to everybody who comes before us for a nomination.

Madam President, I would like to go on and say I think this whole nomination process has gotten out of hand. On the Environment and Public Works Committee we deal with the nominees to sit on the board of the TVA. The TVA is hardly an organization that ranks up in the top in sensitivity or the disclosure of national secrets of some fashion. Yet, the background checks of both of those individuals that came before us, the FBI said they spoke to 46 different people—46 different people for a nominee to be on the board of the TVA. The system has gone haywire around here.

I would like to point out, Madam President, that I was nominated by the President to be Secretary of the Navy in 1969, January. That was a new administration that had just come in January 1969. That was an administration of a different party. The previous party had been that of President Johnson, the Democratic Party. And I was processed, investigated, confirmed, and sworn in by January 31.

The new Secretary of the Navy, chosen under exactly the same circumstances, a new administration coming from a different administration from the prior one, a different political party, was sworn in the end of July. That is 6 months' difference. Indeed, there is a paltry number of individuals sworn into office over at the Pentagon right now. And so it is through all of the departments.

I just think that we have to sit back and review what we are doing. Walter Mondale confirmed by the Senate to be Ambassador to Japan on July 30, last Friday. Walter Mondale who served as U.S. Senator, who served as a Vice President of the United States, what better qualifications do we want? Yet, it took to get him through the process, the FBI checks, all that goes with it, up until July 30, 6 months—more than 6, 7 months after this administration came to office.

So, Madam President, I would hope that everybody would say to themselves the system has gone haywire, that a nominee, let us look at him, those that we know something about. It does not mean we have to have 47 background checks by the FBI. Walter Mondale, we all know him. He has certainly kept the secrets of the Nation and carried out his duties with superb form during the years that he was Vice President.

Happily he finally was confirmed. In all fairness, it was not the Senate that slowed that up. It took forever to get the nomination up here. I do not know what the clearances were that they sought. Clearly as Vice President he had every clearance known to man, every security clearance.

So, Madam President, I would hope that not only in these cases we would move forward with dispatch, and get the debate done. I think 5 hours of debate on Mr. Hackney is going beyond something that is reasonable. There are plenty who have thoughtful views on him, pro and con. Let us hear them. Let us get on with the vote. But in the future, let us not have 47 interviews by the FBI for a nominee for the TVA authority.

I thank the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President,

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein.

That famous celebration of tolerance was written by Justice Robert H. Jackson, in a 1943 Supreme Court decision, West Virginia Board of Education versus Barnette, which held unconstitutional an attempt to compel public school students to salute the flag.

I have used this standard, the Barnette test of tolerance, to judge several of the nominees President Clinton has chosen to join his administration.

Despite my usual deference to any President in choosing his administration, including people with whom I profoundly disagree, like Robert Reich, the Secretary of Labor, Donna Shalala, the Secretary of Health and Human Services, and Jocelyn Elders for Surgeon General, I reject those nominees

who fail the Barnette test—those who are inch tolerant of conflicting views, who have used or are likely to use political power to punish their opponents or to pursue policies destructive of the social fabric which binds us together as Americans or who are indifferent to constitutional principles.

President Clinton, regrettably has sent the Senate four such nominees, Roberta Achtenberg, Lani Guinier, Thomas Payzant and now Sheldon Hackney, the President's choice for the National Endowment for the Humanities.

Three well-documented and publicized events during Dr. Hackney's tenure at the University of Pennsylvania illustrate his lack of potential for effective leadership of the National Endowment for the Humanities, a position entrusted with more than $150 million a year in taxpayer money to spend for the advancement of the humanities.

In each case, Dr. Hackney showed an alarming willingness to act or to fail to act only in conformance with the most extreme academic doctrine of political correctness and totally inconsistent with the very qualities of courage, balance, reason and fairness, which should mark the humanitarian spirit.

Dr. Hackney has time and time again shown indifference when an advocate for the truth was needed, silence when a spokesman for justice was needed, an appeasement where leadership was required, and a willingness to persecute where courage was required.

Sheldon Hackney falls miserably short of the qualities required of our Nation's chief spokesman for the humanities.

Take, first, the university's infamous paper chase.

On the night of April 15, a number of black students engaged in a campus-wide coordinated assault to retrieve 14,200 copies, the entire press run, of the campus newspaper, the Daily Pennsylvanian. Their target: A column written by a conservative student writer, Gregory Pavlik, the paper's only conservative among a legion of liberals, who had written articles critical of affirmative action and Martin Luther King.

In fact, the university administration informed Mr. Pavlik in February that based on his newspaper columns, he was charged with 31 violations of the university's infamous speech code and was under investigation for racial harassment.

The plot to steal the newspapers as an act of protest was conceived when the university decided to drop the charges against Mr. Pavlik. This was apparently the only instance in which the proposed use of the university's speech code against a nonpolitically correct speech was extreme enough to bestir Sheldon Hackney to action. But he equated the right to publish an opinion with the right to destroy that publication.

At this point, Madam President, I ask unanimous consent that the testimony of Mr. Pavlik be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. GORTON. This destruction of a newspaper run was such a violation of freedom of expression as to cause most students to anticipate total condemnation by the university administration. Instead, in words that would send chills down the spines of those who value the first amendment to the Constitution, Sheldon Hackney responded with these immortal words:

> Two important university values—diversity and open expression—seem to be in conflict.

He also expressed sympathy with the concerns of those who confiscated the paper and referred to the theft as simply papers which "were removed from their regular distribution points"—a definition perfect for a dictionary of politically correct language.

Mr. President, Dr. Hackney's comments about this incident reflect what columnist Richard Cohen accurately described as "Sheldon Hackney's dangerous balance."

Shortly thereafter, several alarmed law professors at the university wrote Hackney:

> The important University values of diversity and open expression were not in conflict here. The offensive columns in no way prevented the University of carrying out its policy of diversity and its many programs to promote understanding. Removal of the newspapers struck at the heart of the most fundamental diversity which the University should foster—diversity of thought, views and expression.

Rather than condemning this grievous violation of the first amendment and listening to voices of balance and reason, Sheldon Hackney followed a currently popular course of action on the part of many university presidents these days as they are accustomed to doing in the face of criticism. He appointed a blue ribbon panel to investigate the events of April 15. He chose silence when a spokesman for justice was needed.

Recently, that blue ribbon panel completed its deliberations. Its findings are noteworthy because they illustrate the impact Sheldon Hackney has had on his university's ability to pursue reason and to love justice. The report found that the confiscation of the newspaper run was not criminal, but rather a legitimate form of protest and so absolved the students of any serious wrongdoing. In fact, the report criticized security personnel who tried to prevent some of the thefts and recommended sensitivity training for the officers involved with the "protest." The report concluded by recommending that:

> It is vital that all [university police] personnel receive additional training about appropriate responses * * * to student demonstrations and protests. This training must include extensive information on the University's Open Expression Guidelines [and] the role and responsibility of open expression Monitors.

At the University of Pennsylvania, when one group stole thousands of newspapers, the police who attempted to frustrate the theft were scolded, and one was suspended for failing to conduct an Orwellian enforcer of campus political correctness. One may question whether a fraternity, if its members found a liberal column offensive and conducted a similar raid on the campus newspaper, would have been immune to condemnation from the university President. If the college Republicans coordinated such an assault on fundamental constitutional principles based on their anger and offense of the Republican Party, would that too be labeled a "protest"? Fat chance.

Madam President, Sheldon Hackney's inaction and abdication of leadership in this case can rightly be contrasted with his remarks several years later when Louis Farrakhan was invited to speak at his university. At that time, he told a university audience:

> We can't have free speech only some of the time, for only some people. Either we have it, or we don't.

Madam President, either Dr. Hackney has since decided we don't have free speech, or he has artfully calculated the occasions on which he is willing to defend the first amendment.

For instance, a year after his Farrakhan speech, when Dr. Hackney became an outspoken advocate for the National Endowment for the Arts during its controversial funding of Robert Mapplethorpe's pornographic display, he criticized NEA critics at a 1990 conference an academic freedom and artistic expression by stating:

> My own career is built on knowing when and when not to compromise * * * I generally seek compromise as a virtue, but I get very nervous when fundamental principles are at stake.

Madam President, what boldness and courage it must have taken to denounce the senior Senator from North Carolina at a conference of academics. But where was such boldness and courage in defense of the first amendment after the campus newspaper raid? When, if at all, has Dr. Hackney found an attack on conservatives an occasion at which fundamental issues were at stake? It is precisely his well-recognized capitulation to the politically correct and selective defense of fundamental principles that make this Senator, and the American taxpayer, unconvinced and skeptical of his dedication to open and free expression for all.

Mr. KERREY assumed the chair.

Mr. GORTON. Mr. President, under the leadership of Sheldon Hackney, the University of Pennsylvania became a model of political correctness when it

instituted one of the Nation's more absurd speech and conduct codes. According to author of "Illiberal Education," Dinesh D'Souza:

Examples of violations of the University President's Policy on Harassment, for which the penalty ranges from a reprimand to expulsion, include "the use of derogatory names," "inconsiderate jokes," and even "misdirected laughter and conspicuous exclusion from conversation."

Such nonsense is worth harpooning until it is taken seriously by the university administration that promulgated it. Ask Eden Jacobowitz, an Israeli born freshman at Penn who spent his freshman year at college learning a frightening lesson in prosecution and coercion by the administration of Sheldon Hackney.

Late one night last January, Mr. Jacobowitz and others in his dorm were disturbed by a loud group of shouting and celebrating black sorority women outside their dormitory windows. While several racist slurs were hurled at the women, Mr. Jacobowitz shouted "Shut up you water buffalo!" When confronted by university officials responding to charges by the black women that the university's code had been violated, Jacobowitz was the only one in the dorm who admitted to have shouted at the women, but vigorously denied that the term "water buffalo" was used as a racist comment.

Mr. President, at this point I ask unanimous consent that Mr. Jacobowitz' testimony on this matter be printed in the RECORD.

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

STATEMENT BY EDEN JACOBOWITZ, FRESHMAN AT THE UNIVERSITY OF PENNSYLVANIA, JUNE 25, 1993

Mr name is Eden Jacobowitz, and I am a freshman at the University of Pennsylvania. I am here this morning to tell my story and explain to the American people why I believe Sheldon Hackney's nomination should receive very close scrutiny by the U.S. Senate. First of all, I'd like to say that as an eighteen year old, I voted for the first time this year. I cast my ballot for Bill Clinton, believing, like many others that he was a new Democrat and would bring real change to America. I voted for Bill Clinton to help protect freedom of speech and expression in our country and especially on college campuses.

My story like so many others at Penn reflect the university's and Mr. Hackney's tendency to restrict free speech whenever the voice is not speaking correctly in their view. That is—politically correct in their view. As you probably already know on Wednesday, January 13, I shouted "Shut up you water buffalo!" at a group of sorority women who were stomping their feet, shouting and screaming outside my dormitory window at approximately 11:30 p.m. I later learned that because of this truly innocent response to disruptive noise, racial harassment charges had been filed against me. I was in complete shock that anyone had taken my words racially, and I made it clear to the university's judicial officers and to Dr. Hackney that the race of the women was of total indifference to me. I explained that as an Israeli-born orthodox Jew raised on Hebrew, the term "water buffalo" derived from the Hebrew word "beheman" which translates literally into "water oxen" and simply means "foolish person" in Hebrew slang. I do not understand how a university which prides itself on diversity, did not accept my culture.

I worked within the University Judicial System and presented the testimony of many witnesses who had heard what I shouted and agreed that the words had absolutely no racial meaning. I even presented testimony from professors at the university who are experts in African American culture and linguistics, stating that the term was not a racial slur. But it soon becameobvious to me that all the evidence in the world could not help me. It did not matter that "water buffalo" had absolutely no racial meaning because the university had chosen me as a scape-goat for those who shouted the truly racist words that night—words that I did not even know had been shouted.

It took four and a half months, or 131 days for the charges to be dropped and Dr. Hackney knew the facts of this case for 130 of those painfully difficult days. I met with him on January 15, were I told him everything that had transpired up to that point. I told him everything that I had said, and also informed him that on the night of the incident the complainants came to my dormitory room and shouted, "You white boy! We are going to get you expelled from school."

But neither President Hackney, nor his campus thought police found it strange that I was under investigation for racial harassment. I did not file counter charges, because I believe in the complainants' rights to freedom of speech, even, indeed especially, when they were angry and annoyed. Since January 13, all I wanted to do was to meet with the complainants and explain to them that I had absolutely no racial intentions, and apologize for shouting something that was at worst, a little rude. But neither the University's Judicial officers nor Dr. Hackney put any real effort into creating this type of friendly and constructive meeting between the complainants and me.

The University of Pennsylvania's Judicial Officers also committed many violations of their policies and procedures at my expense. As outlined in my testimony, at different points in the absurd proceedings the University employed a double standard, placed a gag order on me, prohibited one of my witnesses from testifying, and attempted to create a hearing on a date in which none of my witnesses could be present. My advisor notified President Hackney of every severe violation that had been committed by University Judicial Officials, yet, he did not find just cause for intervention even though it was obvious that I was being tried by a kangaroo court.

As stated in my Senate testimony, on May 28, after the charges were dropped by the complainants, (not the University) President Hackney sent a disturbing letter to everyone who had written to him. In his letter, President Hackney tried to convey that many people "do not share the same sense of crisis and calumny that has been so much in the news." This message is grossly inaccurate. Many noble individuals, primarily alumni, have written me letters expressing great concern, and many have felt compelled to withhold donations from the university. Most students, black and white, including those who organized a free speech rally at the university in early May, have been disgusted by the university's mishandling of the situation.

It is abominable that President Hackney does not share this sense of crisis. Because of serious racial tensions on campus, which should definitely concern President Hackney, an innocent freshman had an entire semester ruined by unjust charges. The Judicial Officers attempted to ruin my future by creating a judicial record for me and adding notations to my transcript. These damaging and very serious charges hung over my head from January to late May and created extraordinarily painful circumstances. The abuses of a grossly imperfect judicial system and the unjust suffering of a student should certainly concern a university president.

President Hackney has continuously asked to allow "the process to run its course." But I gave the process over four months, far more time than necessary, to realize that "water buffalo" was not a racial epithet. This process has taken away something irreplaceable—a semester of my freshman year. I was supposed to learn how to deal with college students this year, not college Judicial Officers.

Finally, I would like to make it clear that the real issue here is not racial harassment. The real issue is freedom of speech. I established my innocence from the beginning. The reason this case was able to drag on so long is because the university has a speech code limiting the Constitutional rights of students. By the standards of that speech code, I should have been found innocent. But because it was in the hands of incompetent and cruel judicial officers and an apathetic University President, my future was almost ruined.

Thank you.

Mr. GORTON. However, speech code enforcers interrogated Jacobowitz, asking him, among other things, whether he had any racist thoughts that night, and assumed that the term "water buffalo" was a racist epithet. Jacobowitz quickly understood that the administration intended to pursue this prosecution to the fullest extent possible. Two days after the incident, a distraught Jacobowitz approached Hackney and appealed to the university president for reason and fairness. Sheldon Hackney now doesn't remember this appeal. At that point, Dr. Hackney could have intervened and brought the matter to a close. Instead, he did nothing, and the judicial officer continued to pursue the case despite findings by several university language experts who concluded that the term "water buffalo" was, as Jacobowitz stated repeatedly, derived from the Hebrew slang word "behemah," meaning "foolish person."

As the semester and these proceedings progressed, Dr. Hackney continued to distance himself from the controversy as it began to gain national attention and scorn for the university. According to Jacobowitz' testimony Dr. Hackney was aware of the Jacobowitz complaint about the irregularities in the judicial proceedings, but that there was no cause for intervention even though he was now well informed about everything that transpired, though at the time he cannot remember Mr. Jacobowitz' anguished personal appeal shortly after the incident.

At the end of May, just as a skeptical local and national press were writing editorials blasting the idiocy of the case against Jacobowitz and the irresponsibility of the Hackney administration, the sorority women who had brought the charges of racial harassment called a press conference to announce that they were dropping all charges. Their explanation:

The media coverage deprived us of our right to an impartial panel, and therefore, a fair hearing. Realizing that justice could not be served, and in efforts to clarify our position, we have decided to formally withdraw our grievance.

Jacobowitz responded with the following statement:

President Hackney has continuously asked to allow "the process to run its course." But I gave the process over four months, far more time than necessary, to realize that water buffalo is not a racial epithet. * * * The only reason this case was able to drag on so long is because the university has a speech code limiting the constitutional rights of students * * *

Mr. President, no one here envies the often impossible task of a modern university administrator, but that task is made more difficult by a failure of character and leadership in difficult and controversial times. When his university's speech code was implemented by out-of-control zealots of political correctness, all part of his administration, Sheldon Hackney should have intervened and stopped the nonsense. Mr. Hackney, was, indifferent when an advocate for truth and justice was needed.

In his testimony before the Senate Labor and Human Resources Committee, several of Dr. Hackney's remarks indicate some confusion over his ability to intervene. At one point in describing the student level judicial system by which Mr. Jacobowitz was raked, he said:

* * * the student judicial system at Penn is set up to be independent of me; I am not involved in it, nor is the provost.

Later, Senator COATS from Indiana asked Dr. Hackney:

Was there any point in that process where your authority as president of the university came to bear in the decisions that were made up to the point where the complaint was dismissed?

Dr. Hackney responded:

My role was first to try to get the case to a hearing panel, because I was relatively confident then that it would come out right, so I did state my opinion about that to the judicial administrator that it would be good if this case could be heard by a panel this spring. I don't think that was intervening in the substance of it at all; it was just an admonition to him.

With regard to the time at which the student level proceedings were completed and the case was sent to a faculty-student panel, Dr. Hackney stated:

So charges were brought after an investigation, and at that point the procedure was off, and I was not in a position to intervene although I was urged to do so throughout the spring. I think it would have been perhaps better for me to have intervened in an extraordinary way, but it would have undermined the whole judicial system, and it would have been a terrible thing, I think for the university. So I did not do that, and I think that was still the correct decision.

Senator COATS then asked a question relating to the early dismissal of charges in the case of Gregory Pavlik and the delay in justice for Mr. Jacobowitz. Senator COATS asked:

What was the difference between this case and Mr. Jacobowitz's case, and why would one be resolved within days and the other take six months; and who interceded in Mr. Pavlik's case to bypass the process?

Dr. Hackney responded:

Yes, I did play a role there, but it was completely appropriate, and that I will leave for you to judge. Professor Cours did call me when Mr. Pavlik had been approached by the judicial inquiry officer (JIO), and Professor Cours explained to me what was transpiring. It sounded to me absurd in the extreme that someone who wrote things in the student newspaper could even be deemed to be in violation of this policy, that there was no relationship at all between the policy and someone who expresses opinions in the newspaper. * * * My assistant then asked the JIO what was going on. This was during the investigation period. And I think the JIO reassessed the situation and saw it in a much better light and dropped the charges, which I think was absolutely appropriate.

So sometimes Sheldon Hackney intervened and sometimes he did not. But always the process was more important than the justice of the result.

In addition, Sheldon Hackney had no recollection of a distressed Jacobowitz, remember, appealing for his assistance in assuring a fair outcome.

In his testimony, Dr. Hackney stated:

I really did not know about the Eden Jacobowitz case until after it was in full cry, so I was not able to do anything about it.

According to Jacobowitz, after the charges were dropped by the complainants, Hackney wrote a letter inferring that many people do not share the same sense of crisis and calumny that has been so much in the news—reassuring words from a university president whose indifference inspired a college freshman to insist recently: "The damage Sheldon Hackney has done to me is immeasurable. * * * My future was almost ruined."

So, Mr. President, from his testimony several things are painfully clear: Sheldon Hackney had the right—I think he had the duty to intervene even at the student level proceedings. He had in fact intervened in the past to dismiss a case, and he certainly should have done so in the case of Eden Jacobowitz. Apparently, Mr. Hackney's decision to intervene rests on his finding that there was what he called "absurdity in the extreme." Perhaps mere absurdity was not sufficient grounds to intervene. Instead, Mr. Hackney chose indifference when a spokesman for reason and fairness was needed.

A classic case of absurdity and hypocrisy by the Hackney administration was the politically correct pursuit and punishment of Prof. Murray Dolfman in 1984—a case which received no or little media attention. According to a university report investigating the incident professor at the University of Pennsylvania who taught in the traditional, hard-questioning. Socratic method to prepare his students for a future in the law:

Mr. Dolfman asked the class what Constitutional Amendment related to the concept of involuntary servitude. There was no response. Mr. Dolfman observed that if anyone should know the answer it would be the black students. He then asked the black students in the class * * * if they could recite the 13th Amendment. When none could do so, Mr. Dolfman asked one black student to stand and read the amendment out loud. Mr. Dolfman then expressed some surprise that while he, as a Jew and "former slave," celebrated Passover, the black students, whom he likewise called "former slaves," or "ex-slaves," did not celebrate the passage of the 13th Amendment.

What happened next was well-researched and discussed by Dinesh D'Souza, author of the 1991 book, "Illiberal Education." D'Souza wrote:

Shortly afterwards, a few minority students came up to Dolfman and accused him of racial insensitivity. A second charge against Dolfman was that he had once told a black student to change his pronunciations from "de" to "the." Dolfman said that he met with the students, and apologized if they had taken offense. "I told them that I understood and shared their concerns, that I am Jewish and during *seder* we pray: When we were slaves unto Pharaoh." Dolfman also pointed out that it would be important for students, in courtroom arguments in later years, to speak in a clear and comprehensible manner.

They seemed to understand, "Dolfman recalled, and the matter was dropped for a few months. But after that, during Black History Month, it was brought up again and again, Dolfman said," to illustrate just how bad things are at Penn.

The adrenalin generated by the Black History Month rhetoric brought about a demonstration of minority students, several dozen of whom occupied Dolfman's class and prevented him from teaching. "They read a document of indictment to my students," Dolfman said. President Sheldon Hackney met with Dolfman and asked to refrain from public comment, even to abstain from defending himself against accusations. Then Hackney joined the ranks of his accusers, telling the campus newspaper that conduct such as Dolfman's was "absolutely intolerable." Dolfman was pressured to issue what he termed a "forced apology," and to attend "racial awareness" sessions on campus. The university subsequently decided not to renew Dolfman's teaching contract for a year.

Dolfman is now back at Penn, a chastened man. "The message has been driven home very clearly," Dolfman said. "You can't open your mouth on these issues now without fear of being humiliated.

This case exemplifies the vulnerability of the politically correct cadres, including Sheldon Hackney, to the

double standards of their anti-intellectual world. In a clear violation of the campus conduct code, about 200 black students demonstrated and disrupted one of Dolfman's lectures without any accountability. In a clear violation of principles of academic freedom and due process, Hackney intervened in the Dolfmans inquiry, strongly advised him not to defend himself, and badgered him into an apology before the investigation was completed. Instead of providing leadership in the pursuit of academic freedom and fairness, Mr. Hackney pursued an agenda of political correctness and appeasement.

In some respects, this may have been the worst of all Sheldon Hackney's failures—a craven surrender to a mindless attack on a teaching method validated by centuries of success.

In his opening statement during his confirmation hearings before the Senate Labor and Human Resources Committee, Sheldon Hackney stated that:

Among the values that I hold dear is a belief that a university ought to be open to all points of view, even if some of those views expressed are personally abhorrent. * * * The university should belong to all of its members and not be the exclusive domain of any particular person, group, or point of view.

His presidency demonstrates that those views guide his actions only in easy cases. Indeed, it seems almost as if Shelby Steele, author of "Content of Our Character" had Sheldon Hackney in mind when he wrote:

Men and women who run universities—whites, mostly—participate in the politics of difference because they handle their guilt differently than do many of their students. They don't deny it, but still they don't want to feel it. And to avoid this feeling of guilt they have tended to go along with whatever blacks put on the table rather than work with them to assess their real needs. University administrators have too often been afraid of guilt and have relied on negotiations and capitulation more to appease their own guilt than to help blacks and other minorities.

Dr. Hackney's statement during this testimony before the Labor Committee that "Some of my best friends are members of the NAS," a moderate group of scholars opposed to the politically correct movement, recalls some of the historic statements of the least believable supporters of fairness and basic freedoms with respect to racial and religious minorities in the not at all distant past.

The Chairman of the NEH is entrusted with $150 million of taxpaper money every year to make balanced, rational, and fair judgments in promoting the humanities, a desperate cause these days, through films, exhibitions, and publications. Hackney's lack of fortitude in the pursuit of intellectual honesty is a striking contrast to the straightforwardness his predecessor, former NEH Chair Lynne Cheney who wrote recently:

Balance is not just a passive task. You actually need to fight against a swift current of political correctness. If you aren't anchored by a firm belief in fairness, you will quickly drift into the orthodoxy of the day, even with the best of intentions.

By his leadership at the University of Pennsylvania, Hackney has implemented and enforced a speech code that is in direct conflict with basic constitutional freedoms of expression; acquiesced to illegal behavior and condoned blatant violations of freedom of expression; stood by while an administration out of control pursued a ridiculous charge of racism and almost destroyed a young man's career; and presided over the hysterical pursuit and humiliation of a non-PC professor.

Taxpayers demand accountability in government. If Sheldon Hackney cannot accept accountability for his actions at the University of Pennsylvania, how can the Senate possibly expect him to be accountable to the taxpayers as NEH chairman? An editorial in the Philadelphia Daily News accurately rephrased this inquiry as follows:

Heading the National Endowment for the Humanities calls for genuine sensitivity (not alternately buckling to conflicting pressures), the ability to deal with delicate situations, and above all, profound respect for and insistence on free expression. Does that describe Sheldon Hackney?

No, Mr. President it does not.

There is nothing pleasant about criticizing a gifted and well-meaning man. However, having followed the events which unfolded under his leadership at Penn, I will vote against his confirmation and conclude by concurring with the eloquent remarks of Charles Krauthammer in his June 25 column:

Sheldon Hackney has had a distinguished academic career. He is a noted historian. He is a man of obvious good intentions. He is also, unfortunately, a perfect example of the failure of nerve—the failure of intellectual honesty, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney * * * to the chairmanship of the National Endowment is to endorse those failures.

EXHIBIT 1

Comments for the Senate:

I must say frankly, and from the start, that I am unequivocally opposed to the confirmation of the nominee Sheldon Hackney. I have witnessed the repression that occurs at the University of Pennsylvania both from a distance and also first hand. Under the administration that Hackney has personally crafted over the last twelve years, the community of the University of Pennsylvania is quite literally one that is subject to a reign of what can only be described as intellectual fascism. Individuals at Penn are systematically subject to threats and harrassment under the auspices of "tolerance." While proclaiming the munificence of "diversity," the minions of Sheldon Hackney have made it their business to actively silence voices with which, for whatever reason, they disagree. Sheldon Hackney has by no means been in the dark with regards to what has happened at the university. In fact, he has been the principle architect of what the University of Pennsylvania has become.

My first encounter with the tactics of the Hackney administration occurred in February 1993. I am an editorial writer for the Daily Pennsylvanian, a newspaper that is wholly independent from the school. I was doing investigative work for a column that was scheduled to run the next day. I contacted a prominent member of the Hackney administration to confirm details for my coming essay, which dealt with the issue of racial double standards at Penn. At the end of the conversation, I was told that if the information I brought up appeared in the paper, "you're dead." The column was subsequently published, and seven days later I was awakened at my home by a phone call from Catherine Schifter, the acting Judicial Inquiry Officer for the University of Pennsylvania. Ms. Schifter informed me that there were 31 charges of racial harrassment filed against me based solely on the fact that I had written unpopular opinion, and that I was under investigation by the university. I asked Ms. Schifter why, and her only retort was, "you need to ask?" Then came one of the most Orwellian statements that I have ever heard. Ms. Schifter intimated to me that if I were to sit down in a session with the 31 students that had taken offense to my column and open a dialogue, the charges might be dropped. The thought of participating in a "hate session" to be accused of harboring incorrect thoughts and to be villified by 31 angry students in order to be granted absolution for disagreeing with them is perhaps one of the most blatant and chilling attempts to stifle free speech and a free press that I have ever heard of. The alternative was to face a court system that could have rendered a decision of expulsion. According to his own administration in future conversations. Sheldon Hackney was fully aware of what was happening from the start.

This is not only a case of zealots trying to suppress free expression at the university, it was also a violation of the policies of the University of Pennsylvania. The university has a signed agreement with the paper that stipulates that no students will be prosecuted by the judicial system based on the content of their writing. This was willfully violated by the Hackney administration, with Hackney's knowledge. The University of Pennsylvania also has a policy called the Open Expression Guidelines which state that, "The freedom to voice criticism of existing practices and values are fundamental rights that must be upheld and practiced by the University in a free society." This too had to be willfully violated by the Hackney administration.

After the intervention of a prominent faculty member, I was told that the charges were going to be dropped, although it was a month before I was notified in writing that the investigation was going to be ended. In the meantime, I was then invited to a "multicultural" sensitivity seminar, where I would presumably confess my sins. Carrying a full engineering load and coping with the onslaught of the Hackney administration has been one of the least pleasant experiences of my life.

The next experience I had with the Hackney administration occurred when a contingent of campus radicals seized and disposed of nearly all 14,200 copies of the Daily Pennsylvanian, on the day that my last column of the semester ran. Of course one would expect condemnation of tactics that are so reminiscent of those used by Nazi brownshirts. Sheldon Hackney, however, was only bold enough to say that there existed a "conflict between open expression and diversity." He did not condemn the theft! I also am not sure why my opinions are not considered to be a part

of that vaunted diversity, as I am the only conservative writer on the paper. The other thirteen columnists were decidedly oriented to the left. Once again, and this time in person, the message of Hackney's regime was simple: If we disagree, you do not have the right to speak or think freely.

The nominee has sent out letters to those concerned saying that people do not know the whole story. This is correct. If people understood the gravity and depth of the intimidation and atmosphere of oppression that has been created, the whole story of what Hackney's administration has done, there can be no doubt that they would have reacted even more strongly than they have. Penn is a campus where students look over their shoulders before they speak, for fear of being overheard and disciplined. It is also a campus where friends whisper while walking from class to class, for fear a politically incorrect phrase will cause them to be detained, and reprogrammed.

The post of the National Endowment for the Humanities should be open to a qualified scholar who will proceed with good judgment and fairness. On these counts, based on personal experience, I know that Sheldon Hackney is not qualified. The damage he has done to me, and to the campus community is immeasurable. Sheldon Hackney is ready and willing to play favorites and to dump on those with whom he simply disagrees. Our university has no place in a free society, and Hackney's vision which shaped the university must not be extended to the country as a whole. Please consider carefully your decision, for your choice will not only shape national policy, it will help shape the policy of university's across the country.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. The Senator from Rhode Island [Mr. CHAFEE] called for nonpartisanship in regard to nominations such as this nomination.

I want to point out that whatever partisanship has been applied to nominations in the past, so far, until this afternoon, the process regarding the nomination of Sheldon Hackney has been one of extraordinary nonpartisanship.

I would like to believe that the Senator from Washington and the Senator from Connecticut, if they had been through our committee hearings with the long and careful probing of colleagues from both sides of the aisle, would have come to the same conclusion that all members of the committee came to, to vote in favor of Sheldon Hackney's nomination—Senator KASSEBAUM, Senator JEFFORDS, Senator COATS, Senator GREGG, Senator THURMOND, Senator HATCH, and Senator DURENBERGER.

We heard a little while ago about quotas, political correctness, and speech and justice.

As to quotas, I do not know anyone in this body who would oppose them more than I do. But I know that Sheldon Hackney would oppose quotas himself. He and his family have a long record of courageous support of efforts to overcome discrimination, and in no way does anything I know of Sheldon Hackney's views or his record suggest that he favors racial or any other kind of quotas.

As to political correctness, if political correctness is defined as the Senator from North Carolina defines it, I do not know anyone in academia who opposes that kind of political correctness more than Sheldon Hackney, and I certainly would, too.

As to concern for substance of justice and not just for procedure, Sheldon Hackney's life has been a story of concern about justice, the substance of justice, and the substance of free speech.

I do not believe you would find Leonore Annenberg and Walter Annenberg writing to ask us to "give Sheldon Hackney an opportunity to serve this country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania," where, Mrs. Annenberg said, "he steadfastly articulated freedom of expression, civility, and respect as the core values of the University." I do not believe if he were a champion of political correctness the Annenbergs would be saying they cannot imagine President Clinton putting forward a better candidate from either the Republican or Democratic standpoint.

As to speech codes, I find by and large they are an abomination. I think the first amendment is sufficient. As I said earlier, as a college president I yearn for the days when academia was not run so much by faculty and deans and student committees, and college presidents had their duty to intervene, act correctly, and call in students and deal with matters directly.

I know we are living in a somewhat different world. For a long time academia has been faculty-governed and full of student/faculty committees. And the process of adopting speech codes has spread all across the Nation. I hope that process will be reversed.

Sheldon Hackney has said that looking back on the experience at the University of Pennsylvania this year, he would like to see that process reversed. He has set up a committee to review the experiences of last year in search of revisions in Pennsylvania's speech code that will not lead to the inappropriate actions that were taken.

Sheldon Hackney has also pointed out to our committee that the student judicial system that was set up, that went into action after the water buffalo incident—after the two sets of rowdy students were shouting at each other and one student admitted that he had called out "water buffalo"—that student process is initiated under procedures that have been adopted by the university; wrongly, I think. They were designed specifically to set up an independent process, independent of the administration, and particularly independent of the university president.

If you read the record you will see Sheldon Hackney has called for a full review of the appropriateness of such procedures and he himself has said to the committee that he thinks this was a misapplication of any such policy and a great mistake for the matter to have been pursued as it has been pursued.

It has repeatedly been said that he did not speak up about the confiscation and destruction of copies of the Daily Pennsylvanian. That simply is not true. He spoke up in all of his statements issued in the days that followed. He appended those statements to our RECORD. I have read from some of them, but I just repeat his statement in which he said,

> Confiscation of publications on campus is inconsistent with university policies. Neither I nor the University of Pennsylvania condone the confiscation of issues of the Daily Pennsylvanian. The Daily Pennsylvanian enjoys all the protections of the first amendment.
>
> In addition, because of the overriding importance of freedom of expression to the very purposes of the University of Pennsylvania, it has explicit guidelines on open expression that govern and affirm the expression of diverse views in the university community. Any violation of this or other university policies will be investigated in accordance with established university procedures and those procedures call for the Vice Provost to set up a review board to look into the matter.

A review board has proceeded with disciplinary proceedings that are underway now, and led to one senior involved having his records withheld until this matter has received the full hearing of that panel.

Sheldon Hackney said the following statement on April 22:

> Taking newspapers is wrong as I made clear in a policy statement 4 years ago and reiterated at the time of last week's events and restated again this week.

Of course it is wrong, Mr. President. In the very article put into the RECORD by Nat Hentoff, he has pointed out this wrong, which I denounce, which Sheldon Hackney denounced, has been spreading around the country and it should be stopped. Nat Hentoff's article in the RECORD now tells of incidents with the Yale Daily News, Dartmouth Review, the Trenton State College publication in Trenton, NJ, Southeastern Louisiana University at Hammond, and Penn State University, to name only a few.

That kind of action should be suspended by students and there should be full disciplinary action against students who undertake to undermine the fundamental principle of the first amendment on campus.

It has also been said he has not applied the principle of free speech evenhandedly over his career. He gave the committee many examples of just the opposite. It ranged from his support for campus speeches of Dr. Shockly, of Louis Farrakhan, and the King of Jordan, under attack in each

case because they were controversial and contrary to what a large number of students in those institutions supported.

As to the faculty letter that was sent to him which has been quoted to us, which says "Removal of the newspaper struck at the heart of the most fundamental values which the university should foster, diversity of thoughts, views and expression," Senator HATCH in our hearing said, "Do you agree with that?"

Sheldon Hackney said, "I do."

Senator HATCH said, "OK, that is important because if you did not I probably could not support your nomination."

Sheldon Hackney said, "I absolutely do." And the record shows that he does.

Senator HATCH concluded, after the long probing by him and by his colleagues, "Frankly, I don't think you deserve all of the criticism you have got. Frankly, I don't have to give you the benefit of the doubt. I believe that you mean what you say and you are going to do the best you can and I intend to support you in this committee and on the floor."

Mr. President, I yield the floor.

Mr. WOFFORD. Mr. President, I would like the understanding that we have had that in quorum calls, time runs equally against both sides to be noted and confirmed.

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

Mr. WOFFORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. KASSEBAUM. Mr. President, Dr. Sheldon Hackney is a distinguished scholar with strong academic credentials for the position of Chairman for the National Endowment for the Humanities. Dr. Hackney is a graduate of Vanderbilt and Yale Universities; he is a past provost at Princeton; and the president of Tulane University and the University of Pennsylvania.

My colleague, the Senator from Pennsylvania [Mr. WOFFORD] has spoken quite eloquently to the recommendations of Dr. Hackney for this position.

He underwent some lengthy review before the Labor and Human Resources Committee, and in the course of my own review of this nomination, I carefully examined not only his academic record but also his actions with respect to a number of incidents at the University of Pennsylvania which were widely reported in the news media and which have been covered here on the Senate floor to some extent this afternoon.

Based on the review that I undertook, Mr. President, I have determined that Dr. Hackney's actions in those situations did not disqualify him for the position of NEH Chairman.

For the record, I asked Dr. Hackney whether he felt the charge of racial harassment against Mr. Jacobowitz was justified. Dr. Hackney stated he did not believe it was justified, noting that the University of Pennsylvania's speech policy is very narrowly focused and is to be applied only in situations in which racial or ethnic slurs are used in face-to-face encounters.

Dr. Hackney stated the facts of the case did not meet this criteria.

Dr. Hackney stated he did not intervene in the case because, as currently structured, there is no provision for such intervention into the university's judicial process even when it is clearly misapplied.

In some ways, I think it is unfortunate, and perhaps through all of these incidents that have happened at the University of Pennsylvania, they will set up a different process.

To have intervened, Dr. Hackney argued, would have jeopardized the legitimacy of the university's judicial process, disrupting the numerous cases being properly adjudicated. Dr. Hackney stated that such disruption would have resulted in a divisive campus crisis.

Although Dr. Hackney states his confidence that the judicial process would have ultimately dismissed the charges against Mr. Jacobowitz, Dr. Hackney now believes the speech code and judicial process should be reexamined in the light of that incident.

Regarding the theft of 14,000 copies of the university students' newspaper, Dr. Hackney asserted that his statements at the time of the incident recognized the seriousness of the violation and emphasized the privacy of free speech on a university campus.

Dr. Hackney stated that, in retrospect, he would have made this point in a more forceful manner. He added that the students involved are currently facing charges of misconduct. He went on to point out, Mr. President, that throughout his career, he has defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum.

In this regard, he noted the diversity of speakers that he had provided security for on the campus and believed that everyone should have their views heard in a university and campus setting.

As to the charge that Dr. Hackney proposed banning the ROTC program for the University of Pennsylvania campus, he responded that the charge is completely false, noting that he is both a product and vocal supporter of the ROTC program.

Mr. President, although I do not think the various allegations asserted against Dr. Hackney should disqualify him for the position of the National Endowment for the Humanities chairmanship, I do believe it will be necessary for Dr. Hackney to exercise strong leadership as he takes the helm of the endowment. The National Endowment for the Humanities is a publicly funded entity. As such, the NEH should be distinguished from the privately funded universities over which Dr. Hackney has served as provost and president.

Ultimately, Dr. Hackney will be accountable for the stewardship of NEH funds—a responsibility which demands a sensitivity to the humanities as well as to the tax-paying public. Firm guidance from the top is essential to assuring that the endowment is not constantly embroiled in side issues and that process is not substituted for judgment.

It is with the advice that he exercise strong and independent guidance against the pressures of ideological bias that I will look forward to supporting Dr. Hackney and will vote for him when the vote will be called tomorrow.

I ask unanimous consent that my questions and Dr. Hackney's responses be printed in the RECORD at this time.

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

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR SHELDON HACKNEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT OF THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harassment against Mr. Jacobowitz was justified? If so, please explain why.

I did not think the charge of racial harassment was justified. Penn's policy is very narrowly focused. It applies only in situations in which racial or ethnic slurs are used in face to face encounters and with no other intent than to inflict harm. The facts of the case do not meet these criteria. In addition, because of the misapplication of the policy and the confusions that abound in this case, I have come to feel that even though civility is very important in an educational setting it is a mistake to try to enforce it among members of the campus community through rules and penalties administered through a judicial system.

2. In retrospect, do you believe you should have intervened in the university judicial process brought against Mr. Jacobowitz, or do you stand by your action not to intervene?

As awful as the spring was, I still think it was not appropriate for me to intervene in the judicial procedure. There is no provision for the President or for an officer of the University to intervene. To have intervened would have called into question the legitimacy of the entire system that handles dozens of cases every year, denied to the complainants their right to have their complaint adjudicated by a faculty-student hearing panel, and thrown the campus into an even more divisive crisis than the one through which it actually lived. Had the system worked properly, and a hearing panel heard the case, I believe that justice would have

prevailed. As it turned out, the case came to a close when the complainants withdrew their charges.

3. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1993, please explain your reaction at the time of the incident, including the complete statement issued by your office.

I append the statements issued at the time of the incident. I believe they make clear that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

4. Please describe in detail what your administration did to identify and bring charges against those responsible for the Daily Pennsylvanian theft? Has anyone ever been charged in the theft? If so, what was the result in terms of penalties meted out?

The Committee on Open Expression (an important faculty-student committee that monitors the Open Expression Guidelines) has ruled that the incident was a violation of the Open Expression Guidelines, thus making clear that charges would be brought. A number of students apparently involved in the incident have been identified and will face judicial procedures when they return to campus for the fall term. The one senior involved has had a "judicial hold" put on his transcript, meaning that he must clear up his disciplinary status before receiving his degree or being able to have his transcript sent to employers or graduate schools. In view of the seriousness of this case, the Vice Provost for University Life has appointed a respected senior faculty member to serve as the Special Judicial Inquiry Officer for this case.

5. Do you believe your response to the incident was appropriate considering the seriousness of the act in the context of First Amendment rights to free expression?

Yes, although I do wish now that in my original statement I had not used a formulation that was so easily taken out of context and misrepresented. If I could write the document again, I would undoubtedly use language that was even clearer and stronger in condemning the confiscations.

6. Your responses to the Jacobowitz affair and to the newspaper theft incident have been characterized as employing a double standard on the issue of free expression. What is your response to that charge.

The charge is absolutely false. Throughout my career, I have defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum, left, right and center. I have repeatedly done so when under considerable pressure to cancel appearances of controversial speakers or to discipline students or faculty who have earned the disapproval of persons or groups on the campus and off. The list of speakers whose security arrangements I have personally supervised is a veritable who's who of controversy over the past 20 years, from William Shockley to Louis Farrakhan and all shades of opinion between.

One incident in particular has been used to suggest that I am less than even handed. In the early 1980s, the South African Ambassador to the United States accepted an invitation to speak from a student group. The student group was then informed that University policy (which preceded my arrival at Penn) required host groups to pay all the costs of invited speakers, including security costs. Special security required for the South African Ambassador would have incurred substantial costs. The student group therefore withdrew the invitation. As soon as I heard of this situation and realized that it was based on a University policy, I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the speaker from disrupting the event. The new policy was thus in effect when all subsequent speakers, including Louis Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of a speaking engagement by artist Andres Serrano on the University of Penn campus in 1989-90, you refused to order the removal of campus sidewalk graffiti depicting anti-religious and graphic sexual symbols. Please explain what occurred.

As with so much that the Wall Street Journal has reported about me, the facts are wrong in important respects, highly distorted in other respects, and the story presented in a misleading way. Early on the morning of April 13, 1993, members of Penn's groundskeeping crew arrived on campus to find, written in chalk, graffiti depicting religious and sexually graphic and offensive symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundskeeping crew, on its own initiative, immediately washed off this graffiti. Later that day the students—members of a gay rights group on campus—who had originally done the graffiti writing, protested to Penn's Assistant Vice Provost for Student Life that the erasure of the graffiti violated the University's Guidelines on Open Expression. The Committee on Open Expression, following precedent, found that the graffiti was protected speech as long as the graffiti was temporary and did not permanently deface University property. Members of the group returned the next day and renewed their graffiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not relate to Andres Serrano's visit to Penn, which took place on December 5, 1990.

8. Please explain your criticism of the Helms Amendment as it pertained to the work of artists, Robert Mapplethorpe and Andres Serrano.

I did criticize the language of the Senate amendment to the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill—which Congress wisely did not include in the final version of the appropriations legislation—was impossibly vague and overbroad. The Helms amendment to the FY90 appropriations bill would have imposed unworkable content restrictions, and I believe that Congress has been wise in its judgement not to adopt it.

9. The Wall Street Journal reported that you proposed banning ROTC from the University of Pennsylvania campus in 1990 because of the military's prohibition on gays and lesbians serving in the military. Is this true?

As with a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a product of the NROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

10. You have been quoted in the past as stating that the impact of "political correctness" on American university campuses is "greatly exaggerated." Do you believe that "political correctness" contributes to the free exchange of ideas and tolerance of different points of view in American academia today?

The term "political correctness" is almost hopelessly vague and imprecise. It began as a term of self-derision, and now it has taken on a life of its own as a caricature of a certain kind of liberal left orthodoxy that is so solicitous of the interests of groups that can claim the status of having been victimized by society that the general interests of the University are of secondary importance and at times even the search for truth is threatened. Fortunately, "political correctness" does not dominate American campuses, though it is something about which faculty and academic leaders ought to worry about. I believe that I am representative of the broad mainstream of the American professoriate that sees danger in any potentially intolerant orthodoxy, but that may also see partial merit in some ideas that may be part of a "politically correct" position.

Mrs. KASSEBAUM. I just reiterate my strong support for him at this time in this position. I feel it offers an opportunity not only for his scholarly and intellectual interests, but for his opportunity to bring an evenhandedness and a firm sense of direction to the National Endowment for the Humanities.

I yield the floor, Mr. President.

Mr. WOFFORD. I thank the Senator from Kansas for her thoughtful statement with which I agree, and for her care and concern and instructive approach to this nomination. It is a tradition that I have so far experienced in the Labor and Human Resources Committee, and in no small part due to the Senator from Kansas.

I also, once again, pay tribute to Senator HATCH's probing, critical questions that led to his support of Sheldon Hackney, and to note that as a former college president, time and again, I found Senator HATCH's observations as to what happens to university and college presidents extraordinarily perceptive, as well as witty and humane.

I pay tribute also to the members of the other side of the aisle in our committee who came into the committee hearings thinking they were going to be against Dr. Hackney, and after the hearing unfolded and their questions were answered, they joined in the unanimous recommendation for the nomination of Sheldon Hackney.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. 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. SPECTER. Mr. President, today I express my support of the confirmation of Dr. Sheldon Hackney to serve as Chairperson of the National Endowment for the Humanities. Dr. Hackney's reputation as an outstanding educator is well known both on the national level and across the Commonwealth of Pennsylvania, where he most

recently served as president of the University of Pennsylvania. Having been appointed to this office in 1981 after serving as president of Tulane University and as provost of Princeton University, Dr. Hackney was responsible for all academic and administrative functions of Penn's 12 schools, its medical center, and the more than 20,000 employees responsible for making the university the largest employer in Philadelphia, other than the municipal government, as well as personally teaching classes at Penn.

Dr. Hackney has an outstanding record in academia. He received his bachelor of arts degree from Vanderbilt University in 1955. After serving his country in the U.S. Navy from 1956–61, he earned his masters and doctorate degrees from Yale University in 1963 and 1966, respectively. He is an accomplished historian, having written several books on the American South; he has received numerous honorary degrees; and Dr. Hackney has served on numerous panels and commissions in academia.

Although his reputation is most notably one of educational leadership, Dr. Hackney has many accomplishments outside the University of Pennsylvania. Through his chairmanship of the West Philadelphia Partnership, Dr. Hackney directed the growth of a working partnership among Penn, neighboring institutions, and the residents and business people of West Philadelphia. Dr. Hackney has also served as a member of the board of directors of the Greater Philadelphia Chamber of Commerce, the Greater Philadelphia Urban Affairs Coalition and the University City Science Center.

Overall, my knowledge of Dr. Hackney while he has served the University of Pennsylvania and the surrounding community has been positive. Recently, however, I became very concerned with his handling of two widely publicized incidents at Penn: One, of a student shouting an alleged racial epithet—"water buffalo"—at a group of African-American students; and second, the confiscation and destruction of 14,000 copies of an issue of the campus independent student newspaper by African-American students because of their objections to a columnist who wrote for the paper.

Regrettably, these highly publicized events left something to be desired; however, these matters are substantially outweighed by the balance of his record.

One word of caution: I am concerned about Dr. Hackney's move from academia to the rough and tumble of Washington politics. He will face many tough challenges from advocates at various positions on the political spectrum. I am optimistic that Dr. Hackney will be able to adapt to this challenge, and I urge him to keep this factor in mind as he takes on this new assignment.

Mr. HEFLIN. Mr. President, I am pleased to rise in strong support of Dr. Francis Sheldon Hackney's nomination to be the President's Chairman of the National Endowment of the Humanities. I have known Dr. Hackney, his wife Lucy, and his parents for a number of years, and know firsthand of his impeccable credentials and unique qualifications for this position.

Sheldon is currently serving as president of the University of Pennsylvania. In his capacity as Penn's 21st chief executive, he is responsible for all academic and administrative functions of its 12 schools, its medical center, and the more than 20,000 employees who make the university the largest employer in Philadelphia outside the local government there. Sheldon is also a history professor at Penn. Before joining Penn, Sheldon was president of Tulane University from 1975 to 1981 and was Provost of Princeton University from 1972 to 1975.

Under Sheldon's capable leadership, Penn has experienced a 347-percent growth in its endowment and a 300-percent increase in annual voluntary contributions. At the same time, Penn's operating expenditures have increased almost 220 percent to $1.3 billion for the fiscal year ending June 30, 1992. In October 1989, the university launched its 5-year Campaign for Penn. The fundraising campaign's goal of $1 billion makes it the largest such effort ever undertaken by an Ivy League institution and the second largest by any American university.

As the university's primary representative to the Philadelphia community, he is responsible for a major expansion of Penn's direct involvement with the issues and challenges facing the West Philadelphia community adjoining the campus. Through his chairmanship of the West Philadelphia partnership, Sheldon has directed the growth of a working partnership among Penn, neighboring institutions, and the residents and business community of West Philadelphia.

Sheldon attended my undergraduate alma mater—Birmingham Southern—for 1 year, and later earned his bachelor of arts degree at Vanderbilt. He later took his master of arts and doctoral degrees at Yale. When he is confirmed to head the National Endowment for the Humanities, Sheldon will oversee a Federal agency with an annual budget of more than $175 million. The Endowment awards grants to scholars, teachers, and libraries working in the humanities.

Born in Birmingham, AL, Sheldon is a noted historian and authority on the American South. He authored the winner of the 1969 Albert J. Sevridge prize for the best book on American history that year, "Populism to Progressivism in Alabama." He is also the author of "Populism: The Critical Issues," published 2 years later. His articles on southern history have appeared in the leading academic journals. From 1972 to 1975, Sheldon was a member of the board of editors of the "Journals of Southern History." He edited "Understanding the American Experience: Recent Interpretations" and wrote the introduction to Gerald Gaither's "Blacks and the Populist Revolt."

Sheldon enjoys a reputation as one of the foremost experts on Southern history and culture, which makes this southern Democrat especially pleased to support him. But as we all know, he has established himself in the field in so many other ways as well. He has served on the Rockefeller Commission on the Humanities and the American Council of Education's Commission on Women in Higher Education. In the early 1980's, he chaired the board of directors of the Carnegie Foundation for the Advancement of Teaching. He is still a member of that board. In 1987 and 1988, he chaired the Consortium on Financing Higher Education.

Although Sheldon has spent his adult life away from his native State, he attributes much of his success to the lessons he learned while growing up in Alabama. He recently said, "I attribute a good bit of the shaping of my values to the Methodist Church. That was very important to me. Even in high school, a group of friends and I went to Methodist youth fellowship every Sunday night." He also credits his parents with helping to shape the values by which he lives today.

Mr. President, Sheldon Hackney has a distinguished record as a first-rate scholar, author, educator, and astute, fair, and temperate administrator. He is uniquely suited for the challenge of heading the agency and carrying out its mission to support public programs, education and research in the humanities.

I wholeheartedly endorse this nomination and urge my colleagues to vote favorably on Sheldon Hackney's appointment to be National Endowment for the Humanities Chairman. I have every confidence that he will bring enormous energy to the agency and a dynamic approach to promoting the humanities in this country.

Mr. JEFFORDS. Mr. President, I rise today to express my support for the confirmation of Dr. Sheldon Hackney as chair of the National Endowment for the Humanities.

Controversy has arisen over Dr. Hackney's nomination because of two events on the campus of the University of Pennsylvania. The events focused on the conflict between the freedom of expression and diversity. Unfortunately, tensions like these have existed at the University of Vermont, as well as virtually every other college campus in America. And unfortunately, tensions

like these are indeed an effect of many of the burning social problems in America's cities today.

I am not going to go into detail on these incidents, for I believe everyone is aware of them. Rather, I would like to say that I have spoken very candidly with Dr. Hackney about this very difficult issue. It is a tough issue, one to which there is no clear or easy answer. Should he have handled the situation a bit differently? Probably. Nevertheless, he assured me of his commitment to the freedom of expression, something he has adamantly advocated throughout his life. Dr. Hackney is certainly not the first university president to handle such a difficult issue, nor will he be the last.

In my mind, the debate over whether he did the right thing or the wrong thing is not the concern here. The real concern is choosing a chairperson to effectively lead the NEH.

The National Endowment for the Humanities is an agency that has sailed through rough waters in recent years. Its existence and functions must be stabilized and depoliticized. Despite the attacks it has endured, the NEH has been a major force in intellectual life in America for the past 28 years. In Vermont, the Vermont Council on the Humanities is using NEH grant money to support literacy programs in an effort to achieve full literacy in my State by the turn of the century.

The NEH needs a fair, reasonable, and visionary leader. As a man who has devoted his professional life to the academic community, and as a man who has led a prestigious university through uncertain times, Sheldon Hackney has proven he is up to the task. Clearly, he will bring this leadership to the NEH.

On July 14, the Labor and Human Resources Committee unanimously approved his nomination. I believe the full Senate should do the same.

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities. The NEH has an important and difficult mission to fulfill. It is responsible for supporting and sustaining the highest level of scholarly inquiry and to share the riches of thought in the humanities with the public. Over the years, NEH has helped interpret great works in American thought to our citizens, and has developed our traditions more deeply through its grants and programs. Through the State humanities councils, NEH reaches people through libraries, public forums, media presentations, and exhibits, and literally has taught thousands of Americans to read, bringing them into the mainstream of the democracy and economy.

Dr. Hackney's well-publicized nomination recently was voted out of Senator KENNEDY's Labor and Human Resources Committee by a unanimous 17-0 vote. Senators across the political spectrum gave him a fair hearing, listened to his positions on academic freedom and free speech. They listened to a distinguished southern historian, president of the University of Pennsylvania for 12 years, and found a man who can lead the NEH to fulfill its mission, and bring the humanities—areas of study that bring us the deeds and thoughts of other times—into everyday life.

Dr. Hackney's nomination should not be politicized any further. He needs our bipartisan support to lead the National Endowment for the Humanities in a difficult time. He should be confirmed.

Mr. COATS. Mr. President, the National Endowment for the Humanities is an organization under considerable stress. There is a swift current in the academic community that moves toward the left. That current threatens to take institutions like the NEH along with it. And if that happens, a public trust is violated and public support is squandered.

The Chairman of the NEH needs to be an activist for balance, fairness, and free speech. When Federal money is involved, no Chairman can be allowed to pick favorites in academic debates—no matter what pressure is applied. No matter how unenlightened that a principles fairness may seem.

Dr. Hackney has indicated he shares this view, and on the basis of my personal discussion with him, and his responses to my questioning of him during his confirmation hearing, I believe him.

But his past record does raise some questions. About his treatment of free speech and a free press. And about his forcefulness in opposing the strident voices of the politically correct.

But these are questions, not disqualifications. And I will vote for Dr. Hackney. But I hope he will remember that, for a number of us, our concerns will not end with his confirmation. Dr. Hackney has an opportunity to prove that his comments before the Labor Committee truly reflected not only his views but his actions.

I trust that Dr. Hackney will take advantage of this opportunity. I wish him well, and intend to work with him to advance the vision and goals for the NEH that I believe we both share.

Mr. WOFFORD. Mr. President, when I received the appointment to this body I vowed that I wanted to do everything I could to make something good come out of the tragic loss of John Heinz.

I would like to conclude my part of this debate today with a statement that Teresa Heinz, the widow of Senator Heinz, sent me this morning on behalf of Sheldon Hackney. She writes:

I have known Sheldon Hackney for a number of years. His work as an educator and as a leader in the field of humanities is well known and well respected. Dr. Hackney will bring valuable leadership and expertise to the National Endowment for the Humanities. I know he will make Pennsylvanians very proud, and I am very, very proud to call him my friend and to endorse his nomination.

Mr. President, I yield back all time on this nomination.

This request has been cleared by the minority. And I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, for 7 minutes I would like to speak as if in morning business and I ask unanimous consent to do that.

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

Mr. GRASSLEY. Mr. President, in the 1980's, conservatives advocated executive power. Coincidentally, during the 1980's, conservatives had executive power. The way some conservatives talked when they occupied the White House, you would've thought they subscribed to the vision of a President "with the diadem sparkling on his brow and the imperial purple flowing in his train * * * seated on a throne surrounded with minions and mistresses, giving audience to the envoys of foreign potentates in all the supercilious pomp of majesty," as Alexander Hamilton lampooned.

Some who have noted the recent convergence of Pennsylvania Avenue and Rodeo Drive might think the anti-Federalists' fears of an American imperial court have been realized. But the President is not a monarch, a shah, a sultan, or a grand poobah—even when Hollywood celebrities normally found in the pages of the National Enquirer roam the White House with staff ID's.

Contrary to the beliefs of many of my fellow conservatives, the framers intended the legislature to be the preeminent branch of Government, and that Congress should conduct vigorous oversight of the executive.

During the Reagan and Bush administrations, I frequently differed from my Republican colleagues in my unwillingness to blindly defer to the judgment of the White House. I did not make any friends in my party by subpoenaing the Attorney General before my subcommittee, and holding him in contempt, 2 weeks before a Presidential election. But I never saw my role as cozying up in the lap of the White House. I believed then, as I do today, that the imperial President has no constitutional clothes.

Our Constitution gives the most dangerous powers of Government to the Congress, it is the most representative body that is responsible for legislation,

for the public fisc, for declarations of war and regulation of the armed forces, for the regulation of commerce—for the functions the framers most strongly wished to restrain. In contrast, the President's enumerated powers are quite limited. He is the commander in chief of the armed forces, responsible for making treaties with foreign powers, and charged with ensuring that the laws are faithfully executed. If the Constitution really made the President the one-man quasi-legislature many conservatives have advocated, it probably wouldn't have been ratified.

Our Federal system of Republican government ensures the preservation of liberty through the atomization of power. The centralization of power in a single individual was anathema to the Americans of the 1780's, who had endured the tyranny of monarchs. They were willing to tolerate creation of a President only so long as his powers were strictly limited. They were willing to grant those powers to an individual rather than a committee, primarily because delegation to an individual guaranteed greater accountability.

Unfortunately, the massive growth of the Federal Government in the 20th century has resulted in the accretion of vast new power in the executive. In a heavily regulated industrial society, the faithful execution of the laws is far more important than it was in a sparsely populated agrarian society.

This growth in the executive is the result of the increasingly regulatory posture of Congress, which has frequently pushed the bounds of its powers beyond the constitutional envelope. But conservatives err when they contend that the best counter to congressional power is to grant even more power to the President.

In a recent edition of Roll Call, Llewellyn Rockwell, Jr., sets out an excellent case for "why conservatives are foolish to push [an] imperial Presidency." I recommend Rockwell's piece to my colleagues, and ask unanimous consent that the text of the article be printed in the RECORD as following my remarks.

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

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, Rockwell makes the case that conservatives' partisan advocacy of executive power is both constitutionally and politically inappropriate.

The Congress, with its direct and constant link to the people, is the branch of Government conservatives should look to for assurance of liberty through limited government. The President, presiding over the massive Federal bureaucracy and law enforcement mechanism, is the officer of Government most capable of limiting liberty. Congress is the best bulwark against the bureaucratic tyranny of an expansive Federal Government—as recent events have demonstrated.

While recognizing the primacy of the legislature, we must also recognize the need for congressional reform. Though Congress is the most accountable branch, it must be made more accountable. Congress should adhere to the laws it prescribes for the rest of society. We should have committee term limits, and the President should have line-item veto power. These and other reforms would enhance our democracy.

Congressional reform is necessary to erase the damage done to the constitutional system by decades of partisan entrenchment and fiscal logrolling. As the many Americans looking for new, independent leadership recognize, we need to destroy politics as usual to save democracy. We need to redesign the budget and appropriations processes, and replace polls and interest groups with genuine exercises in public judgment.

Now that conservatives have left the White House, I hope they will realize that it is myopic to argue that the arrogation of power by Congress is best countered by an imperial executive. The way to avoid Federal bureaucratic tyranny is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should dilute it. Conservatives should counter congressional arrogance by returning power to States and municipalities. While a liberal's idea of reinventing government is reaffirming bureaucracy, conservatives know that by reforming Congress and reviving federalism, we can reinvent democracy.

EXHIBIT 1

[From Roll Call, July 12, 1993]

WHY CONSERVATIVES ARE FOOLISH TO PUSH IMPERIAL PRESIDENCY

(By Llewellyn H. Rockwell, Jr.)

Conservatives are going through another of their periodic intellectual spasms over the relationship between the executive branch and Congress. The controversy, which dates back to at least the New Deal, centers on which branch of government should have the say in budgets, regulatory policy, foreign affairs, and judicial appointments.

Even though the Constitution makes Congress the preeminent branch of government, during the 1980's conservatives argued for an imperial presidency. Of course, they didn't call it that. Instead, they argued that Congress was imperial, a trespasser on the justly expansive powers of the president.

Conservatives had been semi-imperialists on this question when Nixon was chief executive, but they started salaaming the White House when Congress questioned Ronald Reagan's foreign mercenary armies, and naturally, the argument spilled over into domestic policy.

By the late 1980s, it was an article of the conservative faith that the president had, and should have, autonomous policy authority. Conservatives even called the president the nation's "commander-in-chief," as if he were in charge of civil society.

The president should have the line-item veto, they told us, because it would gut Congressional authority over spending. All laws applying to the public ought to apply to Congress, too, even though this would empower minor bureaucrats over legislators. Congressional terms should be limited while bureaucrats serve for decades, further enhancing the arbitrary power of the executive branch.

The President, the Wall Street Journal told us, should even assume the power to change tax laws on his own say-so, such as lowering the capital-gains tax. The Journal also wanted the president to assume, by executive fiat, the line-item veto, and to have full authority over international trade.

Maybe they thought they'd never lose the White House. Yet now, conservatives' only friends are in the legislative branch. Congress, in fact, is the only bulwark against full Clintonian statism. Only by using the powers and tactics—filibusters, demagogic speeches, agitation about the rules, etc.—that the Democrats used in the 1980s against Reagan's adventurism can a liberal president be hampered.

None of this squares, of course, with the 1980s' conservative belief that Congress' role is to shut up, vote money, and salute the prez. But if Congressional Republicans today bowed down before him the way they wanted the Democrats to under Reagan, Clinton would have had a permanent honeymoon out of "respect for the offices of the presidency."

And although grass-roots conservatives cheered on Bob Dole's attack on Clinton's "stimulus," the conservative leadership is still mired in error.

A prominent conservative think tank in Washington, DC, has mailed out a million copies of The Ruling Class by Eric Felten, which traces all of America's troubles to a handful of Hill staffers, and former Bush speechwriter Tony Snow, now a columnist for the Detroit News, argues on National Public Radio for a Caesarist presidency and a rubber-stamp Congress.

Yet if any of Bill and Hillary's new taxes, new spending, and socialized medicine is stopped, it will be thanks to Congress.

The habit of presidential deification may be so ingrained that it cannot be broken. But conservatives should do their best.

It is far better to trust a Congress controlled by either party than a president whose minions spend 99.9 percent of the federal budget and regulate our businesses, families, and communities with such menacing meticulousness.

For example, Congress is far closer to the people. A Member never gets through the day without some contact with his or her constituents, people who pay the taxes and have to live under the laws voted on. Yes, many are seeking favors and privileges. But more complain about high taxes and the burdens of the federal bureaucracy, and Members and their staffs have to listen.

The millions of unelected bureaucrats in the executive branch, on the other hand, have contact with us only when they place their boots on our backs. And the president watches abstractions like the polls.

Congressional supremacy is far from a perfect system, but it's leagues ahead of the executive tyranny that the Founders, and their English parliamentary predecessors, hated and feared.

If we get through the next years without 100 percent of the Clintonian program being fastened on us, we can thank Congress. Conservatives ought to be leading the applause.

Mr. GRASSLEY. I yield the floor.

Mr. CRAIG addressed the Chair.

Mr. PRESIDING OFFICER. The Senator from Iowa is recognized.

EXECUTIVE SESSION

NOMINATION OF SHELDON HACKNEY, OF PENNSYLVANIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

The Senate continued with the consideration of the nomination.

Mr. CRAIG. Mr. President, I am here today to talk about a good, decent, intelligent man and a highly regarded scholar. Because, after meeting Dr. Sheldon Hackney, after reading the record of his achievements and reviewing the transcript of the hearing held by the Labor and Human Resources Committee, I am convinced he is a decent and scholarly man.

Surely that is the sort of person we need to head the National Endowment for Humanities—the organization that advances what is highest and noblest in human culture by supporting scholarship in all the branches of learning that investigate human constructs and concerns. The head of that organization should reflect the kind of scholarship and culture that we expect the organization to support.

Mr. President, based on those requirements, an individual as decent and scholarly as Dr. Sheldon Hackney must surely be eminently well-qualified to serve as head of the National Endowment for the Humanities.

There is just one thing that has me concerned.

Dr. Hackney said during his testimony before the Labor and Human Resources Committee that "university presidents operate in a sea of powerful and conflicting currents." I would submit that Federal grant-making organizations like the National Endowment for Humanities operate in stormy seas the likes of which Sheldon Hackney has not even begun to describe.

And for that reason, NEH does not need a noble figurehead; it needs a rugged captain who can stick his oar in the water and give the organization a strong shove in the right direction—against formidable forces, when necessary.

Can Dr. Hackney captain the NEH?

Well, when the spotlight shone on Dr. Hackney's reputation as a stalwart defender of free speech, some questioned why the South African consul was not allowed to speak at Penn because of the opposition of minority students, although Penn paid most of the speaking fees and security for hate-mongerer Louis Farrakhan to speak at the university.

What was the problem here? What was the difference?

Now, Dr. Hackney explains to me that the first episode took place early in his presidency—the denial of the South African consul—and, as a result of that, the university changed its policy and that is why Louis Farrakhan was allowed to speak.

In this case, Dr. Hackney certainly stuck his oar in the water and put the boat back on course. Perhaps a little late. He did not tell me if there was any attempt after changing the policy to reinvite the South African consul. But maybe the students were not interested anymore in hearing those views. Surely we could not characterize this as a tendency to protect speech from one point of view but not speech from another point of view.

And I applaud him for the statement he made to the students protesting the Farrakhan speech: "In an academic community, open expression is the most fundamental value. We can't have free speech just some of the time for some of the people."

There is no question where he stands on freedom of expression in art. He ardently defended the decision of Penn's Institute of Contemporary Art to exhibit the Mapplethorpe photographs. Now, during his confirmation hearing, he agreed that there is a big difference between a university displaying controversial art and a National Endowment making a decision about subsidizing a particular project with tax funds. Perhaps he regrets denouncing one of our Senate colleagues who understood that same distinction and was trying to get NEA to be more responsible in handling those taxpayer dollars. And although Dr. Hackney said at the time that it is part of the function of art to shock people, perhaps he does not feel that is the function of studies in humanities.

In any event, this decent and scholarly man certainly deserves commendation for the stand he took on freedom of expression at the time, when he wrote "the best protection we have found for a democracy is an unregulated market in expression."

Those two statements I have quoted have quite a ring to them. And they certainly reflect an uncompromising stand on freedom of expression.

Maybe that's why his latest statement on the issue which has caused such a storm of criticism, is somewhat of a frustration. When students stole an entire run of the Penn student newspaper carrying articles that some claimed the minority community found offensive, Dr. Hackney said confiscation of newspapers was wrong. Unfortunately, he didn't say it as clearly nor as immediately as he had responded in the past when freedom of expression was threatened. There seems to be a time lag here, when the shoe is on the other foot. Instead, he said "this is an instance in which two groups important to the university community valued members of Penn's minority community and students exercising their rights to freedom of expression, and two important university values, diversity and open expression, seem to be in conflict."

That doesn't quite have the ring to it that his earlier statements had. In other words, Dr. Hackney, sometimes you appear to be very loud and clear in your defense of freedom of expression. But sometimes you appear to withdraw or to be considerably hesitant. And that has me concerned.

But because Sheldon Hackney is a decent and scholarly man, we can be sure that he intended to be equally stalwart in his defense of these articles critical of the university's admission and disciplinary policies. Maybe he did not push quite so hard on his oar that time, but he says it was in the water.

Dr. Hackney also explained some apparent inconsistencies in the application of the antiharassment code at the university. The author of the offensive newspaper articles had been charged previously with racial harassment under the school's antiharassment policy. When another teacher intervened and went to Dr. Hackney, the investigation was dropped within 9 days. Yet in the famous "Water Buffalo" case, Eden Jacobowitz spoke to Dr. Hackney about the case and Dr. Hackney did not intervene. Mr. Jacobowitz went through weeks uncertain of his future, before the case was finally dropped. Dr. Hackney says it is not his role to intervene and he does not remember speaking to Mr. Jacobowitz, even though witnesses do recall the conversation.

But Dr. Hackney is a decent and scholarly man, and surely that is all the explanation we need for that apparent inconsistency.

We will have to wait until next school year to discover what happens to the students charged with stealing that newspaper. Dr. Hackney explained that there was not enough time left in the school year to begin the disciplinary process against them. Maybe that was because the students were never charged by the administration and only weeks after the event was a complaint filed by a faculty member. However, there was enough time to begin an investigation of a security officer who detained some of the students caught stealing the paper.

Again, am I to question Dr. Hackney for failure to respond quickly in one area and ever so quickly in another? That security officer was reassigned to desk work until the investigation was complete.

But as we know, Dr. Hackney is not to blame because he was not really in charge of the disciplinary process. He was only the president of the university. It is regrettable that those in charge did not reflect the good qualities of Dr. Hackney—for surely then they would have swiftly sanctioned this attack on freedom of expression.

Then, there was the question about misspending of about $1 million in Federal research funds, funds for alumni fundraising activities, overhead and expenses for the university-provided president's mansion—items specifically prohibited by Federal guidelines. But

Dr. Hackney explained that the University of Pennsylvania itself had begun to uncover these problems before the Federal auditors even arrived, because when another major university was audited on the use of its research grants, he decided Penn should look into its own spending. Again, that oar was in the water before the Federal Government knew it had reason to complain. I think it is good fortune for the American taxpayers that Dr. Hackney has learned this lesson before he takes over the leadership of this organization.

These incidents have been repeated again and again during the confirmation proceedings. Dr. Hackney has given his explanations over and over. None of them disprove the fact that he is a decent and scholarly man.

But there is one conflict I just can't get past. It is about Penn's antiharassment code—sometimes called a speech code.

Some of my colleagues have heard me talk about these codes in the past. I am unalterably opposed to them. As Senators, we are probably more aware than others of the importance of words. We make our living using words to persuade our colleagues to take certain actions. We know how changing a single word in a law can radically alter the impact of that law. Daily, we use words as weapons—and as shields.

So I hope my colleagues can also understand how words can do more than just express thoughts—they can also shape thoughts. But if any of my colleagues are uncertain about he folly and evil of speech codes, let me bring this debate home for you. This is where I have to begin to question the credentials of Dr. Hackney.

Imagine, for a moment, that we had the same kinds of restrictions in the U.S. Senate that exist on some college campuses today, and that for a time existed at Penn.

Imagine what it would be like to have a Senate colleague stop you in the middle of debate and say to you: I don't like that argument you're making. Even though you haven't mentioned me or my State directly, I don't like your ideas. As a matter of fact, I am personally offended by the argument you are making. You have no right to say things that offend me.

That is where freedom of speech stops: You have no right to say things that offend me. Not fighting words—we know that words which provoke immediate violence are entitled to constitutional protection. But offensive words are not necessarily fighting words, and most assuredly they are not protected as constitutional.

And imagine that the Presiding Officer of the Senate says to you: "Your colleague is exactly right. In this Senate we believe that the only way to conduct a healthy debate is a supportive environment. Each Senator has the right to dictate what he or she finds offensive. If your words or ideas are offensive to any other Senator, you are not allowed to express them. And if you do express them, you will be sanctioned. You could even be expelled."

That is what some of the policies are like and have been like at some of our university campuses. With politically correct speech. The kind that for a time Dr. Sheldon Hackney really did not know whether he could support or would support or did not support. And finally had the policies changed.

Imagine what debate would be like under those rules. Imagine the burden you'd feel under those restrictions. You would have to weigh every word carefully. You would start to censor yourself before you even began to speak. You might even decide not to speak at all, because undoubtedly someone would be offended by what you have to say—or might at least claim to be offended.

Now let me ask my colleagues: Are these the rules of debate you would want in the greatest deliberative body in the world?

No, of course not. You would tell me these kinds of restrictions would destroy the very foundations of the Senate; that these kinds of restrictions are unconstitutional; that the best way to destroy offensive ideas is through robust and open debate, not censorship.

You would tell me all this—and you would be right.

You would be right as an American but, more important, you would be constitutionally right because it was the very thing our Founding Fathers wanted to ensure through free speech.

If the day ever comes that one Senator is allowed to dictate to another Senator what is an appropriate subject for debate, or an appropriate word to be used, or an appropriate argument to make, when that day comes, we might as well just close up shop as a deliberative body, lock the door and throw away the key to our freedom—our freedom of speech and our open, free debate.

It may seem unthinkable for speech codes ever to exist in the U.S. Senate, but let me warn my colleagues, it was not many years ago that these kinds of restrictions would have been equally unthinkable on college campuses. The bastion of free thought and what happened? Well, it was not a revolution. Nobody stormed the citadel. There was not any rioting in the streets demanding speech codes. We did not see headlines in newspapers about students being stripped of their rights. No, it was not a war; it was a surrendering. Good, decent, intelligent scholarly people, like Sheldon Hackney, simply opened the door and delivered the college campuses to a kind of intellectual tyranny.

Today, when you talk to many academics, you will be treated to an incredible doublespeak about this very important issue. I have had college presidents tell me in one breath that speech codes have no effect on students, but they are critically important in maintaining order on campus; if we do not have speech codes, we cannot maintain order and civility. I have heard from one university talk that speech codes cannot constitutionally restrict—certainly not—legitimate classroom discussion. Yet the courts ruled that particular school's speech code to be unconstitutional because it was used to do exactly what it said it was not doing.

I have had scholars tell me that there cannot be free and open discussion in a classroom for the culturally disadvantaged students unless certain words or ideas are censored and not a part of the classroom discussion or the open debate in a forum on campus.

I have had a college president tell me that the university ought to be open to all points of view, even if some of those views expressed are personally wrong, and even cited with pride an example of his support for a riot of a controversial speaker to preach racism and bigotry on his campus. And yet at the same time, that college president imposed speech codes on students of that university. That college president was Dr. Sheldon Hackney.

In his answer to the committee, Dr. Hackney acknowledged that political correctness exists and it would be a serious problem if it were to become the orthodoxy of a campus, shutting out other points of view. How much more orthodox can it be than to become a part of the official student code of a university?

Dr. Hackney instituted the speech code at Penn. It was not long before the court decided such codes were unconstitutional and students objected to them. To his credit, Dr. Hackney responded. He worked with the students and he changed the code. I applaud his willingness to change, but why not abandon the code entirely?

How is it possible for an individual to defend a principle he believes in and betray it at the same time? I think there are only two explanations: Either the individual is misrepresenting his beliefs or he is unable to understand the impact of his action.

I cannot believe that Dr. Hackney would misrepresent his beliefs because Dr. Hackney is a decent and scholarly man. So I can only believe that he is wearing academic blinders, like others in his profession today, who truly believe there is a way to censor some views but not others and say that it is all the time in the name of academic freedom.

My chief concern about this nomination is that Dr. Hackney will not be able to keep those academic blinders off long enough to realize that some of his respected friends and colleagues are enemies of the very freedoms that he is

now going to have to defend in a fair way. With what he himself identifies as more direct control over decisionmaking, that could result in the National Endowment for the Humanities sharply veering off course.

Dr. Hackney, you have your work cut out for you, and I am quite concerned at this moment of who this good, intelligent, scholarly figurehead will be. Will he be the person who arbitrarily restricted free speech and then made a change? Or will he be the stalwart who directs in a fair and balanced way the moneys of this great institution?

Those are the questions at hand, and in the coming weeks and months, I am sure we will know because I expect the doctor to be confirmed. But I will tell you that he is not a strong and decisive captain. He is a man who has allowed his ship to be blown off course by the winds of change and not to remain a stalwart defender of constitutional and basic American principles and rights.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOLE. I ask unanimous consent to proceed as if in morning business.

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

SALUTE TO EWING KAUFFMAN

Mr. DOLE. Mr. President, a rags-to-riches success story; baseball; a devotion to the philosophy of neighbor helping neighbor; what do these have in common? All three are a unique part of the American culture. And all three were also part of the uniquely American life of Ewing Kauffman, who passed away Saturday in Kansas City, MO.

In 1950, Ewing Kauffman started a pharmaceutical business in the garage of his home. And over the years, Marion Laboratories grew from a one-man operation to a $1 billion corporation.

Mr. Kauffman said the reason behind his business success could be found in his motto—"Those who produce, share." Mr. Kauffman never used the word "employee," referring to everyone—from vice presidents, to secretaries, to janitors as "associates."

In 1969, Mr. Kauffman earned the affection of the people of Missouri and Kansas, when he purchased a new major league baseball franchise and brought it to Kansas City. And for the past 24 years, the Kansas City Royals have been one of the most successful franchises in baseball.

Under Mr. Kauffman's ownership, the Royals won six American League Western Division titles and made two trips to the World Series, winning the World Championship in 1985.

The Royals were also winners off the field, as well. Mr. Kauffman knew that his team really didn't belong to him; it belonged to the people of the Kansas City area—in fact, for that matter, all the Midwest. And his leadership ensured that the Royals were also available to make appearances on behalf of worthy causes and to reach out to young people.

Young people were also the focus of many of Mr. Kauffman's philanthropic efforts. His Kauffman Foundation financed countless projects, including a program to teach children how to resist peer pressure at the age when they are most vulnerable to involvement with drugs.

Mr. Kauffman also made a life-changing promise to over 1,000 high school freshmen in Kansas City, KS, and in his hometown of Westport, MO—a promise that he would pay the entire cost of their college or vocational training if they steered clear of drugs, alcohol, teenage parenthood, and received their high school diploma.

Mr. President, when Mr. Kauffman was diagnosed with bone cancer, he typically did not think of himself; he thought of others; and he established a trust which would keep the Royals in Kansas City after his death.

Ewing Kauffman is survived by his wife, Muriel, three children, nine grandchildren, and three great grandchildren. He is also survived by countless men, women, and children whose lives are better because of the leadership and generosity of this remarkable American.

SALUTE TO CONGRESSMAN PAUL HENRY

Mr. DOLE. Mr. President, I know that all Members of the Senate join me in extending our sympathies to the family, friends, colleagues, and constituents of Congressman PAUL HENRY of Michigan.

Congressman HENRY passed away Saturday after a courageous fight against brain cancer.

Regarded by many as one of the rising stars of the Republican Party, PAUL HENRY made a career of making a difference in the lives of others.

As a Peace Corps volunteer, he made a difference in the lives of the people of Ethiopia and Liberia.

As a political science professor, he made a difference in the lives of his students.

And as a 5-year member of the Michigan State Legislature and a five-term Member of Congress, PAUL HENRY made a difference for Michigan and America.

Mr. President, I was proud to call Congressman HENRY my friend, and know that I am just one of many in this Chamber who will miss this truly outstanding public servant.

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

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

NOMINATION OF RUTH BADER GINSBURG

Mr. HELMS. Mr. President, it had been my tentative inclination prior to this past weekend to vote to confirm Ruth Bader Ginsburg to serve on the U.S. Supreme Court despite disagreement with some of her declarations about constitutional matters and other matters. I have a small habit which I have not been able to break, I am not inclined to break, and I have not tried to break, that is, on each major nomination to come before the Senate I assemble all available information about the nominee including testimony before the committee hearing of his or her nomination.

I did that this past weekend. I spent a part of the weekend reviewing various documents regarding Mrs. Ginsburg, and never have I been more disappointed in a nominee. This lady, whom I have regarded as a pleasant, intellectual liberal is, in fact, a woman whose beliefs are 180 degrees in opposition to some fundamental principles that are important not only to me but, I believe, to the majority of other Americans as well.

Therefore, it would be hypocritical of me to keep silent about Mrs. Ginsburg's beliefs, let alone her nomination to be quietly confirmed by the Senate, like a ship passing in the night.

I confess great disappointment that the Senate Judiciary Committee in conducting the hearing on Mrs. Ginsburg's nomination did not press her on a number of matters—for example, her outrageously simplistic and callous position on abortion. The lady used a great deal of doubletalk and, sad to say, the Judiciary Committee let her get by with it.

Mr. President, I did not find one syllable of challenge by any member of the Judiciary Committee to this outrageous oversimplification by a nominee whose demeanor appeared to be one of amused tolerance of Senators too timid to ask questions that needed to be asked. Why, Mr. President, in the name of God did someone not ask, "But, Mrs. Ginsburg, what about that unborn innocent and helpless child's right to be left alone, that child who is about to be destroyed because of specious reasoning by people like Ruth Bader Ginsburg?"

Mrs. Ginsburg also made such unchallenged declarations as that the Hyde amendment is unconstitutional;

that the implication—that went unchallenged—was that, as a member of the Supreme Court, she is likely to uphold the homosexual agenda; and, three, the States should be required to pay for abortions.

There were other such remarkable assertions. But the able Senator from Pennsylvania, Mr. SPECTER, did put it aptly when he said:

I'm not suggesting that Judge Ginsburg will be defeated, or that she should be, but I am suggesting that her coronation in advance is irresponsible.

And that is putting it mildly, Mr. President.

Let me emphasize, in conclusion, Mr. President, that I hold no personal animus for Mrs. Ginsburg. But based on what she has said, and what she clearly meant, I cannot support her nomination. She will be confirmed, yes. And I may be the only Senator opposing her. But I pray that as a sitting Justice of the Supreme Court, she will rethink some of her positions.

Mr. President, I ask unanimous consent that two items be printed in the RECORD.

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

COALITIONS FOR AMERICA,
Washington, DC, July 23, 1993.

To: Interested parties.

From: Thomas L. Jipping, J.D., Legal Affairs Analyst.

Judge Ruth Bader Ginsburg told the Senate Judiciary Committee on July 20 that her nomination should be evaluated on the basis of her 34-year written record. That record provides a solid, and perhaps even compelling, basis for Senators to vote against her nomination. First, she believes courts should make policy and implement judges' own social vision. Second, her social vision is very liberal. Third, her supporters believe she will work to implement that vision on the Supreme Court.

I. JUDGE GINSBURG BELIEVES THAT COURTS SHOULD MAKE POLICY AND IMPLEMENT JUDGES' OWN SOCIAL VISION

She approves of courts changing their interpretation of the Constitution because of "a growing comprehension by jurists of a pervasive change in society at large."[1]

She approves of instances where "[p]ervasive social changes" undermined previous Supreme Court decisions she felt impeded women's right.[2]

She approves of cases where the Supreme Court "has creatively interpreted clauses of the Constitution * * * to accommodate a modern vision" of society.[3]

She approves of "[b]oldly dynamic interpretation, departing radically from the original understanding" to achieve certain results.[4]

She believes courts should be restrained only when legislatures are activist.[5]

She believes courts should "repair" or "rewrite" unconstitutional legislation to reach desirable results rather than striking it down and letting legislatures do the legislating.[6]

She testified at her hearing that courts should sometimes act as "interim legislatures."

She believes factors that "tug judges toward the middle" on appellate courts are not present on the Supreme Court, which faces "grand constitutional questions."[7]

II. JUDGE GINSBURG'S SOCIAL VISION IS EXTREMELY LIBERAL

Judge Ginsburg served on the national board of the ACLU when it adopted positions opposing any restrictions on pornography (including child pornography), opposing any restrictions on prostitution, and opposing the criminalization of adult/child sex.

Judge Ginsburg testified during her hearing that she opposes discrimination on the basis of sexual preference.

Judge Ginsburg has written that the Supreme Court's decisions that the Constitution does not require the public funding of abortion are "incongruous"[8] and represent the "[m]ost unsettling of the losses" for women's rights.[9]

Judge Ginsburg co-authored a report for the U.S. Commission on Civil Rights purporting to identify "Federal laws which allow implicit or explicit sex-based discrimination" and offering recommendations.[10] Her social vision, as outlined in this report, includes:

Drafting women,[11] and sending them into combat.[12]

Legalizing prostitution, which she believes is protected by the Constitution.[13]

Lowering the age of consent for sexual acts to 12 years.[14]

Terminating all public financial support of 4-H Boys and Girls Clubs,[15] Boy Scouts, Girl Scouts, Boys' Clubs of America, Big Brothers of America, and other organizations until they open their membership to both sexes, change their name by using only sex-neutral language, and purging any activities and purposes that "perpetuate sex-role stereotypes."[16]

Single-sex prisons.[17]

Replacing fraternities and sororities at colleges and universities with single-sex "social societies."[18]

Constitutional protection of bigamy.[19]

Judge Ginsburg even included the statute establishing Mother's Day and Father's Day as separate holidays as one that allows "implicit or explicit sex-based discrimination" though did not offer a specific recommendation for correcting this problem.[20]

III. JUDGE GINSBURG'S ALLIES AND FRIENDS BELIEVE SHE WILL IMPLEMENT HER SOCIAL VISION ON THE SUPREME COURT

On July 22, the woman who replaced Judge Ginsburg as director of the ACLU's Women's Rights Project told PBS that Judge Ginsburg has a definite social vision and will have no restraints on implementing that vision when she gets on the Supreme Court.

On July 20, Eleanor Homes Norton, the District of Columbia's congressional delegate, introduced Judge Ginsburg to the Judiciary Committee and stated that Judge Ginsburg would make great strides for women's rights on the Supreme Court just as she had while an advocate and scholar.

The left-wing Alliance for Justice asserts that any prediction that Judge Ginsburg will be a moderate member of the Supreme Court is "at best premature."[21] Indeed, the Alliance believes that "it is the battles she fought prior to her service on the bench that portend" the kind of Supreme Court Justice she will be.[22]

IV. CONCLUSION

Judge Ginsburg said her nomination should be evaluated on the written record, supplemented by her testimony before the Judiciary Committee. By that standard, there is ample ground for opposing the appointment of this judicial activist to the Supreme Court. She takes a fundamental political approach to the law, believing that courts can and should work to implement judges' social vision. Her own social vision—the one she will enforce on the Supreme Court—is extremely liberal. Her allies and supporters believe that she will in fact work, in the unconstrained environment on the Supreme Court, to implement that vision in much the same fashion that she pursued her agenda as an advocate.

Any Senator claiming the label "conservative" or even "moderate" will find it difficult to explain voting for someone with such a clearly activist record. Judge Ginsburg's record is more hostile to conservatives than Judge David Souter's record was to liberals. The vote on Souter's 1990 nomination was 90–9.

FOOTNOTES

[1] Ginsburg, "Remarks on Women Becoming Part of the Constitution," 6 Law & Inequality 17,20 (1988).

[2] Ginsburg, "Sex Discrimination," in L. Levy, K. Karst & D. Mahoney (eds.), Encyclopedia of the American Constitution (1986), at 1667.

[3] Id. at 1673.

[4] Ginsburg, "Sexual Equality Under the Fourteenth and Equal Rights Amendments," 1979 Washington University Law Quarterly 161,161.

[5] Ginsburg, "Inviting Judicial Activism: A 'Liberal' or 'Conservative' Technique?" 15 Georgia Law Review 539,550 (1981).

[6] Ginsburg, "Some Thoughts on Judicial Authority to Repair Unconstitutional Legislation," 28 Cleveland State Law Review 301 (1979).

[7] Ginsburg, "Styles of Collegial Judging: One Judge's Perspective," Federal Bar News and Journal, March/April 1992, at 200.

[8] Ginsburg, "Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade," 63 North Carolina Law Review 373,386 (1985).

[9] Ginsburg, supra note 2, at 224.

[10] U.S. Commission on Civil Rights, Sex Bias in the U.S. Code (April 1977). The report states that "the initial research and draft of this report was developed by contractors, Ruth Bader Ginsburg and Brenda Feigen Fasteau." Id. at iii. Fasteau is a former director of the American Civil Liberties Union's Women's Rights Project.

[11] Id. at 218.

[12] Id. at 26.

[13] Id. at 97.

[14] Id. at 102.

[15] Id. at 138.

[16] Id. at 148.

[17] Id. at 101.

[18] Id. at 169.

[19] Id. at 195–96.

[20] Id. at 146.

[21] Alliance for Justice, Report on the Nomination of Judge Ruth Bader Ginsburg to the United States Supreme Court, at 5.

[22] Id. at 2.

[From the Family Research Council, Washington, DC]

JUDGE RUTH BADER GINSBURG: GROUNDS FOR QUESTIONS

(By David M. Wagner, Director of Legal Policy)

In choosing Appeals Court Judge Ruth Bader Ginsburg for the U.S. Supreme Court, President Clinton has achieved a triple goal: An easy confirmation process; political credit for selecting a "moderate"; and a probably reliable liberal vote on key social issues, with the legal acumen to make her opinions influential.

In deciding whether to oppose Judge Ginsburg's confirmation, conservative and pro-family groups have to weigh how much worse Clinton's selection could have been, against how much damage can be done by a careful liberal jurist with a non-negotiable commitment to far-reaching, if slow-paced, social change.

Footnotes appear at end of article.

This paper will set forth some areas of Judge Ginsburg's record that should provide material for questioning when she appears before the Senate Judiciary Committee, or for the casting of an informed vote by members of the Senate.

GINSBURG ON ABORTION

It is being said that Judge Ginsburg has "criticized Roe v. Wade." Technically this is true; in fact, her most recent "criticism" of Roe came in a speech delivered just last March, shortly before Justice Byron White announced his intention to resign. That speech may well account for the absence of Judge Ginsburg's name from most observers' lists of possible nominees throughout April and May.

However, in these "critiques" of Roe there is actually less than meets the eye. Judge Ginsburg's criticisms of Roe are basically two:

1. By laying down a framework for all subsequent abortion law, the Court in Roe forced a more rapid reform than most state legislatures were willing to allow, thereby strengthening the right-to-life movement. Had the Court been content merely to strike down the Texas statute that was at issue in Roe, without announcing the rigid "trimester" system, the pro-abortion drift of the state legislatures would have continued without interruption. In other words, Judge Ginsburg criticizes Roe for being a less effective vehicle for abortion rights than it could have been.

In her recent speech she noted that Roe "halted a political process that was moving in a reform direction and thereby, I believe, prolonged divisiveness and deferred stable settlement of the issue."[1] And she wrote in a 1990 article: "There was at the time [of Roe], as Justice Blackmun noted in his opinion, a trend 'toward liberalization of the abortion statutes.' Had the Court written smaller and shorter, the legislative trend might have continued in the direction in which it was clearly headed in the early 1970s."[2]

Furthermore, as she noted in a 1985 article based on a 1984 speech: "The sweep and detail of the opinion stimulated the mobilization of a right-to-life movement and an attendant reaction in Congress and state legislatures."[3]

2. Roe grounded the abortion right on personal privacy and autonomy, rather than on sex discrimination. In contrast, Judge Ginsburg believes the Court should have grounded the abortion right on the theory that, since only women become pregnant, all restrictions on abortion discriminate on the basis of sex, and therefore violate the Equal Protection Clause of the Fourteenth Amendment. Closely allied to this legal argument is the overtly political argument that abortion is necessary to the civic and professional equality of women.[4]

Displaying her penchant for announcing her own views by quoting approvingly from others, Judge Ginsburg wrote in 1985:

"Professor Paul Freund explained where he thought the Court went astray in Roe, and I agree with his statement. The Court properly invalidated the Texas proscription, he indicated, because '[a] law that absolutely made criminal all kinds and forms of abortion could not stand up; it is not a reasonable accommodation of interests.'* * *

"I commented at the outset that I believe the Court presented an incomplete justification for its action. Academic criticism of Roe, charging the Court with reading its own values into the due process clause, might have been less pointed had the Court placed the woman alone, rather than the woman tied to her physician, at the center of its attention. Professor Karst's commentary is indicative of the perspective not developed in the High Court's opinion: he solidly linked abortion prohibitions with discrimination against women. The issue in Roe, he wrote, deeply touched and concerned 'women's position in society in relation to men.'[5]"

It should be particularly noted that, while some abortion regulations survive scrutiny under the Roe test as modified by Planned Parenthood v. Casey,[6] Judge Ginsburg's equal protection analysis would strike down any and all abortion regulations (though a ban on sex-selection abortion might present an arguable question for her), on the theory that any and all abortion regulations create unequal burdens on women and men.

Judge Ginsburg also points out that her theory would even require striking down the Hyde Amendment—i.e., it would require the federal government to fund abortions. She wrote: "If the Court had acknowledged a woman's equality aspect, not simply a patient-physician autonomy dimension to the abortion issue, a majority might perhaps have seen the public assistance cases as instances in which, borrowing a phrase from Justice Stevens, the sovereign had violated its 'duty to govern impartially.'"[7]

Thus, just at the time the Clinton administration is fine-tuning its health care plan and proposing to include abortion coverage in it, the court is getting a new Justice who believes the Constitution requires the federal government to fund abortion.

GINSBURG ON JUDICIAL METHOD

Another claim made about Judge Ginsburg is that she is a believer in, and a practitioner of, judicial restraint. But as Thomas Jipping of the Free Congress Foundation points out, one must distinguish between judicial restraint as a principle and judicial restraint as a style.

Judge Ginsburg's record includes many praiseworthy instances of judicial restraint. For instance, in a case involving a homosexual serviceman who argued that the military's policy on homosexuals violated his constitutional right to privacy, Judge Ginsburg concurred with her D.C. Circuit colleagues in turning down the plaintiff's petition for en banc review of the panel opinion rejecting his claim.[8] At that time, the Supreme Court had not yet definitively ruled on whether homosexual acts were covered by the constitutional right of privacy,[9] so in theory, Judge Ginsburg could have voted in favor of making some new law in this area. She did not do so. Judicial restraint is clearly part of her judicial style.

However, her career as the chief activist-litigator for the ACLU's Women's Rights Project was dedicated to persuading the courts that the language of the 14th Amendment requires a social revolution beyond anything that those who wrote and ratified the 14th Amendment dreamed of. This is the essence of judicial activism—the theory that the words of the Constitution are blank check to be filled in by judges, in light of whatever understanding they have of what contemporary thinking demands or what contemporary society needs. This form of judging necessarily entails the substitution of the values of federal judges—which for demographic reasons tend to be the values of the "knowledge class"—for the values of the rank and file of the American people.

In a brief paper given as part of a Federalist Society conference,[10] Judge Ginsburg defended the Supreme Court's sex-equality decisions of the 1970s primarily by pointing out how overwhelmingly the Burger Court adopted the view of the Equal Protection Clause that Ginsburg, as advocate, had promoted, and by suggesting how unjust would be the predicament of women today had those decisions not come down the way they did. Apparently her view is that judicial activism (at least where sex equality is concerned) is justified by its high degree of support on the Court, and by its good results.

In her 1981 Georgia Law Review article,[11] Judge Ginsburg seeks to debunk the view that judicial activism is exclusively a tool of political liberals, by pointing out instances in which conservatives have repaired to the courtroom to seek to reverse a legislative or executive outcome, e.g. over the Panama Canal issue, and over President Carter's termination of the mutual defense treaty with Taiwan.[12]

The article concludes with a solemn warning against "attempts to politicize the judiciary,"[13] in which Judge Ginsburg's prime exhibit is the testimony given by a conservative organization, United Families of America, in opposition to her own confirmation for her present seat on the Court of Appeals for the D.C. Circuit.[14]

UFA had suggested to the Judiciary Committee a list of questions for judicial nominees. Some of these questions were such that, in our view, a responsible nominee would have to decline to answer them, because to answer would be to make a premature commitment to a given outcome on an issue likely to come before the court.[15] The view that demanding outcome commitments from a judicial nominee amounts to an unacceptable politicization of the judiciary is bedrock conservative legal doctrine—a point that Judge Ginsburg hammers home by backing up her critique of the UFA questions with a quote from then-Justice Rehnquist.[16]

But before we give Judge Ginsburg a standing ovation and a leatherbound copy of The Federalist Papers, one might ask: did the politicization of the judiciary start with UFA's little list? From the vantage point of 1981, after two decades in which American society was significantly remade by judicial decisions reading the liberal agenda into the Fourteenth Amendment, is it not a touch disingenuous to imply that the threat of a politicized judiciary comes primarily from the conservatives? Especially when one happens to have been the legal architect of a portion of the judicial revolution? Does not this sort of argument suggest the presence of an unconfessed but powerful commitment to the liberal agenda?

The evidence suggests that judicial restraint is part of Judge Ginsburg's judicial style, but not part of her judicial philosophy; that she is cautious in her rulings, but does not believe that the judiciary has any overarching obligation to refrain from reading liberalism into the Constitution.

GINSBURG, THE ACLU, AND STATUTORY RAPE

According to a transcript obtained and quoted by the conservative weekly Human Events, the ACLU, honing down its position on homosexual rights at a board meeting in December 1975, adopted the view that the state has a legitimate interest in "protecting children from sexual abuse, an interest underlying some laws concerned with sexual conduct between adults and minors."[17]

This was substitute language. The first draft had articulated the state's interest in somewhat stronger terms: "[t]he state has a legitimate interest in controlling sexual behavior between adults and minors by criminal sanctions."[18]

Footnotes appear at end of article.

The change is explained in the transcript as follows:

"In the second paragraph of the policy statement, dealing with relations between adults and minors, Ruth Bader Ginsburg made a motion to eliminate the sentence reading: 'The state has a legitimate interest in controlling sexual behavior between adults and minors by criminal sanctions.' She argued that this implied approval of statutory rape laws, which are of questionable constitutionality.[19]"

Assuming that the scribe faithfully recorded then-Prof. Ginsburg's objection to the stronger anti-pederastly language, the transcript still does not tell us what her constitutional argument against statutory rape laws was or is. But given the predominance of the theme of sex-equality in her constitutional writings, it is not fanciful to assume that she objects to the different ages of consent for girls and for boys that are typically found in such statutes. But surely such "discrimination" reflects a judgment by the legislatures that young women are more in need of protection against what we would now call sexual harassment than young men are. Is this an unconstitutional policy judgment, requiring that our statutory rape laws be overthrown?

By no stretch can then-Prof. Ginsburg's intervention here be read as supportive of pedophilia. As noted, she was concerned with an appearance of endorsement for statutory rape laws that she considered unconstitutional.

Nonetheless, the Judiciary Committee should ask her to clarify the views reflected in this transcript.

GINSBURG AS FEMINIST BLUE-PENCILLER

Attention has already been called to Judge Ginsburg's preference for adopting the statements of others, rather than announcing her views in her own words. Yet, despite the debt that she implicitly acknowledges to those whom she approvingly quotes, she nonetheless feels that their choice of words is in need ot updating, in light of the rules laid down by "political corrections."

Thus, in her article in the Georgia Law Review,[20] she quotes from Judge Carl McGowan on the subject of legislators becoming plaintiffs. Judge McGowan describes this sort of plaintiff as "a legislator who has failed to persuade his colleagues."[21] In Judge Ginsburg's quotation of this line, however, the words "or her" have been added in brackets between the word "his" and the word "colleague."[22]

Likewise, she quotes Judge Irving L. Goldberg defending judicial activism in some circumstances. As quoted by Judge Ginsburg, Judge Goldberg said that "the [judicial] fire[fighters] must respond to all calls."[23] Judge Ginsburg has added the word "judicial" in brackets, just to clarify that Judge Goldberg was invoking a metaphor for judging rather than defining the duties of fire departments.

Thus, in order to steal a glance at the original phrase as written by Judge Goldberg, the eye is inclined to suppress the word "judicial". Continuing with this procedure, the eye then also suppresses the word "fighters," since this is also in brackets. We therefore seem to have Judge Goldberg saying "the fire must respond to all calls," which makes very little sense. But then, one realizes shrewdly that Judge Ginsburg is not adding the word "fighters," but changing "firemen" to "firefighters."

A few pages further on, faced with a politically incorrect usage by such an exalted figure as Supreme Court Justice Felix Frankfurter, the blue pencil hesitates. The result is that we find Justice Frankfurter quoted as saying: "There is a good deal of shallow talk that the judicial robe does not change the man [and today we would add, or woman] within it * * *"[24]

Perhaps it is the appeals court judge's deeply engrained respect for "Higher Authority"[25] that keeps Judge Ginsburg from simply dropping "[or woman]" straight into the text, without the patronizing apology for the benighted era in which Justice Frankfurter lived and which he was evidently unable to transcend. (Further on in the passage, Judge Ginsburg does in fact drop in an unadorned "[or women]", when Frankfurter discussed how "men are loyal to the obligation with which they are entrusted."[26]

Only once in this article does Judge Ginsburg forgo an opportunity to correct a politically incorrect usage. This lapse of vigilance occurs when she quotes from Gilbert and Sullivan's opera Iolanthe; specifically, from Private Willis' observation that the brainlessness of most modern members of Parliament may be a good thing after all, because:

"* * * [the prospect of] a lot of dull MPs
In close proximity,
All thinking for themselves, is what
No man can bear with equanimity.[27]"

The judge's decision to withhold her legislative hand at this point is probably due less to reverence for fellow-lawyer W. S. Gilbert's text than to a commendable regard for scansion.

There are many possible views on the propriety of enforcing gender-neutral language. Our only point here is that it takes a high degree of partisan zeal to deny to a peer the right to choose his own words, and to insist instead that everyone's usage be made to conform to a given ideological imperative, however noble. A conservative jurist exhibiting similar zeal for his own cause would be subjected, both in the media and by the Senate Judiciary Committee, to a searching inquiry as to his judicial temperament.

CONCLUSION

Let us return to the passage by Justice Frankfurter, quoted by Judge Ginsburg in her Georgia Law Review article. It reads (without Judge Ginsburg's edits):

"There is a good deal of shallow talk that the judicial robe does not change the man within it. It does. The fact is that on the whole judges do lay aside private views in discharging their judicial functions. This is achieved through training, professional habits, self-discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted.[28]"

To the extent that Judge Ginsburg is here engaging in her well-tested practice of stating her own views through quotation of others, we take heart. Even the most activist of attorneys is capable of making the transition to the very different mindset of the judge, and Judge Ginsburg's own career is an example of the transition.

Nonetheless, it would be an abdication of a grave responsibility if Senators, especially those of the opposition party, fail to ask her questions about, inter alia:

What regulations of abortion, if any, would survive a consistent application of the test she outlined in her North Carolina Law Review article (note: she could answer this without committing herself to using that test as a Supreme Court Justice);

What the original intent behind the Fourteenth Amendment was, and how, if at all, this intent should influence constitutional judging today;

What the principles that undergird judicial restraint are, and how she has or has not lived up to those principles.

Far from a fire-breathing ideologue of the left, but a committed liberal nonetheless—that is our impression of Judge Ginsburg, based on her writings, and that is how we expect she will appear after questioning by the Judiciary Committee. The President who appointed her, and the Senators who will probably vote to confirm her, should receive both full credit and full blame for what they are presently rushing to do.

FOOTNOTES

[1] *Ginsburg Lament Roe's Lack of Restraint*, LEGAL TIMES, April 5, 1993, at 11.

[2] Ginsburg, *On Muteness, Confidence, and Collegiality: A Response to Professor Nagel*, 61 U. OF COLO. L.REV. 715, 718–719 (1990).

[3] Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, 63 NORTH CAROLINA LAW REVIEW 375, 381 (1985).

[4] A majority of the present Court has already endorsed this view; *see* Planned Parenthood v. Casey, 11 S.Ct. 2791, 2809 (1992).

[5] Ginsburg, *supra* n.3, at 381, citing Freund, *Storms over the Supreme Court*, 69 A.B.A. J. 1474, 1480 (1983) (adapted from inaugural Harold Leventhal Lecture at Columbia Law School), and Karst, *Foreword: Equal Citizenship Under the Fourteenth Amendment*, 91 HARV.L.REV. 1, 53–59 (1977), at 58.

[6] *Casey, supra* n.4.

[7] Ginsburg, *supra* n.3, at 385 (citing *Harris v. McRae*, 448 U.S. at 357 [Stevens, J., dissenting]).

[8] Dronenburg v. Zech, 746 F.2d 1579 (1984) (order on appellant's suggestion for rehearing *en banc*).

[9] *See* Doe v. Commonwealth's Attorney, 425 U.S. 901, 96 S.Ct. 1489 (1976), *aff'g mem.* 403 F. Supp. 1199 (E.D. Va. 1975). Bowers v. Hardwick, 478 U.S. 186, 106 S.Ct. 2841 (1986), had not yet been decided at the time of the *Dronenburg* litigation.

[10] Ginsburg, *Interpretations of the Equal Protection Clause*, 9 HARV.J.L.&PUB.POL. 43 (1986). The Federalist Society is a nationwide organization of conservative and libertarian lawyers, law students, and law professors. Greatly to her credit, Judge Ginsburg has been a frequent participant in conferences sponsored by the Federalist Society and other conservative groups.

[11] Ginsburg, *Inviting Judicial Activism: a "Liberal" or "Conservative" Technique?*, 15 GEORGIA L.REV. 539 (1981).

[12] *Id.* at 542.

[13] *Id.* 553.

[14] *Id.* at 553–4, citing: Hearing before the Senate Committee on the Judiciary on the Nomination of Ruth Bader Ginsburg for United States Circuit Judge, Statement of Sandy MacDonald on behalf of United Families of America (June 4, 1980) (typescript copy).

[15] Id. Examples of overly-specific questions on the UFA list were questions on busing, parental consent for abortion, and rescission of ERA ratification. On the other hand, at least one UFA question cited by Judge Ginsburg—"What principles ought federal judges to follow in deciding social policy cases?"—can and should be answered fully by even the most scrupulous nominee.

[16] Id. at 554–5, citing Rehnquist, Act Well Your Part: Therein all Honor Lies, 7 PEPPERDINE LAW REVIEW 227, 229–30 (1980).

[17] How "Moderate" is Ruth Ginsburg?, HUMAN EVENTS, June 26, 1993, at 1.

[18] Id.

[19] Id. at 17.

[20] Ginsburg, supra n. 11.

[21] Id. at 542, citing McGowan, Congressmen in Court: The New Plaintiffs, id. at 241.

[22] Id. at 542.

[23] Id. at 547, citing Reynolds v. Allstate Insurance Co., 629 F.2d 1111, 1112 (5th Cir. 1980).

[24] Id. at 555, citing Public Utils. Comm'n v. Pollak, 343 U.S. 451, 466 (1952).

[25] See Dronenburg v. Zech, 746 F.2d. 1579, 1581, n. 1 (D.C. Cir., denial of request for rehearing en banc, 1984) (Ginsburg, J., concurring).

[26] Supra n. 15.

[27] Id. at 557 (cited in prose, beneath indented passage). See GILBERT & SULLIVAN, IOLANTHE, Act II (1882) (Aria: "When All Night Long").

[28] Supra n. 15.

Mr. HELMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

DEPARTMENT OF JUSTICE

NOMINATION OF ELEANOR ACHESON TO BE AN ASSISTANT ATTORNEY GENERAL

Mr. BIDEN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the nomination of Eleanor Acheson; that any statements be inserted in the RECORD as if read; that time on both sides by yielded back; and that the nominee be confirmed. That is my unanimous-consent request, and this request has been cleared by the minority.

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

The nomination was considered and confirmed as follows:

DEPARTMENT OF JUSTICE

Eleanor Acheson, of Massachusetts, to be an Assistant Attorney General.

Mr. PRESSLER. Mr. President, today, we take up the nomination of Eleanor Acheson, who has been nominated to be Assistant Attorney General for Policy Development. Until recently, Ms. Acheson belonged to an exclusive club in the Boston area perceived by some to discriminate in their admissions practices. Let me make one point very, very clear: it has never been my intent to condemn either Ms. Acheson or the club to which she belonged. Indeed, I have not held up her nomination for even 1 day. However, as a new member on the Judiciary Committee, I am puzzled as to what standard to apply to this nomination with respect to her membership in this club.

Mr. President, I see the distinguished chairman of the Judiciary Committee, Senator BIDEN, on the floor and would like to discuss with him the issue of membership of judicial and executive branch nominees in clubs which discriminate, or which are alleged to discriminate. This issue is not new. Many times in the past, the Judiciary Committee has wrestled with this issue, but the issue is far from settled. Recent nominations demonstrate that club membership is an issue which will not go away and needs additional attention.

In August 1990, the Judiciary Committee unanimously adopted a resolution concerning membership in clubs that engage in discrimination. The resolution applies to clubs that intentionally discriminate on the basis of race, color, religion, sex, disability, or national origin. Membership in such discriminatory clubs is considered inappropriate for persons who desire to serve in the Federal judiciary or the Department of Justice because such club membership conflicts with the appearance of impartiality required of such persons. However, membership in a discriminatory club can be mitigated if the nominee is actively engaged in bona fide efforts to eliminate the discriminatory practices.

The resolution applies to clubs that intentionally discriminate. Therefore, before the provisions of the resolution can be invoked, an initial showing of intentional discrimination must be made. However, the term "intentionally discriminate" is not defined. The resolution begs the question as to the meaning of this term. Senators are left without further guidance to make the determination as to whether or not a given club is discriminatory. Therein lies the rub. As a result, it is easy for a Senator to use an otherwise nonpartisan resolution for partisan political purposes.

As I said earlier, I was not a member of the committee at the time of its adoption. I did not join until this year. However, since the passage of the resolution, several nominees—some Republicans, some Democrats—who belonged to allegedly discriminatory clubs have come before the committee. I am concerned that the committee treat all nominees consistently.

My intent is not to revisit past nomination battles. Nor do I wish to start a debate about past and present nominees. Committee standards should be applied uniformly. My goal today is to clarify what the rules are for future nominees. What message are we sending them? Under what circumstances will their membership in a club be used against them? What behavior is appropriate? When must they resign?

Mr. President, could the chairman explain for me the standard to be applied to judicial nominees who have a club problem?

Mr. BIDEN. Mr. President, let me review for the Senator from South Dakota the way the Judiciary Committee has handled the issue of discriminatory clubs.

In August 1990, the Judiciary Committee unanimously passed a resolution stating that it was the sense of the committee that it was inappropriate for a nominee to maintain membership in:

> Clubs where business is conducted that by policy or practice intentionally discriminate on the basis of race, color, religion, sex, disability or national origin.

The resolution states that such membership is inappropriate: "Unless such persons are actively engaged in bona fide efforts to eliminate the discriminatory practices.

In determining whether a club intentionally discriminates, the committee has asked the following types of questions:

1. Do the club's by-laws contain provisions that limit privileges of members based upon their race, color, religion, sex, disability or national origin?
2. Does the club intentionally discriminate through its practices? For example, does it discriminate in its guest policy?
3. Next we ask whether any African-Americans, women or other minorities have applied for, and been turned down for, membership and the reasons therefore?
4. Also relevant would be whether the club has indicated any willingness to accept African-Americans or other minorities as members.

Once the committee investigators compile the information, it is circulated to members of the committee who then determine whether they are concerned about the nominee's membership in the club.

Of course, any Senator is free to make a decision based on whatever factors he or she wishes to take into account, subject only to the constraints of the Constitution, Federal law, the Senate rules, and the dictates of that Senator's conscience. In particular, the committee's resolution states that a nominee's "Membership is an important factor which Senators should consider in evaluating such persons, in conjunction with other factors which may reflect upon their fitness and ability."

The resolution does not, and indeed it cannot, require a Senator to vote in accordance with its terms.

One final note. Senator GRASSLEY, in an effort to avoid risking setting up some elaborate title VII-type regime that we are clearly unable to fairly administer suggested, and the committee agreed, that questions of intentional discrimination be determined by review of a club's policy and practices.

Mr. PRESSLER. Mr. President, I thank the chairman for his explanation. It is helpful to me. However, let me ask Senator BIDEN another question.

During the 1991 confirmation hearing of a nominee who belonged to an allegedly discriminatory club, one Member on your side of the aisle said that the committee's investigation of the nominee's club "suggests that it had a longstanding practice of discrimination against blacks and Jews, or at the very least there was a widespread perception of such discrimination." Another Senator on your side of the aisle apparently shared this view. When voting against that nominee, he stated, "it is the community perception, the appearance of justice, which is the cornerstone of both the ABA canon and the Judiciary Committee resolution on discriminatory clubs."

These remarks about the perception of discrimination by the community

trouble me. They imply that even if no actual evidence of intentional discrimination is demonstrated, a nominee's membership in a club perceived to be discriminatory could nonetheless be used as a reason to vote against the nominee. If that is the case, then the committee's resolution is rather useless and we are right back to politics as usual.

Mr. President, let me ask the committee chairman whether it is his belief that the mere perception of discrimination, without evidence of intentional discrimination, is sufficient proof to trigger the provisions of the resolution?

Mr. BIDEN. In my view, that a club is perceived as being discriminatory does not, in and of itself, disqualify anyone under the terms of the committee resolution. Such a perception can be a clue that a club's policies and practices need to be scrutinized by the committee—but perception is not, in and of itself, disqualifying.

Again in my view, the nominee referred to by the Senator from South Dakota was not rejected by the Judiciary Committee solely because of his club membership. Far from it. He was denied a Federal Appeals Court position because, in my view and in the view of other members of the committee, he demonstrated a pattern of insensitivity to racial issues and an alarming disregard for precedent. I recognize that several other committee members strongly disagree with those criticisms of the nominee.

However, I do not need to review the details of that case. The reasons my colleagues and I voted against the nominee are clearly explained in the RECORD.

Mr. PRESSLER. So, if I understand the chairman correctly, he is saying that perception alone is not enough to trigger the resolution.

Mr. BIDEN. In my view, perception by members of the community that the club in question engages in discrimination is not, in and of itself, enough to satisfy the club's resolution provision regarding intentional discrimination.

Mr. PRESSLER. In light of the chairman's response, would that mean that perception, in and of itself, does not trigger a thorough investigation of a club's policies and practices?

Mr. BIDEN. As long as this Senator is chairman, the Judiciary Committee will regard all indications of discrimination with the seriousness they deserve. The committee will fully investigate all such allegations which are brought to its attention. However, if the Senator from South Dakota is asking whether witnesses will always be invited to testify whenever any allegation of discrimination is made against a club, the answer is "No."

Mr. PRESSLER. Mr. President, let me pose another question by way of a hypothetical: if a nominee who were to come before the committee belonged to a club whose bylaws contained discriminatory provisions but the nominee was actively engaged in good faith efforts to eliminate the discriminatory provision, if the nominee had been unable to accomplish the change at the time of his or her nomination, would the nominee be expected to resign from the club?

Mr. BIDEN. It is difficult to respond absent additional information about the club's practices. There is no hard and fast answer to the question. As I stated earlier, the resolution is a guide. Each Senator would have to determine whether the nominee truly did engage in good faith efforts to remedy intentional discrimination at the club. If the determination is that the nominee is making a bona fide effort, but is thus far unsuccessful, each Senator would have to accord whatever weight each feels is appropriate to that mitigating factor. The resolution does not dictate with clarity or specificity circumstances under which a nominee would be required to resign from a discriminatory club. The resolution only states that "membership in a discriminatory club is an important factor which Senators should consider in evaluating such persons, in conjunction with other factors which may reflect upon their fitness and ability."

Perhaps an example of an analogous situation would be helpful. Recently, a nominee was confirmed by the Judiciary Committee and the Senate and now sits as a Federal District Court judge. He belonged to an all male aviation fraternity, which although technically not within the ambit of the club's resolution, had a troubling provision in its "code".

This code provision made it clear that women and non-pilots were not allowed to attend organization meetings or parties under any circumstances other than in the capacity of professional entertainers.

Although this individual was unaware of the specific bylaw provision until just before the hearing, at his hearing he was asked—and agreed—to resign his membership from the club.

Mr. PRESSLER. Again, I thank the chairman. His comments are helpful to me in understanding the standard to apply in these cases. Our discussion today has clarified how the rules would apply to clubs which have the perception of discrimination but no evidence of intentional discrimination. To ensure that the committee's standards are applied to nominees in a nonpartisan manner, I stand ready to work with the chairman or any other committee member to further clarify other problem areas regarding this issue.

Mr. METZENBAUM. Mr. President, I rise to support the nomination of Eleanor Acheson to be Assistant Attorney General for Policy Development at the U.S. Department of Justice.

Ms. Acheson is highly qualified to hold this important post and should be confirmed by this body without delay.

It is clear to me that Ms. Acheson developed a sharp legal mind through her work as a civil litigator in private practice. However, what impressed me the most about Ms. Acheson is that she devoted herself to the kinds of pro bono legal work that made the city of Boston a better place to live, despite the heavy demands of private practice.

I was particularly impressed with Ms. Acheson's 12 years of work as counsel and a member of the board of directors for Women, Inc., a residential rehabilitation program for drug and alcohol addicted women and their children. In addition, Ms. Acheson actively recruited other lawyers to serve the community. She received an award from the Boston Bar Association in 1991 for initiating a pro bono program for lawyers at her firm.

Ms. Acheson's commitment to law and to her community will serve her well as head of the office of policy development. This office helps to select Federal judges and U.S. attorneys. It also plays a crucial role in developing and advancing the Department's policy initiatives. That means that Ms. Acheson will be working with experts both inside and outside the Department of Justice to develop the Department's response to some of the most pressing problems facing this country.

One of the most difficult tasks Ms. Acheson will face is developing innovative crime prevention programs that stress prevention and early intervention. As sponsor of the Brady handgun control bill and a ban on semiautomatic assault weapons, I appreciate keenly the importance of developing sensible programs to prevent our Nation's youth from turning to crime and violence as a way of life. I believe that Ms. Acheson's work on behalf of the victims of crime and violence will give her a real-world view of how to tackle those very difficult problems.

I am aware that Ms. Acheson has been criticized by some for belonging to a private club in Boston that currently has no black members. Whatever you think about that criticism, the fact is that it has generated an outpouring of support for Ms. Acheson from the people whose lives she has touched, including many people of color. I was particularly struck by a letter from the president of the Boston chapter of the coalition of 100 Black Women. She wrote:

> I cannot believe there is any question about [Ms. Acheson's] commitment to equality and fairness. This is a woman who has gone to bat for Roxbury Community College as a trustee and many individuals of color in this community. Eldie's list of outstanding contributions in Boston's communities of color go on and on.

I, for one, have no doubt that Ms. Acheson is committed to equal justice for all people regardless of their race. I

urge my colleagues to join me in voting to confirm her to be the next Assistant Attorney General for Policy Development at the U.S. Department of Justice.

Mr. KENNEDY. Mr. President, I strongly support the nomination of Eleanor Dean Acheson to be Assistant Attorney General in charge of the Office of Policy Development in the Department of Justice.

Following her graduation from Wellesley College and George Washington University Law School, Ms. Acheson served as a law clerk to Judge Edward Gignoux on the Federal district court in Maine. Since 1974, she has been with the Boston law firm of Ropes & Gray, where she earned an excellent reputation as a skillful, effective, and conscientious attorney and litigator.

Ms. Acheson has also made very significant contributions to the lives of the less fortunate in her community. Since 1987, she has served as a trustee of Roxbury Community College in Boston's African-American community. The president of that college, Dr. Grace Carolyn Brown, wrote to the Judiciary Committee in strong support of Ms. Acheson's nomination and her "continuing commitment to access and quality education for minorities and communities of color."

Ms. Acheson also provided pro bono representation for 12 years to Women, Inc., a residential treatment facility for women suffering from drug or alcohol dependence that serves predominately women of color. And she has been an effective advocate within the Boston Bar for community service by private lawyers. In 1991, Ms. Acheson earned the pro bono award of the Boston Bar Association's Committee on Public Interest Involvement.

Questions were raised by one member of the Judiciary Committee regarding Ms. Acheson's former membership in The Country Club of Brookline. In August 1990, the Judiciary Committee unanimously passed a resolution which I proposed along with several of my colleagues, setting forth the sense of the committee regarding membership in clubs that are alleged to engage in discrimination. That resolution, which took effect in January 1991, provides that:

> It is inappropriate for a person who may be nominated to a position on the federal bench or at the Justice Department to belong to a club where business is done that by policy or practice intentionally discriminates on the basis of race, color, religion, gender, national origin or disability, unless the person is actively involved in good faith efforts to tend the discrimination.

As it does whenever there is an allegation regarding a club membership, the Judiciary Committee investigated the club to BIDEN has reported, the evidence is clear that during the time period at issue the club to which Ms. Acheson belonged did not discriminate.

Ms. Acheson was a member of The Country Club of Brookline from 1985 until she moved to Washington in March to work for the Justice Department. That club has accepted an African-American member, who is now on the waiting list to join, along with other persons who were accepted for membership before he was.

Another African-American, Deval Patrick, a prominent attorney in Boston and a former civil rights lawyer for the NAACP Legal Defense and Educational Fund, has been invited three times to join the club. He wrote to the Judiciary Committee to confirm these facts. His letter states:

> I am familiar with the club, have been a guest there on many occasions, and have even been invited three time to join. As a product of the South Side of Chicago, I still find it difficult to imagine myself as a golfer, and so have chosen to decline. But if I am any indication, the club does not have a commitment to the exclusion of African Americans. Although membership certainly appears to have been rather narrow in the past. I understand that I am not alone among African Americans in having been invited to join.

Mr. Patrick is fully supportive of Ms. Acheson's nomination.

African-Americans have been frequent guests at the club and have reported that they have encountered no discrimination. My office received a letter from Roscoe Trimmier, a partner at the law firm of Ropes & Gray. Mr. Trimmier states:

> I am an African American and longtime resident of Newton and Brookline. I am not aware of any exclusionary policy regarding membership or guest privileges at the Country Club. I have on a number of occasions attended Ropes & Gray office functions and other social gatherings at the Country Club. At no time have I experienced any hostility or felt the least bit uncomfortable in the Club surroundings. Quite the contrary, I have been made to feel most at ease and cordially received by members and non-members alike. I am also aware of several members of the minority community to have used the Club facilities as guests of members and who have reported that they experienced only friendship and hospitality in a congenial atmosphere.

Mr. Trimmier fully supports Ms. Acheson's nomination.

It is true that until 1989, the club admitted women only as associate members, not full members. That policy changed in 1989, and the committee investigators have determined that many women are full members. Ms. Acheson communicated with club officers about the need for changing that policy.

Some have suggested that the Judiciary Committee is applying a double standard to the Acheson nomination. That is sheer nonsense.

President Bush's nominee to be Assistant Attorney General in charge of the Criminal Division, Robert Mueller, was a member of the Country Club of Brookline, when he was confirmed by the Judiciary Committee and the Senate in the fall of 1990. I know Mr. Mueller; he is a talented lawyer, and I was pleased to support his nomination. But there was no criticism of Mr. Mueller's membership in the same club. According to the committee staff, during the past 6 years, many nominees—more than a dozen—who had belonged to clubs with few minorities were confirmed where there was evidence that the club in question did not discriminate.

The President of the National Women's Political Caucus, Harriett Woods, addressed this issue in a letter she wrote to the Judiciary Committee:

> For any Senator to raise the issue of [Ms. Acheson's] associate membership in the Country Club in Brookline is to apply a double standard. At least one earlier male nominee was confirmed by the Senate Judiciary Committee without any criticism of his full and continued membership in the very same club. It is a particularly cynical maneuver to raise such an issue about Eldie because her life demonstrates a deep commitment to minority and women's rights. Her associate membership at Brookline in the late 1980s helped to open up the club to subsequent full membership for women. She supported efforts to increase the number of club members of color.

The National Women's Political Caucus recognized that if there is a double standard being used, it is being used by those who are seeking to cast aspersions on this very talented nominee.

Some have also sought to compare Ms. Acheson's nomination to that of Judge Kenneth Ryskamp to the Court of Appeals for the Eleventh Circuit. The Judiciary Committee defeated Judge Ryskamp's nomination, in part because of his longstanding membership in the Riviera Country Club, which has been repeatedly singled out in the press for its discrimination against Jews, blacks, and Hispanics.

Sitting Federal judges have long been barred from being members of clubs that practice invidious discrimination. The Coral Gables City Commission refused to hold public functions at the club, at a time when Ryskamp was a sitting Federal judge and a member of the club. Judge Ryskamp resigned the week before his 1991 confirmation hearing, at a time when the club still had no black members.

The committee also defeated Judge Ryskamp's nomination because of a number of highly insensitive comments he made, both on the bench and in connection with his confirmation. He said to the plaintiff in a civil rights case, who had had his testicles brutally torn by police dogs:

> It might not be inappropriate to carry around a few scars to remind you of your wrongdoing in the past * * *.

He told Senator SIMON's staff that "in Miami you send out two wedding invitations, one with Anglo time for Anglos and another for Cubans, Cubans always show up two hours later."

And in Fullington versus Wells Fargo, Judge Ryskamp found that a statement by a supervisor that he was—"going to get that Black son of a

bitch''—was not direct evidence of racial discrimination.

While sitting on the Federal bench, Judge Ryskamp showed shocking insensitivity to discrimination, both in court and in his community. By contrast, Eldie Acheson has fought discrimination, and sought to build bridges across racial lines in her community.

Eldie Acheson will bring to the Office of Policy Development intelligence, energy and a deep commitment to securing for all Americans the Constitution's great promise of equal justice under law.

I commend President Clinton for selecting her, and I urge that her nomination be promptly confirmed.

And I ask unanimous consent that copies of all the letters I have referred to be place in the RECORD.

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

ROXBURY COMMUNITY COLLEGE,
Roxbury Crossing, MA, June 15, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I have known Ms. Eleanor Acheson since November 1992 in my capacity as President of Roxbury Community College, the most diverse institution of higher education in New England. Ms. Acheson served as a member of the Roxbury Community College Board of Trustees from April 1987 to April 1993, receiving a plaque from the College community in appreciation for her sincere commitment and dedication to the mission and purpose of the College. The trustees, faculty, staff and students have also made me aware of Ms. Acheson's previous and continuing commitment to access and quality education for minorities and communities of color.

Sincerely yours,

DR. GRACE CAROLYN BROWN,
President.

HILL & BARLOW,
Boston, MA, June 18, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, Washington, DC.

Re: Eleanor D. Acheson, Nominee for Assistant Attorney General for Policy Development

DEAR SENATOR BIDEN: I write to offer my support for confirmation of Eleanor Dean Acheson, nominee for the position of Assistant Attorney General for Policy Development. I know Eldie well as a prominent member of the Boston legal community who has made her time and her talent available to less fortunate and disenfranchised citizens.

As you may know, Ms. Acheson has been a long-time director of Roxbury Community College, which is not only the only junior college in the predominately black neighborhood of Roxbury, but which is itself a symbol of hope and upward mobility for African-Americans in this area. Ms. Acheson has also been involved since its inception with Women Incorporated, a drug treatment intervention program for women based in Roxbury. Through these and other initiatives in the community, Ms. Acheson has demonstrated her commitment to addressing in specific and constructive ways the suffering disproportionately borne by African-Americans in Boston. She has also demonstrated a view of herself as truly a citizen of the whole community.

Thus, it was with some dismay that I learned of concerns about her membership in a private country club in Brookline, from which she resigned this spring. I am familiar with the club, have been a guest there on many occasions, and have even been invited three times to join. As a product of the south side of Chicago, I still find it difficult to imagine myself as a golfer, and so have chosen to decline. But if I am any indication, the club does not have a commitment to the exclusion of African Americans. Although membership certainly appears to have been rather narrow in the past, I understand that I am not alone among African-Americans in having been invited to join.

In light of her professional record, I hope that Ms. Acheson's one-time membership in this country club will not be disqualifying, and that you will join in supporting her confirmation.

Yours respectfully,

DEVAL L. PATRICK.

ROPES & GRAY,
Boston, MA, June 15, 1993.

Sen. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

Attn: Jeff Blattner.

Re: Eleanor D. Acheson.

DEAR SENATOR KENNEDY: I understand that, in connection with the confirmation of the nomination of my friend and colleague Eleanor Acheson for Assistant Attorney General, a question has arisen regarding her former membership at The Country Club in Brookline, Massachusetts. Specifically, I understand the issue to be whether The Country Club was, or created the appearance of being, exclusionary or inhospitable to minorities. I am an African American and long-time resident of Newton and Brookline. I am not aware of any exclusionary policy regarding membership or guest privileges at The Country Club. I have, on a number of occasions, attended Ropes & Gray office functions and other social gatherings at The Country Club. At no time have I experienced any hostility or felt the least bit uncomfortable in the Club surroundings. Quite the contrary, I have been made to feel most at ease and cordially received by members and non-members alike. I am also aware of several members of the minority community who have used the Club facilities as guests of members and who have reported that they experienced only friendship and hospitality in a congenial atmosphere.

I should also state that I have been a friend and colleague of Eldie Acheson since we started as associates at Ropes & Gray in 1974. I am almost embarrassed to have to say this, but I know no one who is as firmly and outspokenly committed to the principles of equal rights, diversity and non-discrimination as is Eldie Acheson. She has been an agent for positive change in every activity and organization of which she has been a part, including our firm, the Roxbury Community College and several professional bar organizations. I hope this information will be helpful in the confirmation process and trust that you will let me know if there is anything further I may do to assist.

Very truly yours,

ROSCOE TRIMMIER, Jr.

NWPC,
July 12, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chair, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: Eleanor Acheson is a highly qualified nominee to be Assistant Attorney General for the Office of Policy Development. She should be confirmed promptly.

For any Senator to raise the issue of her associate membership in the Country Club in Brookline, MA is to apply a double standard. At least one earlier male nominee was confirmed by the Senate Judiciary Committee without any criticism of his full and continued membership in the very same club.

It is a particularly cynical maneuver to raise such an issue about Eldie because her life demonstrates a deep commitment to minority and women's rights. Her associate membership at Brookline in the late 1980's helped to open up the club to subsequent full membership for women. She supported efforts to increase the number of club members of color.

In 1990, Robert S. Mueller, III, was confirmed by the Committee to be Assistant Attorney General for the Criminal Division although he listed membership in the Brookline Club on his Judiciary Committee questionnaire without any challenge.

Knowing your own emphasis on fairness, I trust that you will not allow the Committee to be embarrassed by any unsubstantial and inequitable charges designed only to delay the confirmation of this excellent woman candidate.

Sincerely,

HARRIETT WOODS,
President.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Eleanor D. Acheson for Assistant Attorney General for Policy Development. I believe Mrs. Acheson's education, background, and legal experience qualify her for the position.

However, my purpose today is to address the issue of club membership which was raised by Senator PRESSLER. I commend my colleague from South Dakota for raising the issue of using a double standard as we consider nominations under the club membership rule we adopted in the Judiciary Committee 3 years ago. He has worked doggedly to bring this issue to the attention of the committee and the Senate, and I believe he has hit upon a real hypocrisy.

I do not believe that Eleanor Acheson belonged to a club which she knew to intentionally discriminate on account of race, color, religion, disability, or national origin. However, as Senator PRESSLER pointed out during the committee's consideration of the Acheson nomination, Mrs. Acheson's club situation in Massachusetts was remarkably similar to that of a Republican nominee which the committee refused to approve because of his club membership.

I believe it is important that all members of the committee do understand the standard to be applied to judicial nominees who have a club problem. We must have consistency and a single standard, no matter whether the nominee was appointed by a Republican President or a Democratic President.

I commend the Senator from South Dakota and the chairman of the Judiciary Committee for their colloquy which has clarified the standard which

the committee will apply to clubs which have the perception of discrimination, but which do not intentionally discriminate in their membership policy.

Mr. BIDEN. Thank you very much.

The PRESIDING OFFICER. The Chair will state the following. Pursuant to the following order, the motion to reconsider is laid upon the table and the President will be notified of the Senate's action.

Mr. BIDEN. I thank the Chair, and I thank my Republican colleague.

SUPREME COURT OF THE UNITED STATES

Mr. BIDEN. Mr. President, is it in order at this moment now to proceed to the nomination for discussion of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court.

The PRESIDING OFFICER. The Senate majority leader has that authority.

Mr. BIDEN. Mr. President, I have been designated by the majority leader to do that, and I now ask unanimous consent to proceed to the consideration of the nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice.

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

The nomination will be stated.

The legislative clerk read the nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice.

Mr. BIDEN. Thank you, Mr. President.

Mr. President, there are several Senators who would like to speak on this nomination. This is one of the real joys of my tenure as chairperson of the Judiciary Committee to have a nominee of such high quality and distinction and one that has received such broad and overwhelming support not only in the Senate but from every quarter of the legal and academic community as well as the citizens at large.

On March 19, 1993, when Justice Byron White announced that he would retire from the U.S. Supreme Court at the end of this term in June, there was a good deal of speculation of what would occur. Into what had already become the supercharged atmosphere of Supreme Court nominations, President Clinton stepped forward as the first Democratic President in 26 years to have an opportunity to name an Associate Justice, or any Justice, including Chief Justice, to the Supreme Court.

But the anticipated storm that the political pundits and, I must admit, the Senator from Delaware, chairman of the committee, and others had suggested might occur never arrived, to our great satisfaction and, I think, to the benefit of the country.

On June 14, 1993, President Clinton nominated Ruth Bader Ginsburg to be the 107th Justice of the U.S. Supreme Court and, as I indicated, to the wide acclaim of everyone who was in earshot.

In record time, the Judiciary Committee—and I might add in no small part due to the help, cooperation, and honorable way in which the ranking minority member of the committee, the distinguished Senator from Utah, Senator HATCH proceeded—in record time the Judiciary Committee reviewed the nominee's written record—she had over 300 published opinions that she had written and had completed the hearings—and unanimously voted to recommend the confirmation at the end of the hearings. All 18 members of the Senate Judiciary Committee—and I know I need not tell the Presiding Officer that every political spectrum represented in the Senate as a whole is represented on that committee, nonetheless, 18 to 0 we voted to recommend the confirmation of Ruth Bader Ginsburg to the full Senate. The confirmation process from start to finish was less contentious than any in recent history, and the reasons for that, I believe, are fairly simple.

First of all, the process worked because President Clinton respected the constitutional role of the U.S. Senate. He sought the Senate's advice and consent to nominees of the Court; he consulted with the leadership of both parties, and he listened to the advice he received by moderating his choice of a nominee.

That is how it is supposed to work Mr. President, and has not in a while.

Second, the process worked because of the nominee herself. In Ruth Bader Ginsburg we have a nominee whose qualifications and judicial temperament are indisputable. They are evident from her extensive record as a scholar, a Supreme Court advocate, and a Federal appellate judge; Judge Ginsburg is anything but a stealth candidate—widely written, widely discussed, widely known, widely before the Supreme Court as advocate, and also has published many written opinions.

Most important, Judge Ginsburg's judicial record and style mark her as a true consensus candidate. Judge Ginsburg is a nominee who holds a rich vision of what our Constitution's promises of liberty and equality mean, balanced by a measured approach to the job of judging.

This balance is what earned Judge Ginsburg the unanimous support of the Judiciary Committee—and it is what has earned her my support.

As with past Supreme Court nominees, the key inquiry I undertook with respect to Judge Ginsburg was to gain a sense of her judicial philosophy and, in particular, of her approach to interpreting the Constitution, of her understanding of that document and its meaning in the year 1993.

Judge Ginsburg accepts the Constitution as an evolving charter of government and liberty—as a limited grant of power from the people to the government—not a narrow list of enumerated rights.

At the same time, she speaks and practices judicial restraint, understanding that a judge must work within our constitutional system, respecting history, precedent, and the respective roles of the other two branches of Government, the executive and legislative branches.

On the first point, Judge Ginsburg has stated unequivocally that she believes our Constitution is a living document that adjusts as society changes, thereby retaining its vitality for over 200 years.

In a 1988 speech, she said:

> We still have, cherish, and live under our eighteenth century constitution because, through a combination of three factors or forces—change in society's practices, constitutional amendment, and judicial interpretation—a broadened system of participatory democracy has evolved, one in which we take just pride.

In testimony before the committee, Judge Ginsburg spoke directly to whether the Constitution protects individual rights and liberties beyond those that are expressly mentioned in that document, and as most Americans know much cherished and protected liberties are not mentioned in that document, such as the right to marry, a whole range of rights we take for granted and are constitutionally protected.

And in clear and unequivocal terms, she expressed support for the concept of unenumerated rights, that is constitutionally protected individual rights that are not specifically listed in the Constitution, such as the right to marry;

Her testimony left no doubt that she supports the Supreme Court's recognition of a broad, unenumerated right to privacy, one that protects such personal decisions as whom to marry, where to live, whether and how to raise one's children.

Judge Ginsburg stated that:

> There is a constitutional right to privacy which consists * * * of at least two distinguishable parts.
>
> One is the privacy expressed most vividly in the fourth amendment—that is the Government shall not break into my home or office without a warrant, * * * the Government shall leave me alone.
>
> The other is the notion of personal autonomy; the Government shall not make my decisions for me—I shall make, as an individual, uninhibited, uncontrolled by my Government, the decisions that affect my life's course.

To determine whether an asserted unenumerated right is recognized as being within the broad concept of liberty contained in the 14th amendment's due-process clause, Judge Ginsburg cited the approach articulated by Justice Harlan in Poe versus Ullman, as illustrating her methodology.

Justice Harlan's opinion is an eloquent statement of a flexible conception of due process and of liberty, not limited by the specific rights named in the Constitution. In choosing this model, Judge Ginsburg selected a method for identifying unenumerated rights in keeping with the Constitution's majestic and capacious language.

Justice Harlan's approach is also one of measured change and rooted evolution—and in this respect as well he appears to be Judge Ginsburg's model.

Judge Ginsburg's written record and her testimony both attest to her belief that a judge best seeks proper interpretations by being cautious and restrained.

And if anyone communicated caution and restraint in the going on 21 years I have been here, it was Ruth Bader Ginsburg.

A careful adherent to a case-by-case method of slow evolution in the law, she believes courts should move in measured motions.

Judge Ginsburg articulated her view of how judges should go about interpreting our evolving Constitution in her recent Madison lecture, sounding one overarching theme: The Court should generally lay markers along the road to doctrinal change, rather than making abrupt changes that lack secure foundations.

Her style is always cautious and restrained, not ideological and not result-oriented. She is, as she described herself at the hearings, neither conservative nor liberal in her approach to judging.

The balance that Ruth Bader Ginsburg achieves—between her vision of what our society can and should become, and the limits on a judge's ability to hurry that evolution along—will serve her well and will serve us well during her tenure on the Supreme Court.

Based on my review of Judge Ginsburg's entire record—as an advocate, as an appellate judge, and as a nominee to the Supreme Court—I will, as is no surprise, vote to support and vote to have put on the Court, Judge Ruth Bader Ginsburg.

I urge each of my colleagues to do the same when the Senate votes tomorrow on the confirmation of Ruth Bader Ginsburg to be an Associate Justice of the U.S. Supreme Court.

And my wish and hope, Mr. President, as I close, is that if President Clinton has an opportunity and an obligation to nominate anyone else to the Court during his tenure, that he is as wise and as insightful as he has been in choosing Ruth Bader Ginsburg.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I listened to the comments of my distinguished colleague from Delaware. I appreciate serving with him on the Judiciary Committee. He has done a very good job as chairman and he has been very fair and decent to our side. I want him to personally know that I think he did a good job of handling this first nominee in this Congress, Ruth Bader Ginsburg.

Mr. President, I will vote for the confirmation of Judge Ruth Bader Ginsburg to be Associate Justice of the Supreme Court of the United States. Let me briefly outline the reasons why.

President Clinton and I are unlikely ever to agree on the ideal nominee to be a Supreme Court Justice. Indeed, there have been many prominently mentioned potential nominees whom I would in all likelihood vigorously oppose. But I do believe that a President is entitled to some deference in the selection of a Supreme Court Justice. If a nominee is experienced in the law, highly intelligent, of good character and temperament, and—most important—gives clear and convincing evidence that he or she understands and respects the proper role of the judiciary in our system of government, the mere fact that I might have selected a different nominee will not lead me to oppose the President's nominee.

In the case of Judge Ginsburg, her long and distinguished record as a judge on the U.S. Court of Appeals for the District of Columbia circuit is the critical factor that leads me to support her. Her judicial record demonstrates that she is willing and able to issue rulings called for by the Constitution and the Federal statutes, even though Judge Ginsburg, were she a legislator, might personally have preferred different results as a matter of policy. Several examples may illustrate this point:

In *Women's Equity Action League* v. *Cavazos*, 906 F.2d 742 (D.C. Cir. 1990), Judge Ginsburg wrote an opinion holding that because Congress did not intend to give a cause of action to civil rights groups or anyone else to sue Federal officials to force them to enforce civil rights laws as those groups would have them enforced, the courts had no authority to create such a cause of action for these civil rights groups. Judge Ginsburg declined an opportunity to legislate from the bench, even though from her background as a women's rights lawyer she might have been thought to be sympathetic to the plaintiffs.

In *Coker* v. *Sullivan*, 902 F.2d 84 (D.C. Cir. 1990), Judge Ginsburg wrote an opinion holding that because Congress did not provide any such cause of action, homeless persons and advocacy groups could not sue to force the Department of Health and Human Services to monitor and enforce State compliance with Federal emergency assistance guidelines. Quite obviously, homeless persons and their advocacy groups are sympathetic.

In *Randall* v. *Meese*, 854 F.2d 472 (D.C. Cir. 1988), Judge Ginsburg wrote an opinion that was joined by Judge Silberman, a Reagan appointee, and from which Judge Mikva, a Carter appointee, dissented. In that opinion, she ruled that an alien who was present in this country on a visitor's visa, and who was denied adjustment of status to permanent resident alien, had to first exhaust her administrative remedies provided for by law before seeking judicial recourse. This is an elementary principle of administrative law that, when properly adhered to as Judge Ginsburg did in this case, reduces litigation and permits adjudication, if it must finally occur, to be based on a fully developed record.

In *Dronenburg* v. *Zech*, 746 F.2d 1579 (D.C. Cir. 1984), Judge Ginsburg, alone of the Carter appointees on the D.C. circuit, agreed with Judges Robert Bork and Antonin Scalia that a homosexual sailor's constitutional challenge to the military's homosexual-exclusion policy was precluded by a controlling Supreme Court decision that had summarily affirmed a district court decision upholding a Virginia statute criminalizing homosexual conduct. Her liberal colleagues on the Court wanted to extend the right of privacy announced in other cases to this situation, but she properly, in my view, concluded that the Supreme Court's summary affirmance was controlling, and whatever her own views on the right to privacy, there was no latitude to apply it there. That was the correct decision, regardless of where you are on gay rights.

In *Conair Corp.* v. *NLRB*, 721 F.2d 1355 (D.C. Cir. 1983), in a significant loss for labor unions, Judge Ginsburg wrote an opinion that was joined by then-Judge Scalia over the dissent of Judge Wald. There, it had been found that an employer had engaged in outrageous and pervasive unfair labor practices in connection with an election to determine whether a union should represent the employees. The union, however, had not shown that it ever had majority support among the employees. Judge Ginsburg ruled that the NLRB therefore could not impose a bargaining order to order on the employer. She reasoned that to do so in the absence of an expression of majority sentiment would violate the National Labor Relations Act principles of freedom of choice and majority rule. In reaching this result, she disagreed with Warren court dictum.

Judge Ginsburg has been anything but a lockstep liberal. As one article noted,

> According to a computerized study of the appeals court's 1987 voting patterns published in Legal Times, Judge Ginsburg voted more consistently with her Republican-appointed colleagues than with her fellow Democratic-appointed colleagues. For example, in 1987 case that produced a division on the court, she voted with Judge Bork 85 percent of the time and with Judge Patricia M. Wald 38 percent of the time.

That is found in the New York Times, on June 27, 1993, at page 20.

Similarly, according to a study by Judge Harry Edwards of the D.C. circuit, in the 1983-84 year. Judge Ginsburg voted with Judge Bork 100 percent of the time, and with then-Judge Scalia 95 percent of the time. Edwards, "Public Misperceptions Concerning The Politics of Judging," 56 Colo. L. Rev. 619, 644 (1985). The high regard in which Judge Ginsburg is held by her conservative judicial colleagues provides further assurance that she is unlikely to be a liberal judicial activist.

I also take comfort from some of Judge Ginsburg's testimony before the committee. As she explained, "No judge is appointed to apply his or her personal values." Instead,

> [T]he spirit of liberty must lie in the hearts of the women and men of this country. It would be really easy, wouldn't it, to appoint platonic guardians who would rule wisely for all of us, but then we wouldn't have a democracy, would we? * * * Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians.

Likewise, in testimony that has not received the attention that it deserves, Judge Ginsburg exploded the judicial activist notion that the ninth amendment is somehow a font of unenumerated rights for judges to elaborate. In her words, the ninth amendment is "peculiarly directed to Congress to guard" and is an "instruction first and foremost to Congress itself," not to the courts.

Let me add that there were other aspects of Judge Ginsburg's testimony that I found disturbing. For example, her view that a right to abortion could be based on the equal protection clause is, I believe, ultimately untenable. I am also concerned that some of her jurisprudential musings give insufficient attention to the legitimacy or illegitimacy of certain courses of judicial action.

In addition, I disagree very much with some of Judge Ginsburg's academic and advocacy writings. I believe, however, that Judge Ginsburg recognizes the distinction between her role as an academic and advocate and her role as a judge.

I do not expect to agree with any nominee, especially one chosen by a President of the other party, on every issue that may come before the judicial branch. Because I am opposed to the politicization of the judiciary, I believe that it is improper to apply any single-issue litmus test to Supreme Court nominees. A cumulation of unsound positions by contrast, might warrant the conclusion that a nominee does not understand and respect the proper role of the Supreme Court and is therefore unsuited to serve on that institution, irrespective of his or her other qualifications Here, Judge Ginsburg's long record of, on balance, restrained and responsible judging is sufficient to outweigh the genuine concerns that have arisen. I will therefore vote to confirm her nomination.

I might also add that I personally like this judge. I think she is a very fine person. I know she has a great judicial temperament. She is a fine scholar on the law. She is ethical, and I think is a person who will do a good job on the Supreme Court.

I wish we agreed more, but that is not my province. It is the province of the President of the United States. I believe he has made an eminently wise and good choice here that in the coming years will, hopefully, prove to be a judge who will not be a judicial activist on the bench.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, there are several other Senators who have indicated a desire to speak on this nomination and we are checking right now in the cloakroom to see if they are available to come over.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, on the Ginsburg nomination, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the hearings on Judge Ginsburg's nomination demonstrated once again that the confirmation process has been unduly politicized. The critics on both the right and left have bemoaned Judge Ginsburg's reticence regarding how she would approach specific areas of the law. I retain my conviction that the advise and consent responsibilities of the U.S. Senate should not involve rating the nominee on a checklist of discrete political issues.

In addition to the obvious criteria that any nominee for the Supreme Court ought to have—I suppose any nominee for any position on the judiciary ought to have—those of intellect, of integrity, and of judicial temperament, it is very appropriate for the Senate to inquire into a nominee's judicial philosophy.

Of course that includes the nominee's fidelity to the Constitution. It involves that nominee's understanding of the limited role of the courts, and it involves what I hope is a commitment to judicial restraint. On that latter point some of my colleagues would obviously disagree on what that might be, judicial restraint. For me, it is being very cautious to make sure you only interpret the law and do not make the law, and that you interpret the Constitution within its original intent.

But this need not include a detailed discussion of the precise reasoning a judge would use in every hypothetical that any individual Senator might propose to a nominee, particularly for the Supreme Court. While Judge Ginsburg rightly declined to answer questions about specific cases, she gave us a thorough understanding of her judicial philosophy. Judge Ginsburg showed us that, while she is a political liberal, she is a judicial moderate.

Judge Ginsburg has the requisite intellect, integrity, and temperament. I have reservations about her judicial philosophy because her record and her testimony indicated a willingness to legislate from the bench on occasion. But let me emphasize: On occasion. Fortunately, this activism is an exception, an exception to her usual moderation. And, on balance, I conclude that Judge Ginsburg should be confirmed by this body.

During the hearing many members of the Judiciary Committee urged the judge to lead society. I will not give any names. It is all on the record. Perhaps some of my more liberal friends in this body believe that a Supreme Court nominee ought to be out in front, in their words, "leading us in a certain direction." I do not happen to agree with that. This is where Judge Ginsburg satisfies those who may have doubts about anyone a Democratic President suggests for the Supreme Court.

She insisted both to conservative members of the Judiciary Committee, as well as more liberal members of the Judiciary Committee, that her job is to follow the dictates of the law. Judge Ginsburg recognized the job of a judge is not pleasing the home crowd or following opinion polls, but instead a very faithful application of the Constitution and of the law, as she explained, and this is a quote that will probably be used many times on this floor as it relates to Judge Ginsburg, but I want to quote what she said:

> The Constitution did not create a tricameral system. Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians.

Judge Ginsburg then rightly declines the invitation to activism. She rejects the suggestion of some that the general public is incapable of wisely ruling itself without the guidance of a judicial elite that thinks it knows what is good, or maybe what is the very best, for our society.

Adherence to judicial restraint is apparent in Judge Ginsburg's opinions, especially those involving statutory construction. As a general rule, Judge

Ginsburg finds herself limited by the terms of the statute as illuminated by legislative history. She resists the temptation to rewrite statutes, but from time to time, she has seen the role for the Supreme Court in interstitial legislating and, as you lawyers know better than me, the opportunity then to rewrite laws on occasion instead of striking them down and allowing Congress to do the rewriting.

Judge Ginsburg usually exhibits restraint in constitutional matters. She does endorse the Constitution's protection of so-called unenumerated rights, but she recognizes that those rights are very limited and that defining economic and social rights are the job of the legislature.

Judge Ginsburg's record does show an occasional lack of judicial restraint. I suppose most of the time a nominee will be satisfactory to most people—right or left—but there will be some occasions, when they do not quite come up to the personal standards that we would set if we were selecting somebody. So we can all say that there are some differences, and I suppose there is an occasional lack of judicial restraint that gives me some fear that maybe I am feeling too good about this nomination. But then there are Presidents as well—you know, even a President Reagan or a President Bush who nominates somebody to the Supreme Court, I bet those ex-Presidents look back upon those appointments and say, "Well, this person did not do in this particular case exactly what I would have wanted my nominee to do."

But then, you see, we put people on the Supreme Court not running for that office or being elected to it, but selecting them for a place where there is a great deal of protection: They have lifetime appointments and their salaries cannot be reduced while they are in office. These constitutional protections ensure that these people sitting across the street as Supreme Court Justices can make those decisions, not influenced by the political winds that a transient majority might be foisting upon us from day to day. Their job is to look for the long term and to protect our Constitution, protect our processes of decisionmaking.

So, maybe she does not always—as I would want her to do—show judicial restraint.

It seems to me that in one area, the area of granting standing, she often goes out of her way to give people standing where she finds the case compelling. I spoke about this in the Judiciary Committee. I even asked her about this. In NRC versus Dellums, she found a plaintiff within the zone of interests protected in the South African sanctions law, based upon the law's statement of what Congress predicted ought to happen. It was a set of predictions that Congress put in the law that was a reason for Congress passing that law.

I take the view that in that particular case, it is not very wise for even us—we hope certain end results come from statutes we pass, but as a practical matter, judges cannot put much basis in what we predict might happen. We have to put it into the language of the statute. So she allowed standing in that particular case.

In another case, it seems to me that she exaggerated constitutional protection, in the DKT case where she argued that the United States cannot constitutionally refuse to fund foreign abortion-related family planning.

Fortunately, though, her activist cases are aberrations in her record of judicial moderation. Only time will tell whether Judge Ginsburg's cautious approach will persist. But even her obvious personal integrity—and given this, because she does have personal integrity—I am hopeful she will resist the temptation to lead society as some sort of judicial philosopher queen.

There is one other thing I want to add and this is probably because at the grassroots, there might be public concern about this nomination that is beginning to pop up, probably from some conservative newsletters that are going out to membership raising some concerns about Judge Ginsburg, without anything very specific in them. I do not know that for a fact. I have not seen those newsletters. But somewhere out at the grassroots, as I go home almost every weekend to keep in touch with grassroots opinion, I am sensing that there is some growing concern about Judge Ginsburg.

Obviously, we are going to confirm this nomination tomorrow. So if there is some concern growing out there, I do not think it is going to be adequately felt within the Congress, and we should not hold up this nomination.

All I can say is that I have a great deal of respect for a lot of conservative groups in this country who are concerned about who is going to be on the Supreme Court. Maybe 5, 10 years from now, I will look back at my speech on Judge Ginsburg and wonder why there was not more concern in my mind. I do not happen to think today I have to worry about that. But as I indicated, there are some Presidents who have appointed people to the Supreme Court who years later wondered why they appointed them or they were not being the Justices they anticipated they would be. In any way, maybe I will look back and see that.

Today, I see there is some concern out there. As kind of a point of political education of my constituents—not just in Iowa but all over the country, because I am saddened to say I do not think we educate our people enough about the processes of Government, and there is a lot of lack of credibility in politicians, a lack of credibility in Congress and our whole decisionmaking process of all three branches of Government because we do not do a good enough job of teaching it—I will simply say this: That for conservatives who want a so-called conservative on the Supreme Court and probably would expect conservatives in Congress to vote against Judge Ginsburg because maybe she does not fit some litmus test that we have out there—first of all, we have chided liberals in this body because they have tried to foist upon nominees litmus tests from the Reagan and Bush era, and we felt that was wrong.

So if it is wrong for Democrats to put a litmus test on a Republican nominee to the Supreme Court, then it seems to me it has to be wrong for us as Republicans when we have a Democrat President to put some sort of litmus test upon Democratic nominees to the Supreme Court.

The other thing is that we conservatives lost the election and, for the next 4 years, the right to nominate people to the Supreme Court. It does not mean we in this body dig a hole for ourselves and pull it in after us and forget our advise and consent responsibilities. We have that. But it seems to me we as Senators have to look at advise and consent, when we have a Democrat nominee for the Supreme Court, just as we expect Democrats in this body to do when we have a Republican selecting somebody to the Supreme Court.

So that is the second point I would make to my friends at the grassroots who maybe have a growing concern about Judge Ginsburg.

And then lastly, I would point out that she and other people appointed to the Supreme Court are going to be there for a long time. That is the way our system was set up—and we wish them a long, positive life on the Supreme Court—to be a check on our legislative process, the extremes that go on in the congressional branch of Government and in the executive branch of Government. And that whatever might be the political issues of this day, even abortion, for instance, people out there at the grassroots who are conservatives might be concerned about Judge Ginsburg, that she has views we questioned her about or even things we did not question her about. They have concerns about those issues today because those are issues in 1993. But in the year 2003 or 2013 they probably will not be issues for the most part. Judge Ginsburg is going to be adjudicating a lot of questions and interpreting a lot of law, and even our Constitution, in the years in the future that we may not be thinking of today.

So we have to judge what her instinct is—if her instinct is to be very cautious, if her instinct is to interpret law rather than make law and, as she indicated, look for legislative history on laws being made to try to find out congressional intent.

It seems to me that is about all we can hope for in the way of a Supreme Court Justice, if they are otherwise very qualified for the job, if they are people of high integrity and they have judicial temperament.

Every time I vote for a Supreme Court Justice, I might have some concern about all of these things, and I have found some Republicans I have voted for who have not always ruled the way I would like to have them rule on a particular case. But in our system of Government, whatever independence they have, I think has proven the necessity for us supporting and applauding that independence and doing what we can to maintain it even if it does not always work to exactly our approach to Government.

So I support Judge Ginsburg, and I ask people who may have some doubts about her to think in terms of the future, not just the present.

I yield the floor.

Mr. BIDEN. Mr. President, before the Senator from South Dakota speaks—and I will only take a second—I too stand to pay a compliment to my friend from Iowa, a fellow member of the Judiciary Committee, because he has been a man of his word.

I was just saying to my staff I am not at all certain, were the tables turned, there might not be some who would forget their earlier statements about being consistent and conclude it was in their interest not to be consistent because the particular nominee did not meet all of their requirements on the hard right or hard left agenda. But the Senator from Iowa has indicated—and I have no illusions there may be another nominee, where he has a very different view—that he has no illusions about where this nominee is, at least on one important issue, on the conservative agenda. Nonetheless, he has been consistent with his philosophy, which is that the President gets to choose and there should be no litmus test and on balance you have to make a judgment whether or not the nominee is good or bad.

He has been saying that for 12 years. Obviously, in the last 12 years it has been easier for him to say with a Republican President. It is not as easy for him to say and do this time, with a Democrat, and I wish to recognize that he has been consistent. I admire him for it and I thank him for it.

Mr. GRASSLEY. Madam President, if the Senator will yield, I just simply say I thank the Senator very much. I hope I am as consistent as he said. It is my intention to be that consistent.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from South Dakota.

Mr. PRESSLER. Madam President, I rise in support of the nomination of Ruth Bader Ginsburg to be Associate Justice of the Supreme Court of the United States. I believe in the time I have served in the Senate we have confirmed five Supreme Court nominees. I believe the President of the United States basically should get his or her nominee, barring some major ethical problem or competence problem. I feel that Mrs. Ginsburg has been an outstanding judge. I think she will be an outstanding Justice of the Supreme Court.

I did say in the committee that I was disappointed we did not have more answers to some of the Indian Country questions I asked.

The nationwide Indian newspaper, Indian Country Today, ran an account of my questions regarding Indian country legal issues. These legal issues vary from questions of gaming to land claims to hunting and fishing rights, asked from both Native Americans' point of view and non-Native Americans' point of view.

Much of the Indian Country law that has come about in the last 20 years has been made in the courts because of either Congressional unwillingness to act or the feeling on the part of the courts for the need to act. For example, the reservation land, fee patent issue—Congress decided that about 100 years ago. Ever since then the courts have been deciding issues relating to this Nation. But they have been doing it in a piecemeal fashion, with district judges in different parts of the country arriving at different decisions.

I did meet with Mrs. Ginsburg early on and told her what questions I would be asking. I also sent her copies of the questions. But as a Senator, I was disappointed she did not answer them, or at least did not answer them very fully. This would not cause me to vote against her because, indeed, Supreme Court nominees do not have to answer all questions asked of them by Senators.

We tried to frame the questions in such a way that they would not address a particular pending case. Both Indians and non-Indians were looking for answers, or some indication from her long career as a teacher and as a jurist, to get some feel for her sensitivity to this large body of law.

I also asked her some questions about the Court's decision in U.S. versus the Sioux Nation of Indians which involved land claims, for which compensation was given.

I must say that I have put a lot of work into these issues in my time in the House and the Senate. I devote one staff member's time to Indian country issues. They are becoming greater with Indian gaming in many States, not just the States west of the Mississippi.

When the attorneys general meet, those west of the Mississippi, Indian country issues are key issues; they also are key issues in States east of the Mississippi. I read in the papers of land claims in Connecticut, of Indian gaming issues in Florida, New York, and other States.

Madam President, I ask unanimous consent to have printed at this point in the RECORD the account of my questioning of Ms. Ginsburg on Indian matters that appeared in Indian Country Today.

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

[From Indian Country Today, July 28, 1993]

HIGH COURT NOMINEE ASKED TO ADDRESS SOVEREIGNTY ISSUES

(By Bunty Anquoe)

WASHINGTON.—Judge Ruth Bader Ginsburg, President Clinton's nominee to the Supreme Court, discussed a wide array of legal and political issues last week in her testimony before the Senate Judiciary Committee—including tribal sovereignty and treaty rights.

In a lengthy exchange with Sen. Larry Pressler, R-S.D., Judge Ginsburg demonstrated an understanding of the legal underpinnings of tribal sovereignty and the federal-Indian trust relationship.

As is the standard practice with nominees, she said she could not give her views on specific issues, such as Indian gaming and the Sioux Nation's Black Hills land claim, because they are questions that may come before the court in the future. Other topics, such as Bill of Rights enforcement on Indian lands and tribal civil jurisdiction over non-Indians, she said, are issues under the within of Congress.

"It would be wrong for me to say or preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide," she said. "A judge sworn to impartiality can offer no forecast, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process."

Judge Ginsburg frequently underscored the legal relationship between Congress and Indian tribal governments that is rooted in the Constitution and grounded in federal law, treaties and court decisions over the past 200 years.

The Supreme Court, over the last 15 years, has become increasingly conservative and has handed down opinions adverse to tribal sovereignty, say tribal leaders.

Sen. Pressler asked the nominee whether she has an "expansive or restrictive" view of tribal sovereignty.

"I take whatever view Congress has instructed" Judge Ginsburg replied. "Senator, the Congress has full power over Indian affairs under the Constitution and the Supreme Court has so confirmed most recently in *Morton vs. Mancari* * * * so judges are bound to accord the tribes whatever sovereignty Congress has given them or left them. As a judge, I would be bound to apply whatever policy Congress has set in this very difficult area. But the control is in the hands of Congress and the courts are obliged to faithfully execute such laws as Congress has chosen to enact."

The 1974 Supreme Court decision in *Morton vs. Mancari* upheld the federal Indian hiring preference because, like special health and education benefits derived from the tribal trust relationship, the preference is not based on race. Instead, the court said, the hiring preference is based on a government-to-government relationship between the United States and tribes.

Judge Ginsburg told the 18-member judiciary committee that only Congress can nullify treaties with Indian tribes. If it has not

done so, "the treaties would be binding on the executive." She also applied this principle to the federal-Indian trust relationship.

"I think that ever since the (1832) Cherokee Nation case, it has been the precedent of the Court that when Congress says in a treaty, makes it evident in a treaty or a statute that Congress has accepted, assumed a trust relationship with a recognized tribe, that the court would then apply that policy."

ON JURISDICTION

Senator Pressler told the nominee that law enforcement and jurisdictional disputes between tribal and state authorities are particular problems in South Dakota where much Indian land is "checkerboarded" with non-Indian land.

He pressed the nominee on issues focusing on state and non-Indian rights on Indian land and often phrased his questions from the perspective of non-Indian interests.

After the confirmation hearing, which concluded late last Thursday. Sen. Pressler denied that his questions favored any particular point of views. He told *Indian Country Today* that he was disappointed Judge Ginsburg didn't respond more to his questions.

"I wasn't trying to ask for one side or the other," he said in a telephone interview. "I would have liked to ask a broader range of questions because these are important issues of concern. I also talked to (Sen. Ben Nightorse Campbell) about what kinds of questions I should ask."

The senator said his staff complied his list of questions.

He specifically asked the nominee for her views on state law enforcement on tribal lands in light of the high court's 1990 *Duro vs. Reina* decision, which created a jurisdictional void by denying tribal authority over non-member Indians on reservation lands.

The senator queried. "Can you envisage a way state authorities might be able to exercise jurisdiction in Indian country in those instances where law enforcement voids appear to exist?" The nominee said Congress, not the courts, could decide that question and said the 1990 court "got it wrong" in its ruling in light of subsequent congressional restoration of tribal authority over all Indians on its lands.

"Congress can certainly give the states such authority," she said. "I think the example that you gave, the *Duro vs. Reina* case, is a case where the courts, in Congress' judgement, got it wrong and Congress corrected that."

Sen. Pressler resurrected the heated issue of whether federal courts should have limited review of tribal court decisions. Several members of Congress are seeking to push such review on tribal governments. Sen. Slade Gorton. R–Wash., attached an amendment to a recent bill designed to strengthen tribal courts. The amendment would study federal court review of tribal court decisions with respect to the 1968 Civil Rights Act.

Judge Ginsburg said Congress, in its plenary authority, can authorize such review, but added "Whether Congress should do that is a question that the Constitution plainly commits to the first branch and not to the third branch of government."

She parried another question from Sen. Pressler focusing on whether tribal governments can impose civil jurisdiction on non-Indians who live on non-trust land within reservation boundaries.

"Again, this seems to be peculiarly a policy question that is committed to the judgment of Congress and it is the function of the judges to apply whatever solution the legislature chooses to enact," she said. Recent Supreme Court decisions have taken a different approach and actively limited tribal authority over non-Indians within a reservation.

The high court's 1978 decision in *Oliphant vs. Suquamish Indian Tribe* held that tribes cannot exercise criminal jurisdiction over non-Indians. The court's 1981 decision in *Montana vs. United States* found that the Crow Tribe cannot regulate hunting and fishing by non-Indians within reservation boundaries, and may exercise general civil jurisdiction over non-Indians only if an important tribal interest is at stake or if the non-Indians enter into consensual or commercial relations with the tribe or its members.

The Supreme Court most recently ruled tribes do not have the authority to regulate non-Indian hunting and fishing on federally owned fee land within reservation boundaries. Sen. Pressler wanted to know what impact the 1993 case, *South Dakota vs. Bourland*, would have in future tribal jurisdiction cases.

Judge Ginsburg answered. "That is a precedent that may require interpretation in cases that may come up, so I feel that it would not be proper for me to comment on how that precedent will be interpreted in the next case when the next case may be before a court on which I serve."

If confirmed by the Senate, the 60-year-old jurist would become the nation's 107th justice and the second woman on the high court. She would join Justice Sandra Day O'Connor, who was named to the court by President Ronald Reagan in 1981. Judge Ginsburg would also be the first justice in 26 years nominated by a Democratic president.

Sen. Carol Moseley-Braun, D–Ill., noted strong civil rights stances the Supreme Court took under Chief Justice Earl Warren in the 1960s. Sen. Moseley called Judge Ginsburg "a brilliant jurist and legal scholar, adding that she hoped the nominee would assume the mantle of retired Justice William Brennan and the late Justice Thurgood Marshall to "give voice within the court to the aspirations and hopes of the forgotten members of our society."

The Senate Judiciary Committee is expected to vote on her nomination Thursday with a full vote of the Senate following soon after.

Mr. PRESSLER. I also ask unanimous consent to have printed in the RECORD my minority view published in the report of the Committee of the Judiciary on the nomination of Ruth Bader Ginsburg. It summarizes my concerns with some of the questions I asked her on this subject and her answers.

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

STATEMENT OF SENATOR LARRY PRESSLER REGARDING THE CONFIRMATION OF JUDGE RUTH BADER GINSBURG TO BE ASSOCIATE JUSTICE OF THE U.S. SUPREME COURT—MINORITY VIEW; REPORT OF THE COMMITTEE ON THE JUDICIARY

This was the first confirmation hearing of a Supreme Court nominee in which I participated. Because of this fact, I have considered carefully my vote on Judge Ginsburg's confirmation. Our vote today is a recommendation to the rest of our colleagues in the Senate whether or not they should confirm Judge Ginsburg. Prior to joining the Committee, I always placed great weight on the Committee's recommendations. I believe other Senators do also.

On one basic point, there is no argument: Judge Ginsburg is exceptionally well-qualified to be an Associate Justice of the U.S. Supreme Court. Her background is impressive. She has authored volumes of law review articles published throughout the world and in several languages. She was one of the first twenty female law professors in this country. She won five of the six cases she personally argued before the Supreme Court, including several landmark cases. For the past thirteen years, she has served with distinction as a federal appellate court judge on the D.C. Circuit. Her legal career clearly deserves our admiration and respect.

However, having said all this, I must express my disappointment with the nominee's responses to my questions during the hearings. Almost exclusively, I used my questioning periods to explore her understanding of Indian Country issues, which routinely come before the Court. My purpose in doing so was not to elicit a promise or commitment from her, or even an idea of how she would decide these issues so crucial to people in my part of the country. Rather, I had hoped to be satisfied that Judge Ginsburg had a good understanding and solid grasp of this complex and murky area of the law. Unfortunately, I was not satisfied.

While not as glamorous as other issues, Indian cases do frequently come before the Court. In the last decade, the Court has accepted approximately forty cases dealing the sovereignty, civil rights, law enforcement, or jurisdiction of American Indians and their tribes. I understand such cases never come before the D.C. Circuit Court of Appeals. Therefore, I did not expect Judge Ginsburg to be an expert on Indian law prior to her nomination. In an attempt to impress upon her the importance of these issues, I told Judge Ginsburg of my intent to inquire into her understanding of Indian Country law when she visited my office the day after her nomination. Additionally, I sent her references to several key Indian law cases a few weeks ago as well as a copy of the questions I intended to ask during the hearings.

Therefore, I was disappointed with Judge Ginsburg's answers to my questions. I felt they were largely non-responsive and somewhat simplistic. She failed to demonstrate a basic or general philosophy toward, or even an interest in, Indian Country issues. To her credit, she did promise to approach these cases in the same thorough, meticulous way she prepares for all cases. I commend her for that. But I disagree with her if she believes a Supreme Court Justice really does not need to possess knowledge of Indian Country issues and the problems of the West prior to taking the bench. It is exactly that lack of an overall philosophy that has led to the patchwork of court decisions which characterizes Indian law today.

As I have stated before, Congress certainly shares equally in the blame for this situation. All too often, this body has failed to act in a responsible and sensible manner regarding the concerns of citizens in Indian Country. But in the absence of congressional action or clear intent, the Supreme Court must make the law that Congress is unwilling or unable to make. Through its decisions, the Supreme Court has the responsibility of providing guidance for lower courts on Indian Country matters. It is therefore easy to see the importance of selecting nominees who have a basic understanding of the complex history of the American Indians and their unique relationship with the United States government.

Though I am not yet convinced that Judge Ginsburg has this understanding, I am voting

for her confirmation. But I also want to put future Supreme Court nominees on notice that I will insist they have an interest and understanding of Indian Country law. After today, I will not vote for a nominee unless I am satisfied that they have demonstrated this concern.

But I am not here to make threats. I do wish Judge Ginsburg all the best. I hope she has a long and productive career on the highest court in the land.

Mr. PRESSLER. Madam Chairman, I thank the Chair. I yield the floor.

Ms. MIKULSKI. Madam President, I rise today to support our newest Supreme Court nominee. There's no doubt in my mind, that Judge Ruth Bader Ginsburg will be an outstanding Supreme Court Justice. I have met with Judge Ginsburg and spoken with her at length.

Judge Ginsburg has had to overcome many barriers to get where she is now—the professional and personal barriers of a grudging establishment. Many would have crumbled against this sort of resistance. But, Judge Ginsburg has always been a person of grace and strength. Instead of crumbling, she has consistently fought to ensure that the fairness that was denied her be denied no other American.

Madam President, each time I am faced with the task of evaluating a Supreme Court nominee—and I have four times before in my Senate career—I apply the same criteria to all Supreme Court nominees.

First, is the nominee competent? Second, does the nominee possess the highest personal and professional integrity? Third, will the nominee protect and preserve the core constitutional values and guarantees that are central to our system of government, specifically freedom of speech and religion, equal protection of the law, and the right to privacy?

On every score, Madam President, Judge Ginsburg qualifies.

First, is Judge Ginsburg competent? Not only is she competent, but she's tough too. Judge Ginsburg has shown herself to have a first-rate mind and character. She's gotten numerous awards and honors to prove it, including a dozen honorary academic degrees from various universities and colleges.

Second, does Judge Ginsburg possess the highest personal and professional integrity? Like so many women of our generation, she had to fight to get ahead. And at that time, women had an especially hard time attending college, much less going to law school—and yet she did both.

Madam President, Judge Ginsburg didn't merely attend college and law school—an achievement in itself for a woman in the 1950's—she achieved great academic distinction while there, graduating Phi Beta Kappa from Cornell University in 1954 and top of her class at Columbia University Law School in 1959.

And in between these two dates, Judge Ginsburg got married, had a child, and served as an editor for both the Harvard and Columbia law reviews.

Today, you would expect that any young lawyer with such a record would have a certain and secure future. But it was not so easy to Judge Ginsburg.

Unlike her male contemporaries at Harvard and Columbia, she was unable to find a law firm that would hire her—very few would even grant her an interview. As she put it:

> To be a woman, a Jew, and mother to boot, that combination was a bit much.

The male-dominated legal establishment just wasn't ready for her. But eventually that hard work and determination got her the job.

Judge Ginsburg has helped to transform the rights of women. The day our President nominated her, she spoke of how things have changed for women and gave tribute to her late mother by saying:

> I pray that I may be all that she would have been had she lived in an age when women could aspire and achieve—and daughters are cherished as much as sons.

Madam President, that's a powerful statement. It captures the spirit of Judge Ginsburg.

And finally, Madam President, I ask, will Judge Ginsburg protect and preserve the core constitutional values and guarantees that are central to our system of government? I have no doubt that she will.

Judge Ginsburg is a great supporter of fairness. As a lawyer, she worked hard through the equal protection cases that she argued before the Supreme Court to see that everyone, especially women, are judged by their competence and character.

As a lawyer, she argued several landmark cases before the Supreme Court in which the equal protection of men and women under the law was at stake. She has written decisions on topics from the freedom of religion and the right to privacy to the freedom of speech.

Judge Ginsburg has shown herself as one of the foremost defenders of the twin ideals which lies at the heart of our Nation and our Constitution—fairness and equality.

Her passion for fairness has marked her years on the D.C. Circuit Court. On the bench, she has earned the esteem of her colleagues from across the spectrum of the legal profession for her fairness and competence.

Her writings on the freedom of speech and the right to privacy, give me confidence that she will be a staunch defender of those rights, the rights that all Americans hold dear.

Madam President, in this country we, the people, are dependent upon the Constitution and its interpretation to protect our most basic rights. In that context, the Supreme Court is the final arbiter on decisions that are grave and complicated.

That is why we in the Senate have a great and indeed tremendous responsibility. And that is why I hold all nominees to the same criteria without exception and without bias. They are the standards against which I measured—Justice Kennedy, Judge Bork, Justice Souter, and Justice Thomas. You may recall that I voted against each of these nominees.

But, today Madam President, I will vote for Judge Ginsburg.

Her presence on the Court will mean a great deal. She has said that she hoped her appointment to the Court would contribute:

> To the end of the days when women—at least half the talent pool in our society—appear in high places only as one-at-a-time performers.

Madam President, Judge Ginsburg deserves to take a seat on this High Court and I strongly support her nomination.

Mr. KENNEDY. Madam President, I give my strong support of the nomination of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court.

The Judiciary Committee's recent hearings on her nomination reminded all of us of the genius of the framers of our Constitution and of the central role of the Supreme Court in preserving and protecting our constitutional legacy. The Constitution simultaneously establishes our democracy and protects minorities from occasional excesses by the majority. The framers recognized that an independent judiciary is necessary to enforce the limits on abusive government enshrined in our Constitution, and they entrusted the Supreme Court the solemn power to protect the fundamental rights and liberties of the people.

Ruth Bader Ginsburg's brilliant career as a law professor and advocate for the rights of women, and her distinguished career as a judge on the Federal Court of Appeals, makes it clear that she is extremely well qualified to sit on the Supreme Court.

Her carefully designed and brilliantly executed strategy for securing constitutional protection for the rights of women has made America a better and fairer land. Before 1971, when Judge Ginsburg argued her first case in the Supreme Court, the courts consistently upheld laws that discriminated against women. The most blatant of these measures were outright prohibitions on the entry of women into certain professions, including the legal profession itself. Other laws established more subtle gender classifications that perpetuated harmful and unjust stereotypes about women and their role in society.

Ruth Bader Ginsburg courageously took on these unfair laws. She carefully selected cases that highlighted the arbitrary nature of sex discrimination. By choosing cases where men appeared to be victimized by laws that seemed to favor women, she was able to convince the nine male members of the

Supreme Court that sex discrimination was unfair and unconstitutional. Building case after case, she gradually persuaded the Court to recognize that most gender classifications—even those purporting to protect women—actually worked to relegate women to second-class status.

While on the bench, Judge Ginsburg impressed both liberals and conservatives with her scholarly and careful approach. At the same time, she has demonstrated great sensitivity to the need to afford access to the courts and meaningful relief to victims of discrimination.

Judge Ginsburg is clearly committed to construing the civil rights laws in the manner that Congress intended. She described those laws as "broad charters * * * stat[ing] grand principles representing the highest aspirations of our Nation to be a Nation that is open and free where all people will have opportunity."

Too often in recent years, the Supreme Court has adopted excessively narrow interpretations of these laws, contrary to Congress' intentions, and has placed needless obstacles in the path of victims of discrimination. Justice Ginsburg will reject that destructive trend in the Court's jurisprudence on civil rights, and she will be a strong voice for equal justice for all citizens on the Supreme Court.

Judge Ginsburg's testimony before the committee demonstrated her profound commitment to constitutional protection for the right to privacy, and in particular for a woman's right to choose. She made clear, in no uncertain terms, that the right of a woman to decide whether to terminate her pregnancy is, and must be, protected by the Constitution. As she stated, "This is something central to a woman's life, to her dignity. It is a decision that she must make for herself. And when government controls that decision for her, she is being treated as less than a fully adult human responsible for her own choices."

Judge Ginsburg will bring to her work on the Supreme Court an outstanding intellect, excellent judgment, and a deep understanding of the role of that Court in protecting the constitutional rights and liberties of all Americans.

President Clinton has made an outstanding choice, and it is a privilege to vote for her confirmation.

Mr. HARKIN. Madam President, I am pleased to rise in support of the nomination of Judge Ruth Bader Ginsburg to serve as an Associate Justice of the Supreme Court of the United States.

Judge Ginsburg has established a distinguished record as a judge of the D.C. Circuit Court, which is widely considered to be the most influential and important circuit in the Nation. An analysis of her record reveals a deep commitment to individual rights. She is known as a thoughtful judge who approaches each case individually, and makes an effort to apply the law to the facts. Although I would not endorse her decision in every case, that is not, and should not be, the criteria we should apply to nominees.

However, as I stated nearly 2 years ago during the confirmation of Justice Thomas, I believe it is appropriate for Senators to consider a nominee's overall understanding of the Constitution, and particularly the scope of constitutionally protected rights. I am particularly concerned with the erosion of the right to privacy.

A nominee's view of the right to privacy is indicative of that person's overall judicial philosophy, and their views of protected rights. I believe that the right to privacy is as fundamental as other protected rights, such as the right to free speech. As I stated during the Thomas confirmation, just as I would not vote for a nominee who did not acknowledge the right to free speech as a broadly applicable individual right, I cannot support a nominee who does not believe in the right of privacy. In the instance of Justice Thomas, I was compelled to vote "no." In this instance, application of that same standard allows me to vote in favor of this nominee.

The controversy over Judge Ginsburg's views on this point were raised in a speech she gave at the New York University School of Law, where she suggested that the right to choose could have been guaranteed under the equal protection clause, rather than the due process clause right to privacy.

However, in her testimony before the Judiciary Committee, she unambiguously endorsed the existence of a constitutionally protected right to privacy. Ginsburg endorsed the constitutional right to privacy, which she stated consists of at least two distinguishable parts. One part is the privacy of the fourth amendment, that government shall not break into a person's home or office without a warrant based on probable cause. The other part is personal autonomy, that the government shall not make my decisions for me. These statements satisfy my concerns on this issue.

In addition to this issue, however, I have been impressed by this nominee's personal history. From her repeated experiences with gender discrimination to her landmark argument before the Supreme Court that changed the landscape of civil rights law, she has demonstrated a commitment to defending the rights of individuals. I believe that Judge Ginsburg is well-qualified to serve on the Court, and I am pleased to cast my vote in favor of her nomination.

Mr. HEFLIN. Madam President, I am pleased to support the appointment of Ruth Bader Ginsburg to the Supreme Court. Her record is one of unbroken success at all levels, and I am confident that the Supreme Court will be a fitting capstone on a career that is already distinguished.

Ruth Bader Ginsburg has already proved to be a genuinely outstanding jurist, and I recommend her confirmation for the Supreme Court with no reservations.

As a scholar, this nominee's brilliance is undisputed. At every turn of her career, she has earned recognition for the quality of her legal mind. As an advocate, her strategies for dismantling gender discrimination won her five victories in six Supreme Court arguments. In reviewing her career and her scholarship, the American Bar Association unanimously honors her with its highest ranking, the label of well-qualified.

At the same time, Madam President, though she has lived a life in the law, Ruth Bader Ginsburg has not been locked in a judicial ivory tower: As I watched the light in Judge Ginsburg's eye when she described her clients, I understood that she shares a knowledge which all great lawyers share—a recognition that when she devised a strategy for winning cases, she was also devising a strategy for making the lives of clients like Sally Reed and Steven Wiesenfeld better.

Just as important, Judge Ginsburg demonstrates the evenhandedness that is a precondition of a sound judging philosophy. Her service on the Nation's most prominent appeals court has won praise from scholars of every political stripe: ELEANOR HOLMES NORTON and Robert Bork are on the same side of this nomination, and that sight at first had my head spinning. While other jurists have been identified in politician's labels, as part of either a right or left leaning bloc, Judge Ginsburg's independence has been her trademark. On the D.C. circuit, the record shows that she has put aside her advocate's stance, and any ideological agenda that might have come with it.

This judge's mind has indeed been an open one. In the field of civil rights she has charted a middle ground between legitimate remedies for past discrimination and so-called remedies that merely divide us. For example, in O'Donnell Construction versus District of Columbia, her separate opinion rejects an affirmative action plan that swept too broadly, while still holding the door open for measures that are a reasonable response to our discriminatory history. With regard to the first amendment, Judge Ginsburg has never lost sight of the right to speak and be heard—yet she is no absolutist, writing often of the need to weigh the speaker's rights against legitimate, significant government interests.

In the context of the criminal law, Judge Ginsburg's record acknowledges the needs of our law-enforcement officials while still maintaining a sharp

instinct for the individual's rights. On several occasions, she refused to side with knee-jerk criticisms of drug-courier profiles and the strategy of preventive detention; while some have brought their ideological blinders to the debate over law-enforcement techniques, Judge Ginsburg has been responsive, and not intolerant, to the demands of the war on crime.

At the same time, she has vigilantly protected the proper, established boundaries of the fourth amendment. In United States versus Ross, in a landmark opinion for the circuit sitting banc, Judge Ginsburg refused to weaken constitutional safeguards against improper searches of automobiles. She has also consistently overturned convictions marred by improper trial procedures or inadequate jury instructions. By any impartial analysis, her record has been sensitive rather than activist, in securing defendants' rights.

In all three of these ideological fire zones—civil rights, the first amendment, and criminal procedure—Ruth Bader Ginsburg has woven an independent, middle-of-the road path. She has shown an immunity from the polarizations of the left and right. This resistance to ideological dogma is, in my opinion, a trademark of a fair, open mind, and of a willingness to listen without prejudging.

Madam President, I view this nomination as, at the very least, a ceasefire—a pause between the broadsides of politics and ideology. I am deeply hopeful that it can be even more: Judge Ginsburg's selection can mark a renewed emphasis on excellence and judicial accomplishment.

In choosing a nominee of this caliber, a professional who can be described as a lawyer's lawyer and a judge's judge, President Clinton has signaled a high standard. If this standard is indeed a beacon for appointments to come, we will enter an era of jurists who reflect honor on the Constitution and the ideals preserved within it. This will indeed be a Supreme Court that we are confirming, and it will reflect honor on the American people.

Mr. KOHL. Madam President, I join my colleagues in congratulating Chairman BIDEN and Senator HATCH for their work on the Ginsburg nomination. The chairman and the ranking member deserve credit for handling the entire process with dignity and intelligence. All of us on the committee are grateful that, rather than shocking America, this hearing may have instead reassured Americans, and helped to restore their faith in our institutions of Government.

I do have some reservations about the extent to which Judge Ginsburg answered our questions. But I have no reservations about her ability to serve on the Court. Let me tell you why I voted for her.

First, Judge Ginsburg has demonstrated the necessary character, competence and integrity to sit on our Nation's highest court. As a law student, she achieved honors at a time when few women were even permitted to attend law school. As an advocate, she led the fight to ensure gender equality for women. As an appellate judge, she served with distinction. And at the hearing, she confirmed that she possesses the exceptional intellect required of a Supreme Court Justice.

Second, both on the bench and before this committee, Judge Ginsburg displayed an understanding of, and respect for, the values which form the core of our constitutional system of government. She rejected the doctrine of original intent, which could undermine many of the Court's most important achievements. She accepted an approach to statutory interpretation that relies on legislative history as an anchor for understanding. She spoke forcefully in support of the right to privacy, and, in opposition to all forms of discrimination. In her 13 years on the bench, she has demonstrated an uncommon fidelity to applying precedent, to judicial restraint, and to the Rule of Law.

Most importantly, Judge Ginsburg seemed committed to protecting the civil rights and civil liberties of all Americans. As she told this committee, "the whole thrust of the Constitution is, people have rights and government must be kept from trampling on them." I could not agree more.

Despite my admiration for Judge Ginsburg, I was disappointed by her don't ask, don't tell, don't pursue strategy of responding to questions. And others on the committee—among them Senators SPECTER, COHEN, and MOSELEY-BRAUN—have also expressed disappointment in some of her responses. Of course, Judge Ginsburg did not need to disclose how she would vote on cases that might come before her. But she should have revealed more about how she would approach these cases, what reasoning and methodology she would apply to them, and which factors and materials she would find relevant. Judge Ginsburg was hardly a stealth candidate, but she was—at times—a stealth witness.

We all recognize the movements in the dance of the confirmation: Nominees answer about as many questions as they believe they have to in order to be confirmed. Nevertheless, I would not advise future Supreme Court nominees—with less comprehensive paper trails—to adopt a similarly evasive approach. After all, as Judge Ginsburg herself noted, "In an appointment to the U.S. Supreme Court, the Senate comes second, but is not secondary." I hope that the next nominee will take Judge Ginsburg's own advice to heart.

Still, as I reflect on the confirmation hearing, I keep on returning to how Judge Ginsburg told me she wanted to be remembered, "As someone who cares about people and does the best she can with the talent she has to make a contribution to a better world."

I believe Judge Ginsburg will be such a Justice, and that is why I voted in favor of her confirmation.

Mr. DODD. Madam President, I rise today in strong support of the nomination of Judge Ruth Bader Ginsburg to be a Justice of the U.S. Supreme Court. Based on my review of her qualifications, including her academic writings, judicial opinions, and testimony before the Senate Judiciary Committee, I am confident that Judge Ginsburg has the requisite skills, character, and commitment to the Constitution for service on our Nation's highest court.

As Senators, we bear an enormous responsibility when fulfilling our constitutional duty to provide advice and consent to the President—and to the American people—on judicial nominations. These decisions are particularly important given the nature of judicial appointments. Nominees to the Federal bench, if confirmed, enjoy life tenure and are charged with the awesome responsibility of interpreting and applying the Constitution. Consequently, Federal judges—particularly Justices of the Supreme Court—have an opportunity to influence the policies of this Nation for years to come.

Although article II of the Constitution gives the Senate the responsibility to provide advice and consent on judicial nominations, it does not delineate the factors by which each Senator should evaluate the fitness of a judicial nominee. Accordingly, each Senator must determine for himself or herself the appropriate criteria for considering the qualifications of a nominee.

I have explained my approach to this responsibility on several occasions in the past. In my view, each Senator must begin and end his or her evaluation of the nominee with one overriding question: Is confirmation of this nominee in the best interest of the United States?

Answering this question in the affirmative first requires that each Senator be satisfied that the nominee possesses the technical and legal skills that we must demand of Federal judges.

Since 1980, Judge Ginsburg has served with distinction on the U.S. Court of Appeals for the District of Columbia. Prior to that, she taught at both Columbia University Law School and Rutgers University Law School. Of course, it was during her tenure at Columbia that Judge Ginsburg briefed and argued a key series of cases before the Supreme Court, which resulted in the invalidation of laws discriminating against women—from Frontiero versus Richardson in 1973 to Duren versus Missouri in 1979. In light of that exemplary career, it is not surprising that the American Bar Association gave her

its highest rating. Clearly, Judge Ginsburg possesses the appropriate legal skills.

Our next task is to determine whether the nominee is of the highest character and free from any conflicts of interest. Throughout the confirmation process, the Senate has heard nothing but the highest praise for Judge Ginsburg's character and integrity.

Finally, we must carefully consider the nominee's record to determine whether he or she is capable of, and committed to, upholding the Constitution and protecting the individual rights and liberties guaranteed therein. Toward that end, we must ask whether the nominee has the judicial temperament necessary to give a practical meaning to our Constitution's guarantees. We may disagree about the interpretation of various constitutional provisions, but the nominee's views must be within the appropriate range, and his or her approach must reflect a deep commitment to our constitutional ideals.

An analysis of Judge Ginsburg's career and testimony before the Senate Judiciary Committee reveals that she has a deep and abiding commitment to our constitutional ideals. Both her early battles against discrimination and her judicial rulings suggest that she will protect the rights and liberties of all individuals after her elevation to the Supreme Court.

Judge Ginsburg's statements recounting the discrimination she faced, both religious and gender-related, are particularly moving. Recalling her childhood, Judge Ginsburg noted passing a resort in Pennsylvania that had a sign stating, "No dogs or Jews allowed."

When she attended Harvard Law School there were only 8 other women in her class of 400, and the Dean asked her to justify taking a place in the class that otherwise would have gone to a man. Despite that slight and other indignities, she would go on to serve on the Harvard Law Review and, after transferring to Columbia University's Law School for financial and family reasons, graduate near the top of her class.

Despite that impressive academic background, only two law firms in New York City offered her a second interview, and neither of them offered her a job. Additionally, Supreme Court Justice Felix Frankfurter brushed aside her attempt to obtain a clerkship because he did not think that the Court was ready for female clerks.

Despite those injustices, and who knows how many others, Judge Ginsburg battled on. I have already mentioned her groundbreaking work in the area of gender discrimination—an effort that serves as an inspiration to all Americans. But perhaps more important, Judge Ginsburg's judicial decisions indicate that she has not forgotten the lessons of the past. She has repeatedly ruled in favor of individuals challenging discriminatory practices and unreasonable restrictions on basic civil rights.

Additionally, she reaffirmed her commitment to constitutional ideals throughout her testimony before the Senate Judiciary Committee. For example, in response to a question about discrimination based on sexual orientation, she stated that: "Rank discrimination is not a part of our Nation's culture—tolerance is." Her defense of abortion rights was also clear and concise: "[It] is something central to a woman's life, to her dignity. It's a decision that she must make for herself. And when Government controls that decision for her, she's being treated as less than a fully adult human responsible for her own choices."

As invariably happens, some Senators voiced concerns about the extent to which Judge Ginsburg answered certain questions during the confirmation hearings. But when her testimony—which actually covered a fairly wide range of issues—is considered in conjunction with her record, a fairly clear picture of her judicial philosophy emerges. She approaches each case prudently, with a sensitivity to the role of a judge in our democracy, and with an understanding that the Constitution holds basic individual rights inviolate.

In short, confirmation of Judge Ginsburg would be in the best interest of the United States, and when the Senate votes tomorrow on the nomination, I will vote to confirm.

Before concluding my remarks, I would like to commend the chairman of the Judiciary Committee, Senator BIDEN, and ranking minority member, Senator HATCH, on the changes they made in the committee's procedures relating to confirmation hearings—changes that are intended to be standard procedure in the future. From now on, the committee will go into executive session to hear any allegations of wrongdoing against the nominee. If any of the allegations warrant further investigation, the committee will then conduct public hearings on the matter. Additionally, the committee will now open up investigative matters to every Senator.

I understand that there were no allegations against Judge Ginsburg. Nonetheless, it is important to have these procedures in place. After the hearings on the nomination of Clarence Thomas, I noted that the committee's investigation would have been more effective if conducted in executive session and that gavel-to-gavel coverage under television's bright lights was not necessarily the best way to discern the truth. Hopefully, the committee's new procedures will help the Senate carry out its advice and consent duties, while protecting not only the rights of the nominee but also the public's right to know.

Mr. THURMOND. Madam President, we are now considering the nomination of Judge Ruth Bader Ginsburg to become an Associate Justice of the Supreme Court.

For 3 days before the Judiciary Committee, Judge Ginsburg publicly testified and answered questions concerning her qualifications and fitness to serve on the Supreme Court. She responded to inquiries concerning her opinions on the DC Circuit Court of Appeals as well as cases in which she had been involved, articles she had written, and speeches delivered.

There was some encouragement in her testimony particularly where she stated, and I quote, "Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians." While that statement gives us optimism, she also stated that she would look beyond the text of the Constitution when determining rights to be protected by the Court.

Additionally, Judge Ginsburg was crystal clear in her support for abortion rights during an exchange with our distinguished colleague, Senator BROWN. Yet, she repeatedly refused to be as forthcoming on the issue of capital punishment, which has been declared constitutional by the Supreme Court. She would only go so far as to acknowledge that the Court has held it constitutional since 1976. To find comfort in that answer on this issue, we must have faith in her adherence to precedents and stare decisis.

In other remarks, Judge Ginsburg suggested that the Court at times has a role to legislate. She stated and I quote, "When political avenues become dead-end streets, judicial intervention in the politics of the people may be essential in order to have effective politics." At other times, she embraced the principle of judicial restraint and appeared determined to decide cases narrowly and on the facts.

During another exchange, Judge Ginsburg found acceptable the broad reach of the Missouri versus Jenkins decision in which the Supreme Court, in my opinion, engaged in judicial activism by authorizing the Federal courts to order tax increases as a judicial remedy. I was disappointed with her answer on this matter.

However, Judge Ginsburg is a woman of integrity. She displayed a depth of knowledge concerning the law and demonstrated her ability to master and articulate complex issues. While Judge Ginsburg chose not to answer responsively a great number of questions, each Member must determine if she otherwise satisfied their standards for serving on the Supreme Court.

Madam President, I am mindful that Judge Ginsburg is President Clinton's nominee, and I did not expect to agree

with her on all of the issues. Based on her lack of specificity in a number of areas, I cannot be certain as to where we disagree. Although I have reservations about this nominee, I like to support the President in choosing his nominees when I can. I shall give her the benefit of any doubts I have and shall support her.

Mrs. BOXER. Madam President, I am very proud to rise today in support of the nomination of Ruth Bader Ginsburg to be an Associate Justice of the U.S. Supreme Court.

During the campaign, President Clinton promised the American people that he would select Justices who possessed outstanding legal minds and big hearts. In nominating Judge Ginsburg, the President made good on his promise.

To the highest court in the land, Judge Ginsburg will bring a special combination of conviction, experience, and skill. She will bring the heart of a passionate advocate, who fought an historic and tireless battle against gender discrimination. She will bring the fine mind of a distinguished legal scholar, who both as a law professor and as a Federal judge, defied those who wanted to pigeonhole her as a liberal or a conservative and earned her reputation for independence.

Judge Ginsburg's work on behalf of the women of America has been heroic. She understands what it means to be discriminated against. Despite having graduated first in her class from Columbia Law School, no law firm would hire her. Even as a law professor, she was forced to hide her pregnancy, fearing that she would lose her job if anyone found out.

She has fought against discrimination by using the Constitution as a tool to challenge laws that limit women's opportunities. By convincing the Supreme Court that these laws violated the Constitution's grand promise of equal opportunity, Judge Ginsburg forced open those doors of equality, doors through which generations of women—including me and my daughter—have been able to walk.

Throughout her career, Judge Ginsburg has insisted that a woman's ability to be equal was dependent upon her right to choose. In a series of writing and speeches, Judge Ginsburg has reminded us that laws restricting a woman's right to choose deny us equal status under the law, keep us from competing equally in the workplace, and block us from being independent and equal participants in our Nation's future.

But, Madam President, despite her zealous advocacy for women's rights, Judge Ginsburg has kept her solemn promise to dispense impartial justice. In her 13 years as a judge on the D.C. Circuit Court of Appeals, she has never let ideology cloud her legal reasoning, she has never, in her own words, bent the rules to please the home crowd.

Finally, I really want to commend President Clinton for making this courageous and historic nomination. President Reagan deserves credit for nominating the first woman—Justice Sandra Day O'Connor—to serve on the Supreme Court. But, President Clinton understands that real equality is about moving beyond and breaking through the ceiling of the first woman, the first African-American, the first Latino. Real equality is about true representation, it is about nominating the second woman, the third, the fourth, and the fifth. It is about the nomination of Ruth Bader Ginsburg.

In her speech accepting President Clinton's nomination, Judge Ginsburg, remarked that she hoped it would mark the end of the days when women were seen as one-at-a-time performers. I could not agree with her more. Madam President, I am so proud to have this historic opportunity to vote in favor of Ruth Bader Ginsburg to become the second woman Justice on the U.S. Supreme Court.

Mr. RIEGLE. Madam President, it is with great pleasure that I rise today in support of the nomination of Judge Ruth Bader Ginsburg as Associate Justice to the U.S. Supreme Court. As his first nomination to the Supreme Court, President Clinton has chosen a jurist with superior academic and judicial credentials who will lend an important perspective to the Court.

On issues ranging from antitrust law to privacy rights, Judge Ginsburg has demonstrated a measured, equitable approach which transcends the simplistic political labels of conservative or progressive, Republican or Democrat. And while no Senator may be in agreement with each decision she has written or article she has published, I believe that all Senators can agree that Judge Ginsburg embodies the kind of reflective wisdom and independent judgment found in very great jurist and Supreme Court Justice in history.

Ruth Bader Ginsburg is responsible for the establishment of an entirely new branch of legal rights and equal protection. In numerous appearances before the Supreme Court in the 1970's, she won several landmark gender discrimination cases, invalidating the structural discrimination pervasive at that time. Through her groundbreaking work and successful litigation before the Court, Judge Ginsburg is personally responsible for launching the equal treatment of women in the workplace now required by law.

And although sex discrimination is still an unfortunate reality in our society, the tremendous legal progress of the past two decades is directly attributable to Judge Ginsburg's tireless efforts in this area. Drawing from her own firsthand experiences with gender discrimination, Judge Ginsburg brings an uncommon insight and perspective to the bench—a perspective that has been severely underrepresented on the Supreme Court.

As a judge and a law professor, Ruth Bader Ginsburg has received numerous awards and honors. She has been given the highest recommendation possible by the American Bar Association—they unanimously voted her exceptionally well-qualified to be an Associate Justice. Judge Ginsburg has repeatedly been signed out as a top centrist judge by legal journals and judicial observers. And in her years as a professor, she was chosen by her peers as an outstanding law professor and received national recognition for her academic contributions.

I believe that in choosing this highly qualified candidate, President Clinton has shown his solid commitment to bringing the Court closer to the cultural diversity and gender composition of today's society.

I am pleased to support such a worthy candidate for Supreme Court Justice, and I urge my colleagues to confirm Judge Ginsburg unanimously.

Mr. BIDEN. Madam President, although we are not voting until tomorrow, I would like to ask for the yeas and nays on the Ginsburg nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. I thank the Chair.

Madam President, as I understand it, the distinguished Republican leader wishes to speak on this nomination in a few moments. He is at so many things which he is doing right now, I am not sure exactly when he will be down to speak. But other than the distinguished Senator from Kansas, I do not think there are any other Members seeking recognition to speak now or this afternoon.

So what I would like to suggest is to put in a quorum call in the expectation that the Senator from Kansas will be down shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BIDEN. Madam President, I see the distinguished Senator from New York has arrived. He is the chief sponsor, if you will, in the Senate of Ruth Bader Ginsburg. He is a man who, I might add, Madam President, told me and others about the intellectual prowess and judicial temperament of this fine nominee long before she was named to the Court. He cannot say this, but I can. When asked by the President of the United States who he would consider nominating for the Court if it were his Court, unequivocally and without hesitation he said Ruth Bader Ginsburg.

So I commend him on his being, as usual, way ahead of the curve. And I compliment the President and his staff for listening to the distinguished Senator from New York. I will now yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Thank you, Madam President.

May I thank the distinguished chairman of the committee who so successfully, gracefully brought this high matter of constitutional responsibility to this floor. This could not have happened without his efforts and that of his able, respected associate, Senator HATCH.

Madam President, exercising its constitutional responsibility to advise and consent, the Senate is perhaps most acutely attentive to its duty when it considers a nominee to the Supreme Court. That this is so reflects not only the importance of our Nation's highest tribunal, but also our recognition that while Members of the Congress and Presidents come and go—chief magistrates, as Woodrow Wilson described the Presidency—the tenure of a Supreme Court Justice can span generations.

We in the Senate, together with the President, create the third branch of the National Government; that is the judiciary. We thus owe special care that those charged with watchful vigilance over our constitutional charter be up to that task. So it was that in the past weeks the Committee on the Judiciary, led by Senators BIDEN and ORRIN G. HATCH, engaged in the most searching inquiry of Judge Ruth Bader Ginsburg.

That the committee unanimously determined that Judge Ginsburg should be the 107th Justice of the Supreme Court of the United States is further testament to a extraordinary career of 34 years in the law. Judge Ginsburg is perhaps best known as the lawyer and litigator who raised the issue of equal rights for women, equal protection of women under the Constitution, to the level of constitutional principle. She has also distinguished herself in a wide range of legal studies, and for the last 13 years has been one of our Nation's most respected jurists on the U.S. Court of Appeals for the District of Columbia Circuit.

For some months, I had hoped that the country would have the opportunity, as it has in these past weeks, to discern the qualities which make Judge Ginsburg so right for the job.

Senator BIDEN having mentioned it, I will own to the fact that on May 12, on a flight to New York, President Clinton very generously asked me who I would like to see appointed to the Court, and I replied that I thought there was only one name—Ruth Bader Ginsburg.

Later, as the administration was considering that recommendation, I would pass on to the White House remarks made in 1985 by Erwin N. Griswold, former Solicitor General of the United States and dean of the Harvard Law School at the time Judge Ginsburg was a student there. Speaking before a special session of the Supreme Court commemorating the 50th anniversary of the opening of the Supreme Court Building—which they moved into in 1935—Dean Griswold made note of the work of attorneys who had appeared before the Court on behalf of special interest groups, as against individual appellants. He said:

> I think, for example, of the work done in the early days of the NAACP, which was represented here by one of the country's great lawyers, Charles Hamilton Houston, work which was carried on later with great ability by Thurgood Marshall. And I may mention the work done by lawyers representing groups interested in the rights of women, of whom Ruth Bader Ginsburg was an outstanding example.

I must tell you that we in New York take special pride in her nomination. She was born and raised in Brooklyn. The day after her nomination, the front page of the New York Daily News exclaimed "A Judge Grows in Brooklyn." Judge Ginsburg attended Cornell University where she was elected to Phi Beta Kappa and graduated with high honors in government and distinction in all subjects, and later Columbia Law School, where she tied for the top rank in her class. Indeed, she actually attended two law schools, beginning at Harvard Law School, and finishing at Columbia so that she could be with her husband Martin, who had returned to New York to begin the practice of law. Never before Ruth Bader Ginsburg had anyone been a member of both the Harvard and Columbia Law Reviews.

With such a record, we would not think it surprising that she would be recommended to serve as a law clerk to Supreme Court Justice Felix Frankfurter. But in the world of that day, the legal profession was mostly for men only. That time is not far distant, Madam President; I was here in Washington in the Kennedy administration at the time that Justice Frankfurter stepped down. Arthur Goldberg succeeded him. We can just reach out and touch that time. And Justice Frankfurter was not prepared to hire a woman—it seemed it would not be right and not perhaps even fair. I can imagine him thinking that. And such was also the case with New York law firms, which had no place for her really—only two showing any interest.

She persevered, she triumphed, she transcended along this—working as a law clerk for Judge Edmund L. Palmieri of the U.S. District Court for the Southern District of New York, as an associate director at the Columbia Law School Project on International Procedure, as a professor of law at Rutgers University Law School. She was one of the first tenured female law professors, in the country, and the first at Columbia University, where Michael Sovern was pleased to see that she was the first tenured appointment he would make once he became dean.

While at Colombia, then Professor Ginsburg became the moving force behind the Women's Rights Project of the American Civil Liberties Union. The prime architect of the fight to invalidate discriminatory laws or practices against individuals on the basis of gender, her imprint could be found in virtually every gender case which reached the court in the 1970's. She herself argued six cases before the Supreme Court winning five, and in the process fashioning lasting precedent for women's rights. To know something of even a couple of these cases is to understand the fundamental change which she brought about.

In one, Frontiero versus Richardson, Ruth Bader Ginsburg secured for women serving in our Armed Forces equal benefits for their dependents. Another case, Weinberger versus Wiesenfeld, involved a section of the Social Security Act providing survivor benefits to a widow with minor children, but not to a widower with minor children. Professor Ginsburg prevailed upon the Supreme Court to invalidate this provision as discriminatory, rejecting the gender-based stereotype that women's work is less worthy than men's.

Upon her nomination in 1980 to the U.S. Court of Appeals, the American Bar Association gave her its highest rating. Time has not dampened the ABA's enthusiasm, having offered its highest evaluation to Judge Ginsburg as a nominee to the Supreme Court. As a jurist, she embodies the view she expressed in the Sibley lecture at the University of Georgia School of Law in 1981:

> [The] greatest figures [of the American judiciary] * * * have been independent-thinking individuals with open, but not empty minds, individuals willing to listen and to learn. They have been skeptical of party lines and they have exhibited a readiness to reexamine their own premises, liberal or conservative, as thoroughly as those of others.

She believes that all of us, not just judges, have a duty to protect constitutional rights. As she put it in her opening statement before the Committee on the Judiciary, our Constitution "strives for a community where the least shall be heard and considered side by side with the greatest." Her opinions show a respect for the other branches of Government,

Ever mindful of our frailties, Judge Ginsburg put it so well in her statement before the Judiciary Committee when she embraced Judge Learned Hand's view of the spirit of liberty, as "one which is not too sure that it is right, and so seeks to understand the minds of other men and women and to weigh the interests of others alongside its own without bias."

Later, she quoted with approval the words of another New Yorker, Justice Benjamin Nathan Cardozo, who said: "Justice is not to be taken by storm. She is to be wooed by slow advances."

In confirming Ruth Bader Ginsburg as an Associate Justice of the Supreme Court of the United States, we do honor to ourselves and to the most vital traditions of our jurisprudence, which have worked to keep our society both ordered and free.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President. It is a great honor that I rise to express my whole-hearted support for this nomination.

During my service in the Senate, I have developed three fundamental criteria by which I judge a nominee's suitability for service on the Supreme Court: Is the nominee ethical, qualified, and within the philosophical mainstream of modern jurisprudence?

In the case of Judge Ginsburg, the answer on each of these three criteria is a resounding "Yes."

Madam President, I suggest the absence of a quorum.

First, Judge Ginsburg is superbly qualified. Any nominee for the highest court in the land must be in the forefront of the legal profession. This is clearly the case with Judge Ginsburg.

During her years as an advocate, Ruth Bader Ginsburg earned her place as pioneer in the then evolving area of gender discrimination law. And, today, countless women across America are better off because of her efforts.

While serving as counsel to the American Civil Liberties Union, Judge Ginsburg won five landmark cases before the Supreme Court. These cases resulted in a gradual expansion of the Court's interpretation of the equal protection clause as it is applied to gender discrimination cases.

Even with her success as an advocate, there is a absolutely no question about Judge Ginsburg's judicial temperament. She is within the mainstream of American jurisprudence. Although she began her judicial career with the background of a liberal, Judge Ginsburg is a clear and independent thinker. Her opinions show an abiding respect for the rule of law. On a wide range of legal issues she has proven herself to be a thoughtful, deliberate judge. She crafts her opinions narrowly and with deep respect for both precedent and the prerogatives of the two other branches of Government.

Moreover, throughout her career, Judge Ginsburg has observed the highest ethical standards. Beyond merely complying with the law, Judge Ginsburg has gone out of her way to avoid even the appearance of impropriety. For instance, out of protest, she and her husband have resigned from two private clubs that appeared to have discriminatory membership policies. She understands that judges ought to live by the rules they set for the rest of us.

In closing, I congratulate President Clinton for making this fine nomination. I am confident that Judge Ginsburg will make a great Justice of the U.S. Supreme Court.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

BEYOND GOOD INTENTIONS: USING FORCE IN BOSNIA AND SOMALIA

Mr. MCCAIN. Mr. President, today and this week, we are understandably focused on domestic issues. A national debate is raging over the President's proposed deficit-reduction plan and, understandably, the focus of the American people and to some extent, the world is focused on this overriding domestic issue.

But I think it is important to point out that we stand at a defining moment of the post-cold-war era. Once again, we are present at the creation, just as we were at the end of World War II; once again, we must redefine our role in the world.

Mr. President, I am calling today for President Clinton to come to the Congress and the American people and explain what our goals and strategy are in Bosnia and Somalia. Will we commit American military force to Bosnia? If so, under what circumstances? What are the military and strategic goals? How long do we expect the United States to be militarily engaged? And what are the rules of the engagement?

In the media, there are ample reports that the United States intends to use air power in Bosnia. The use of air power may be justified. I think that all Americans would strongly support military action to prevent a massacre of innocent civilians, whether it be in Sarajevo or anyplace else in the world. But, Mr. President, the American people need to know the parameters of this military involvement, what we intend to accomplish in the long term, as well as the short term, and how we intend to do it.

On numerous occasions when the United States has been involved militarily in places throughout the world, Members of this body, especially on the other side of the aisle, have come to this floor and called for the invocation of the War Powers Act. I am not saying that that is appropriate at this time. But I am saying that consultation with Congress and the American people is critical before we send young men and women into conflict in the region.

I have to tell you, Mr. President, I am deeply disappointed that so far the Clinton administration has not consulted with the American people or with Members on this side of the aisle as to what military action is being contemplated. Those are my constituents in the military whose lives may be at risk, just as they are the President's.

There has been a tradition since World War II that partisanship ends at the water's edge. There has been virtually no consultation between the President of the United States and Members of this body on this side of the aisle. I strongly recommend that he do so before initiating military action.

I want to emphasize Americans are not ready to watch people get massacred if they can prevent it. An open-ended military commitment in the region, such as we are seeing in Somalia, is something that the American people will not support. We have ample proof that unless we have the support of the American people, military enterprises of any duration are doomed to failure.

Mr. President, we must develop a clear and consistent policy for peace enforcement and nation building. We must choose how to reshape American strategy and American forces, and we must choose carefully indeed.

Day by day we are discovering in Bosnia and Somalia that the end of the cold war does not mean the end of history. We are discovering that we still have to deal with 20–30 conflicts and crisis points throughout the world—just as we did every day of every year after World War II. We are discovering that there are sharp limits to the peace dividends we can draw before we risk a level of weakness that will lead to new wars.

We are confronted by a critical dilemma. If we remain indifferent to the world, then the world's problems will inevitably come to visit us in our homeland. They may not be military threats, but they will be threats to our economy, our interests, and our allies. They will threaten our political and moral values, and they will inevitably unleash the use of weapons of mass destruction.

If, however, we commit our prestige and our forces carelessly, we will waste resources we cannot afford. Our good intentions will lead us down the road to military intervention as a substitute for statesmanship and inevitably to political and military failure.

PAVING THE ROAD TO HELL WITH GOOD INTENTIONS

There are many roads to hell that are not paved with good intentions. Good intentions alone, however, are not a

substitute for strategy, for policy, for clearly defined goals and objectives, and for conditioning the use of our military forces to a clear assessment of risks and a high confidence that we will be successful.

In the name of humanitarian causes, peacekeeping, and other ideals, we may blunder in where we then have to blunder out. We will waste our precious moral and political capital, and potentially that of the United Nations as well.

Rhetoric about cooperative security, and invoking the name of the United Nations, are not a substitute for a clearly defined foreign policy. Nor, is reacting out of disarray to the events of the day is not a substitute for a sustainable implementation of that foreign policy.

Making a limited commitment of U.S. military forces without a clearly defined plan that takes into account the risk of escalation or retreat, is not a substitute for military planning and military expertise.

CAUTION AND THE USE OF ARMS

It is easy for politicians and civilians to talk blithely about using military force, or accuse the military of being hesitant and obstructive. Politicians risk little, and arm chair generals risk even less.

The fact, is, however, that military force is only successful if it serves a clearly defined policy, if it has clearly defined objectives, if it is capable of dealing with the inevitable uncertainties of war, and if the cost of using that force is matched with the value of the objective. If force is truly an extension of diplomacy by other means, it is sometimes successful. If it is intended as answer to the failure of diplomacy, it is almost never successful.

Many of yesterday's doves have forgotten this as they become today's hawks. However, we cannot afford to remember the gulf war, Panama, and Grenada without remembering Vietnam and Lebanon, or the high cost of the Korean war. We cannot afford to act on the impulse of the moment, no matter how noble that impulse is, and not think through the possible consequences of our actions.

Military leaders have good reason to remember the cost of trying to use force without a basis in sound policy, without clearly defined objective, without adequate means, without the ability to retreat or escalate, and—most importantly—without public support.

They have reasons for caution that long predate America's recent problems. Nearly 2,500 years ago, Xenophon wrote the first classic military biography. The "Anabasos," about a force trapped into retreating from a political disaster. At virtually the same time, Thucydides wrote the "Peloponnesian Wars," the first real military history.

This lesson describes Athens' reckless commitment to intervention in Syracuse that was the key factor in the destruction of the world's first real experiment in democracy and in creating a new world order.

Thucydides' words are as relevant today as they were then:

> This was the greatest event in the war, or in my opinion, in Greek history; at once most glorious to the victors and most calamitous to the conquered. They were beaten at all points and altogether; their sufferings in every way were great. They were totally destroyed—their fleet, their army, everything—and few of many returned home. So ended the Sicilian expedition.

I do not believe we face any such risk. We are too strong to suffer a major defeat of arms. We can, however, suffer a defeat that is even more important if we go into Bosnia without clearly defined and obtainable goals, or if we allow ourselves to take sides in the civil war in Somalia without having any ability to bring that war to a successful end.

We can waste our credibility and capability, and that of the United Nations, in failure. If we do, we are unlikely to have similar opportunities again. The American people and the world will accept sacrifice in the name of good causes if that sacrifice is the result of sound policies, achievable objectives, and is cogently explained to them. I do not believe, however, that they will support costly open-ended engagements that cost lives and vast amounts of resources.

WARFARE BY WEATHERVANE

At present, the administration gives the appearance of being a weathervane. Its policies not only seem to be in disarray, they seem to blow with the wind. They shift with the crisis of the day, what is on our television screens, or what seems expedient at the moment.

Consider how the winds shift in the case of Bosnia. We will use force, we will not use force. We must have European support, we will act alone. We will protect the U.N. peacekeepers, we will help the Serbs protect themselves. We will provide humanitarian relief, we will help shape a peace. Vance-Owen is in, Vance-Owen is out. We will follow the lead of the U.N. we have the authority to act alone.

In the case of Somalia, the winds have blown us from a narrow well-defined humanitarian mission to taking sides in a prolonged hunt for a Somali warlord. We have moved from relief effort to peace enforcement to taking sides, and we seem to be on the edge of moving towards nation building. We know whom we are chasing. We may not know why we are chasing him, or what we will do if we catch him.

THE QUESTIONS THAT PRESIDENT CLINTON MUST ANSWER

This is why I believe that it is vital that President Clinton clearly define his policy towards peacekeeping, explain his goals for using force in Bosnia, and explain his goals for using force in Somalia.

To be specific, we need the President to come firmly and publicly to grips with six key issues:

First, the President has been in office long enough to tell us his vision of the role of the United States in peace keeping, peace enforcement, and nation building. We need a Clinton doctrine. We need one we can debate and use to shape a national and international consensus.

Second, the President needs to clearly define his conditions for using military force, and how he intends to consult the Congress. We need a clear picture of the criteria the President will use in judging whether to risk American lives. We need to know under what conditions he will be willing to escalate or sustain American military commitments. We need to know whether he will seek the approval of the Congress, and how he will seek that approval.

Third, the President needs to clearly define the role of the United States relative to the United Nations and our allies. We cannot keep shifting basic policy towards our relationship with the U.N. and Europe. We must set clear criteria for how we will treat U.N. decisions and for our involvement in U.N. actions. We must set clear criteria for what we want Europe to do, and to stick with them. We must put a firm end to reversing our position from day to day, and often in the full view of the entire world.

Fourth, the President needs to clearly define his policy towards military intervention in Bosnia. It is painfully clear that he is not sure from moment to moment whether we are protecting the U.N. peacekeepers, protecting the Muslims, pressuring the Serbs and Croats to accept partition, or pressuring the Serbs and Croats to accept a different kind of peace.

If we are to commit force, we need to know the extent to which we truly insist on U.N. and European support. We need to know the extent to which we are prepared to escalate and where we will halt. We need to make it clear to all sides what our goal really is, and we need to be certain our military and the American people can support and sustain the effort to meet the goal.

Fifth, the President needs to define why we are in Somalia and what we intend to do there. He needs to state clearly whether we have accepted an open-ended commitment to peace enforcement and nation building. He needs to define what we expect from the United Nations and other nations, and the limits to our involvement. He needs to go beyond the manhunt and the headlines, and define our ultimate goal and how he intends to achieve it.

Finally, the President urgently needs to redefine the goal of his military strategy, defense budget, and bottom up review. It is painfully clear that we

cannot shape our strategy or forces simply by setting an arbitrary budget ceiling, and then try to meet new commitments within that ceiling. We need a clear picture of where we will keep our forces, how we will reshape them for peace enforcement and humanitarian missions, how we will adapt them to work with the U.N. and other nations, and how we will give them the readiness and decisive technical edge to ensure their success.

Mr. President, at the end of this week Congress will go out of session. Members will be scattered to the four corners of this country.

We need to discuss this issue and debate it, and come to a conclusion in Congress if the President intends to dramatically escalate the use of American military force in Bosnia. And we need to do so soon.

Otherwise, we will have scant chance of building a consensus here in the Congress or in the country.

Mr. President, I yield the floor.

SUPREME COURT OF THE UNITED STATES

The nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice of the Supreme Court of the United States.

The Senate continued with the consideration of the nomination.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, is the Ginsburg nomination the pending business?

The PRESIDING OFFICER. The Senator is correct.

JUDGE RUTH BADER GINSBURG

Mr. DOLE. Mr. President, tomorrow, I will vote to confirm the nomination of Judge Ruth Bader Ginsburg.

A top student at both Harvard and Columbia Law Schools, a law professor at Rutgers University, and a respected judge on the D.C. Court of Appeals for nearly 13 years, Judge Ginsburg certainly has a record of academic and professional achievement that would prepare anyone for service on the Nation's highest Court. By any measure, she is qualified to become the Supreme Court's ninth Justice.

Judge Ginsburg also has the temperament that one would want, and expect, in a Supreme Court Justice. During her hearings before the Senate Judiciary Committee, she displayed both a cool rationality and an open mind, a combination that inspires both respect and confidence.

Now, I do not agree with all of Judge Ginsburg's past judicial decisions, nor do I agree with every position she has taken in her considerable body of academic writings. If a Republican were in the White House, Judge Ginsburg would not have been nominated.

Nevertheless, I am convinced that Judge Ginsburg understands the proper role of a Supreme Court Justice and the function of the judiciary in our three-branch democracy.

Judges must apply the law neutrally to the particular facts of each particular case. They must look to precedent when reaching their decisions. But they must not impose their own personal policy preferences in order to achieve favored outcomes. The job of legislating belongs to Congress and to the State legislatures, not to the Supreme Court.

I believe Judge Ginsburg understands this. During her tenure as a court of appeals judge, she may have shown a streak of judicial activism on occasion, but for the most part her record is that of a moderate, reasoning by precedent and mindful of the importance of restraint and caution. In fact, some have criticized Judge Ginsburg for being more interested in the fine print rather than the big picture, and for being a legal technician rather than an interpretive philosopher—criticisms that Judge Ginsburg should wear as a badge of honor.

Finally, Mr. President, I want to commend Senator BIDEN, the chairman of the Judiciary Committee, and the committee's ranking member, Senator HATCH, for conducting a closed-session hearing as part of their deliberations on the Ginsburg nomination. For future nominees. I hope the committee continues this practice. It is perhaps the only way to protect nominees from the considerable embarrassment that may result when groundless or easily explainable charges of a personal nature are given a public airing. My only regret is that the committee did not resort to a closed session when personal attacks were made against the last Supreme Court nominee, Justice Thomas.

We have learned from that. I think that is probably the reason now.

I think it has already been stated by the chairman of the committee. But I want to reemphasize the record to show again that the Judiciary committee began its hearings on July 20, a mere 36 days after the Ginsburg nomination was formally announced by President Clinton. No Republican nominee to the Court in recent history has been considered so expeditiously.

I wish Judge Ginsburg the very best as she assumes that awesome responsibility of sitting on our Nation's highest Court. Needless to say, I look forward to having a neighbor that I can proudly call Madam Justice.

Mr. BIDEN. Mr. President, I would like to thank the Republican leader for his compliment and acknowledgement. What he said about the speed with which we moved is absolutely accurate. I hope the Democrats do keep that in mind if things change in 3 years. I also point out that however long it may be, but as long as I am chair of the committee—and I think my view is shared by all members of the committee—we will continue to have a closed hearing. I believe it is a necessary change and innovation for the very reasons the Senator has indicated.

Last, I point out a little known fact—and I mean it sincerely—I did offer to the President of the United States and I did offer to the nominee, who was referred to, an opportunity to have that entire matter in a closed hearing. It was the choice of the nominee, and I do not criticize that choice. I understand it, in light of the fact that the charges were already made public against him. It was almost impossible for him to agree to that. But there was the opportunity offered, under rule XXVI of the Senate, to go in closed session relating to those charges. It was probably beyond anybody's control at that point. I do not say that by way of excuse, only by way of explanation.

I thank the Republican leader for his comments and, hopefully, we can move as expeditiously on Republican nominees as we have on Democratic if and when that time returns.

Mr. DOLE. Mr. President, I thank the distinguished chairman, my friend. There is no doubt about it, they did their job well, and I think that is why it moved so expeditiously.

I would like, if I may, to proceed as in morning business on another matter for about two minutes.

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

EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. DOLE. Mr. President, on July 29, I was honored to participate in a ceremony held here in the Capitol, to honor President Dwight D. Eisenhower and unveil the new Eisenhower Interstate System sign.

I was joined by President Eisenhower's son and granddaughter Susan, the Secretary of Transportation, and several of my colleagues in both the House and the Senate, in honoring the vision of a man who worked tirelessly to see the Interstate Highway System come to reality.

The unveiling of the newly appointed sign, which will be placed throughout the Nation, commemorates Dwight D. Eisenhower's dedication and perseverance. Our colleague, the late Senator John Heinz should also be recognized and honored for being a sponsor of the 1990 legislation which redesignated the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways. President George Bush signed this legislation on October 15, 1990.

In 1991, the Congress enacted legislation requiring the Secretary of Transportation to conduct a study and report to Congress on a recommended

sign to be placed on the interstate highways. This legislation was signed by President Bush on December 18, 1991. The report, which recommended a sign be developed, was completed and forwarded to Congress on January 14 of this year. Ralph Becker deserves a great deal of credit for his hard work and devotion to this project and for his work in the development of this new Eisenhower Interstate System sign.

Each State will be encouraged to place the sign along the Interstate System throughout the country. For both Republicans and Democrats alike, as friends of the Eisenhower family, it was an honor to be a part of this tribute to Dwight D. Eisenhower.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF JEFFREY E. GARTEN OF NEW YORK REFERRED TO COMMITTEE ON FINANCE AND COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, as in executive session, I ask unanimous consent that the nomination of Jeffrey E. Garten, of New York, to be Under Secretary of Commerce for International Trade, presently being held at the desk, be jointly referred to the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs.

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

MORNING BUSINESS

Mr. BIDEN. I ask that there now be a period for morning business.

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

THE PASSING OF CONGRESSMAN PAUL HENRY

Mr. RIEGLE. Madam President, I rise to call attention to the very sad fact of the passing of our much esteemed House colleague, PAUL HENRY, of Michigan.

PAUL has waged, over the last several months, a very courageous battle against a brain cancer condition and did so with great dignity and with the love and support of his family and his staff and everyone in Michigan who knew him. We lost him on Sunday, just a day ago. His loss is a very great loss, not just for our State but for the country as well.

I want to extend my deepest sympathies today to his wife, Karen, and his children, Megan and Jordan and Kara. I know above everything else PAUL was a devoted husband and loving father, and I know how deeply they miss him now.

Tomorrow morning we will be having a ceremony for him in Michigan. I will be traveling now with other members of the delegation. I will not be able to be here for the votes tomorrow morning. I so announce now. I will attempt to either find pairs for those votes or try to at least declare how I would have voted if I were here. But I feel it appropriate to be present for his service in Grand Rapids tomorrow morning.

He will be remembered by all as an intelligent and conscientious public servant who had the courage to act upon his convictions. And he was not afraid to buck the party line when he thought it was the right thing to do. He was a very thoughtful person, a natural teacher, and was a teacher, prior to his coming to the Congress, who tried hard to help people understand the issues and to persuade them to agree with him by the use of logic and reasoning.

He found great strength in his religious values throughout his public service career. As a professor of political science at Calvin College and as a Michigan State legislator and then, finally, as a U.S. Congressman, there was discernible throughout his work a very steadfast grounding of devotion to the religious beliefs that he held, and those remained visible and strong throughout his entire public life.

Just a few months ago he himself wrote very moving words to the constituents of his congressional district. He said, "I will never be able to adequately thank all of you for your support, kindness, and love. My life is in God's hands, as it has always been. My walk with him goes on."

Those words were so typical of him and his orientation in the way he lived his life. It guided his daily work and personal life in every way.

So this was a very special Member of the House. He will be greatly missed by all who knew him. While he lost this fight that he was waging against the cancer problem, in doing so in the manner in which he did, he won the affection and respect of everyone.

His staff served him extraordinarily well during the difficult months of this year, and great tribute is due them for the service that they have rendered. As everyone struggled with the hope that there might be a turn in his medical circumstances and that he might be able to gain ground, no one ever surrendered that hope, but his staff performed magnificently during this period of time. I know they grieve now for him. I want to acknowledge with great respect the work that they have done to represent the district in the Grand Rapids area.

PAUL HENRY accomplished much in the time that he was given. And he is now in the healing arms of God's grace.

I yield the floor.

SINK THE SINC

Mr. PRESSLER. Mr. President, 18 of my colleagues and I recently sent a letter to the reconciliation bill conferees on an important provision for small business.

This provision, dubbed the so-called service industry noncompliance initiative or SINC would create a massive new blizzard of paperwork for small business. This proposal requires businesses to file 1099 forms with the Internal Revenue Service anytime they purchase more than $600 in services from any incorporated business.

During Senate consideration of the reconciliation bill, I offered an amendment to strip this provision from the bill. The Senate unanimously voted, 0–98, against a motion to table my amendment, and subsequently, unanimously adopted it.

Mr. President, the SINC initiative is bad policy for small business and for this country. This requirement represents a massive new paperwork burden for America's entrepreneurs. The Small Business Legislative Council has said "extending information reporting to corporate service providers would vastly expand the amount of recordkeeping and reporting necessary." The health insurance industry has threatened increased rates. The National Federation of Independent Business, an organization opposed to this reporting requirement from the beginning, said in a letter to all Members of Congress that "the enormous cost of this provision of the business community far outweighs any taxes that would be collected through increased compliance." From the Tax Executives Institute we hear that, "there continues to be no convincing evidence that the IRS would be able to process the millions of additional pieces of paper that would be generated under the proposal." Even the New York Times described this provision as "a blizzard of paperwork."

Obviously, the SINC proposal creators did not take small business into consideration when they were designing this new requirement. This propaperwork idea is typical of the big-government folks in Congress and the administration. Their philosophy is simple: enact any provision that will increase government revenue no matter how much it will cost small businesses to comply.

I would also like to point out that my counterpart in the House, Congresswoman JAN MEYERS, ranking member of the House Small Business Committee, together with Committee Chairman JOHN LAFALCE sent a letter

to conferees signed by 70 Representatives stating their opposition to this small business nightmare.

It is our hope the conferees will recede to the Senate language, which stripped the new paperwork provision from the reconciliation bill. If this proposal is enacted, America's small business men and women will be spending time filling out forms for the Government rather than expanding their businesses and creating jobs.

I ask unanimous consent that the letter to the conferees, together with two articles about the Senate's action to strike the SINC provision, be printed in the RECORD immediately following my remarks.

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

U.S. SENATE,
Washington, DC, July 19, 1993.

DEAR CONFEREE: The House-passed version of the Omnibus Budget Reconciliation Act of 1993 included a provision, section 14251, implementing the IRS's "Service Industry Non-Compliance (SINC) Initiative". During its debate on the Budget Reconciliation bill, the Senate unanimously adopted an amendment to delete the SINC provision, by a roll-call vote of 98–0. We strongly urge you not to include SINC in the Conference Report on H.R. 2264.

Section 14251 would require a business taxpayer to file a Form 1099 with the IRS, if more than $600 in services are purchased from a corporate service provider during the tax year. The proponents of the provision assert that "when taxpayers know that the IRS has received information reports on payments made to them, they are more likely to file tax returns and to report their income accurately." The proponents also argue that the SINC Initiative would generate substantial tax revenues.

While there are substantial questions regarding the practical utility of the SINC Initiative or the amount of revenue that would actually be generated, we believe there is no question that the SINC Initiative would bury small businesses in a blizzard of paperwork requirements. Small business owners would be required to establish new and costly recordkeeping systems that would track expenditures for each of the many, many corporations, large and small, from which they are quite likely to obtain services. All that information gathering would be useless, if the $600 threshold was not reached. Once the threshold was reached, SINC would require the small business owner to send the IRS a 1099 report regarding each corporate service provider and to incur the cost of sending a copy of the form to the firm from which the services had been obtained.

This recordkeeping burden is in addition to the burden of obtaining other information needed to complete the IRS Form 1099, such as an accurate and complete mailing address for the corporate service provider and the firm's taxpayer identification number. When dealing with larger, more established firms, this information collection effort would impose an onerous burden, but would be doable. With many other service providers, it might be nearly impossible in practical terms. One only has to think about the substantial challenge often encountered in trying to obtain a simple payment receipt from a Washington taxi driver.

The millions of hours of paperwork burden heaped upon the small business community appears even more unreasonable, when there are very real questions regarding whether the IRS possesses the technical capability to make any effective use of the millions of additional Form 1099s that would be generated. While the IRS claimed that the SINC Initiative would bring in $6.1 billion in additional revenue over five years, the Joint Committee on Taxation believes that $411 million is a more accurate estimate. Given the costs associated with the new paperwork requirements, the Tax Executives Institute said, "there is a strong possibility that the cost to the payer community would exceed the revenues flowing to the Treasury." Without question those economic and management resources which the small business owner will have to divert to the new recordkeeping and reporting requirements, if the SINC Initiative is enacted, will not be available for economic growth and job creation.

While the goal of improving the tax code compliance of corporate service providers is laudable, it appears that the SINC Initiative, although under development by IRS for a number of years, is not ready for enactment. Indeed, if the IRS tried to impose this massive paperwork burden without a statutory mandate, it would not pass muster under the standards imposed by the Paperwork Reduction Act of 1980.

Enclosed is a reprint of an article from the New York Times, which provides an analysis of the issues presented by the SINC Initiative. Some have even suggested that if included the SINC Initiative has the potential to become the "Section 89" of the 1993 Budget Reconciliation Act.

In the pursuit of deficit reduction, we must not succumb to the temptation to heap real and costly recordkeeping and reporting burdens on the small business community for the hollow promise of additional tax revenues through improved compliance.

Sincerely,

Larry Pressler, Dale Bumpers, Christopher S. Bond, Malcolm Wallop, Paul Coverdell, Lauch Faircloth, Conrad Burns, Robert F. Bennett, Dan Coats, Dirk Kempthorne, Sam Nunn, Joseph I. Lieberman, Harris Wofford, Dianne Feinstein, Herb Kohl, Carl Levin, Carol Moseley-Braun, Howell Heflin, Frank H. Murkowski.

PAPERWORK REQUIREMENT WOULD INCREASE BURDEN

(By David Voight)

Senator Larry Pressler (R-S.D.), the top ranking Republican on the Senate Small Business Committee, was an active player in trying to make the tax portion of the budget reconciliation bill less onerous for small business. Of his two major initiatives, he was successful in one and lost the other even though he was able to get majority support for his position (procedural rules required a super majority of 60 votes—his amendment actually got 56).

His successful effort was to strike from the Senate bill a provision called the Service Industry Non-Compliance (SINC) initiative which would have tremendously increased the amount of paperwork required of small business. This initiative would require businesses to file 1099 forms for payments made for services to corporations as well as unincorporated individuals. Businesses owners would have to 1) require taxpayer identification numbers from every corporation they purchase a service from; 2) aggregate all payments for services made to any corporation during the year; and 3) fill out 1099 Forms for any corporation paid more than $600 for services in a year.

The intent of this massive new paperwork requirement is to assist the IRS in increasing revenue by catching cheaters who are not filing or underreporting income. Ironically, however, the IRS already receives over one billion 1099 forms a year. Adding several hundred million more would simply overwhelm the unsophisticated IRS computer system. It would not enhance enforcement. It would become simply another senseless burden for small business.

Even though Pressler was successful in knocking this out of the Senate bill, it remains in the House passed version. This means that it is an item that House and Senate members will have to work out in a conference committee. Final action should come shortly before Congress begins an August work break. Groups will be working to make sure that the Pressler position prevails.

Pressler also teamed up with Sens. Roth (R.-Del.) and Wallop (R.-Wyo.) to attempt to exempt income retained in a small business or family farm from increases in individual tax rates that are contained in the budget bill. The U.S. Chamber pointed out some months ago that the proposed increases in individual rates would be especially hard on small businesses, including Subchapter S corporations.

Under the Roth-Wallop-Pressler proposal small businesses could continue to pay at the old rate for all income retained or reinvested. This would clearly be a tremendous help for expansion, modernization, and job creation by small business. Even though the sponsors of this amendment were able to get 56 votes, budget act rules required 60 votes for approval. The sponsors will now be looking for another way to advance their idea.

SINK THE SINC

Hooray for Senator Pressler! During the Senate debate, the Senator authored an amendment to the budget reconciliation bill that was one of the few amendments adopted by the Senate. His proposal deleted a provision with the innocuous title of the Service Industry Noncompliance (SINC) initiative. We hope the conferees will agree with the Senate action, and drop the provision. The provision would generate only more paperwork for small business. Let us explain.

Currently, businesses that pay $600 or more in a calendar year for services from "any person" (the service provider in IRS jargon) are required to file information returns with the IRS and the service provider (Form 1099–MISC) giving the provider's name, taxpayer identification number (TIN), and amount paid. Under SINC, beginning in 1994, payments to corporations would no longer be exempted from this filing requirement, although the IRS could still exempt certain categories of corporations or payments.

Extending information reporting to corporate service providers would vastly expand the amount of recordkeeping and reporting. It would also magnify some existing problems that have been relatively unimportant until now. To cite a few: Clearer rules would be needed as to what constitutes reportable services, and how to separate the services portion of combined or unidentified payments; Payors and employees who buy services on their behalf, and are now reimbursed through fairly simple expense reports, would have to capture much more information from vendors, including whether the vendor was part of a larger company or was a franchisee using its name; For businesses operating from many locations, either each location would be allowed to issue 1099s (greatly multiplying the number of 1099s) or the

head office would have to aggregate payments from all locations (greatly aggravating the payor's recordkeeping burden). In short, a lot of aggravation and a lot of paperwork.

The IRS is likely to get little or no benefit from SINC for several reasons. First, the IRS does not efficiently use the one billion 1099s it already receives and is not far enough along in modernizing its computers to cope with hundreds of millions to billions more. Second, even if the IRS could consolidate all of the information returns it had received for a service provider, the IRS would not be able to reconcile the 1099s with the company's tax return. For the many corporations on accrual accounting or a non-calendar tax year, calendar year cash receipts have no connection to tax return data. Also, a company's gross receipts include income from sales of goods, services totaling less than $600, and other items not subject to 1099 reporting. Thus, there is little reason to believe that service providers would become more compliant on the basis on 1099s they know are incomplete, inaccurate, and beyond the ability of the IRS to use.

Rather than sinking companies and the IRS under a mass of senseless documents, the IRS should make better use of the information it already receives; should tell Congress and service recipients and providers how it proposes to handle problems like those discussed above before reporting requirements are expanded; should also prove it is capable of handling the data from expanded reporting by conducting limited tests with selected groups of service recipients and providers before making the system universal.

(Our thanks to Kenneth Simonson (American Trucking Associations), Chairman of the SBLC Committee on Taxation, for this article.)

THE FLOOD SITUATION

Mr. GRASSLEY. Madam President, I hold in front of me yesterday's Des Moines Sunday Register. I think it has a picture that tells more about the flood situation and tells a story for those of us from rural America better than anything else that can be said.

Before I make some reference to this, let me say the Des Moines Register has for a long, long period of time been listed as one of the top 10 newspapers in the United States. So we are reading from stories of a staff that has a very, very good reputation.

This picture is of a farmer, a Mr. Richardson from Sidney, IA, which is down in the southwest corner of Iowa where the Missouri River and a smaller river called the East Nishnabotha, was out of its banks and flooding. This farmer is looking out over a field that contained part of his farming operation of 1,500 acres of corn and about 1,000 acres of soybeans. And it is all under water, he said, except for 150 acres of corn and about 40 acres of soybeans. When you are 32 years old, as this young fellow is—and my son has a farming operation, and he is 32 years old and has a young son like this his young boy in the photo who is under 4 years of age. So that is the present generation of farmers, although the average age of farmers in my State is really 58 years of age. So this 32-year-old farmer is a very young farmer. But this is the future generation of farmers. From this disaster that they are looking at, not only a year's work has kind of gone down the drain, but it could be the future of this family and a lot of other families, as well.

I thought it would be helpful to us, as we are getting ready to debate—I think tomorrow—the disaster bill, just what the situation here is for some of these farmers. As they look to the damage that is done as a result of the flood, they must consider that there is probably greater damage on the horizon out there. As the subheadline says: "Crops are Puny, Behind Schedule." They are about 1 month behind schedule, which means that if we have a frost before the middle of October, even the crops that are growing today will not produce much grain; and what grain will be produced will be very poor quality.

Another subheadline says: "Farmers Unease is Watered by Floods and Fed by Fears of More Weather Problems." That weather problem tends to be more a fear of a potential frost.

Quoting:

During the dawn hours of July 23, Uwe Richardson and his family fled their farm in the rich bottomlands along the Missouri River, taking grain, equipment, furniture—anything they could haul away.

Now, as Richardson waits for the flooded rivers to recede, he's not so sure he even wants to return to see what remains of the crops that he tended.

"Most of it's totally gone," Richardson, 32, said last week as he tried to find chores to keep himself occupied at his temporary home , the farm of Darrel McAlexander.

"There's maybe 150 acres of corn left of 1,500 we planted, and you can't really see how good it's going to be. And the beans—there's probably 40 acres left of a thousand."

While Richardson's plight is extreme, it is hardly unique. Across the State, anxiety is growing as farmers realize the extent of the devastation wrought in every county by months of unending rain. It's not just the farmers with land under water who are in trouble; many others had to plant late, and their crops are puny, thin and weeks behind schedule.

And if crop yields are cut as much as some predict, the economic impact on Main Street could be significant.

Quoting Alan Tubbs, a banker and former chairman of the American Bankers Association, who says:

"I think it's too soon to predict the aggregate consequences, but it's clear the Iowa economy is not going to be the same in the future as it would have been."

Des Moines Register reporters fanned out across rural Iowa last week, talking with dozens of farmers, elevator operators, implement dealers, merchants bankers, and others connected with farm communities. Most Iowans said the outlook is bleak for as much as one-third of this year's crop, unless the weather is near perfect between now and the first frost.

"We need to get through October, and that's a real tall order," said Galen Zeman, branch manager of the Co-op Grain and Products Company in Armstrong in northwest Iowa.

Last week's crop report, issued by Iowa Agricultural Statistics, showed 30 percent of the State's corn fields in poor or very poor condition and 51 percent in fair shape. Only 15 percent of the corn was showing tassels—nearly 70 percentage points behind the normal 83 percent.

State officials have estimated Iowa's crops have suffered nearly $1 billion in damage so far this year, with the clock ticking as summer wanes and the first frost approaches.

Steve Smith, a farmer and pork producer from Ionia, said it takes 60 days for tasselling until corn is mature. "If we get a frost during the first or second week of September, like we have the past couple of years around here, there won't be much to combine," Smith said.

From the fence row, some corn and soybeans look deceivingly healthy.

"The taller corn is hiding a lot of short corn that won't make anything," said Duane Moon, 63, a dairy farmer from Luana and Clayton County in northeast Iowa. "Even on the places where the field is tiled, the tile won't take the water. You've got 10 acres out of every 40 acres that's too wet."

From a plane, the picture is clearer. Robert Boeding, a northeast Iowa farmer-flier from Lawler in Chickasaw County, flew over much of Iowa on July 15, plotting the huge holes he saw in the middle of the corn fields across the State.

Where the crops were not growing, he has an assessment he gives.

I could read on and on, but I am not going to do so. I ask my colleagues if they want a really up-to-date analysis of what the situation is in one of the nine States that have been affected negatively by the flood, I wish they would look at the Des Moines Sunday Register for yesterday, August 1, 1993, and there are several pages in the front section that I could read or insert in the RECORD. I do not think I should spend the taxpayers' money to do that when it can be read directly from the paper.

But the point is, as we discuss the disaster aid bill that will be up, we are not only talking, as I referred here, about what happened to agriculture, the massive amount of loss in that area. We must also remember small businesses and thousands of people who have had their homes inundated with water, and what has to go into cleaning up and repairing those homes, what has to go into helping small businesses get started again. A lot of public infrastructure that has been damaged will have to be repaired. This all adds into the billions of dollars for the over 9- or 10-State area that has been affected. Right now, we are seeing, day after day, the situation in Missouri and southern Illinois, much like it was in Iowa prior to a week ago.

So I commend this latest information, which I think is a very good analysis of the situation, so that if any Members of this body have any doubts about the legitimacy of it, they will have an opportunity to read what the situation is.

I yield the floor.

Mr. BIDEN. Madam President, I ask unanimous consent to continue as in morning business.

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

Mr. BIDEN. Madam President, I thank the Senator from Iowa for calling to our attention the detail he has. The human side of this tragedy going on in the Midwest is the response of the American people from the east coast and the west coast, from the south and the north, who are not part of the Midwest dilemma. That is really what this country is all about.

I hope when we debate the disaster relief legislation tomorrow or the next day, whenever it is going to be, that we all keep in mind that one of the purposes of this country and the way we have always operated is to come to the aid of other people in the country who are in trouble. That is not limited just to natural disasters as a consequence of rain and flooding.

In my own State of Delaware right now, the Governor has asked that our counties be declared disaster areas because, irony of all ironies, while the Midwest is literally drowning and the Midwest farmers are in trouble, on the east coast, in Delaware—the largest industry in my State is agriculture, small as my State is, it is the largest industry—we have had this gosh awful heat wave that we had several weeks ago and a drought. As a consequence, the corn is not tasseled, the beans in the field are dying, and we are likely to have a terrible year.

I think that one of the good things—my mother, God bless her, always said out of something bad always comes something good—one of the good things that maybe comes out of this is that we remind ourselves as Americans we really are in this thing together.

I remember on the floor debating my distinguished former colleague from the State of Colorado, Senator Armstrong, not too many years ago about funding for a particular program that had to do with what would help primarily municipalities and large municipalities, funding for the mass transportation. The then President of the United States had said something to the effect—and I am paraphrasing—why should the woman from Albuquerque pay to subsidize a commuter in the city of Philadelphia going to work, and the debate related to that issue on Amtrak with my friend from Colorado.

I pointed out to him that until I became an adult I never had the opportunity to fly across this great country. I never will forget the first time I flew across the country. Flying over his State of Colorado, I noticed these great concentric circles in the ground and I did not know what they were. They looked arid. They looked like a plateau desert area, mountain desert, except for these great concentric circles. I later learned from the steward on the airplane that they were great irrigation facilities, allowing the farmers in Colorado to farm.

It is because the woman in Philadelphia—going to work at 6:30 in the morning, getting on that mass transit, part of which is subsidized—is paying her tax dollars to dam the Colorado River and other rivers, allowing the multibillion dollar projects to provide water for that woman in Albuquerque, NM, or in Boulder, CO, or any other part of the State of Colorado to be able to not only irrigate their fields but literally be able to drink any water.

I tried to remind my colleague that I thought one of the purposes of this more perfect Union we sought to form a couple hundred years ago is to rely on the strengths of the other States to compensate for the temporary weaknesses of a particular State, whether it was a consequence of a natural disaster, or a consequence of other disasters.

I recall when the Mariel boat lift came to Florida, Senator Chiles—now Governor Chiles—stood on the floor and asked for help, and this body stood up and said, no, this is a Florida problem.

I do not know how it was a Florida problem when an entire flotilla left one country and landed on the nearest point of debarkation they could, which happened to be the State of Florida. Why that was not a national problem and was specifically a Florida problem?

So, as we debate this disaster relief, the overwhelming impetus we should have is to deal with this awful crisis that is facing homeowners, businesspersons, and farmers in that 10-State area in the Midwest that has been met with this 500-year phenomenon, that is so rare it only occurs once every 500 years. That is what I am told. That is our major focus.

While doing that, we should keep in mind there are other natural disasters that are inflicted upon States as a consequence of their locale, as a consequence of their geography, and consequence of many things beyond their control that make them American problems, not just Iowa problems or Delaware problems or Illinois problems.

I know that the officer presiding in the chair has been as adamant and as emotional and intellectually committed as the Senator from Iowa if something happened in the southern part of her State in particular, as a consequence of this weather.

I will cease now, but will suggest only to my colleagues, that as we look at these natural disasters. There are many natural disasters that are not a consequence of mother nature, that hit this Nation and hit regions of the country that put them at serious disadvantage, and although we may not be passing natural disaster relief legislation in terms of dollars to help those areas of the country, there are programmatic initiatives and things which we should and must do to make sure that every American is given a shot.

Each of the regions of the country has a different strength and concomitant weakness, and the strength of this Nation has always been those parts of the country that are strongest in a certain area have compensated for those parts of the country that are weakest. Each of us, as I said, have our strengths and our weaknesses.

I would hope that next time we have a debate and, hopefully, we would not—I recall in the seventies the debate on bailing out New York City and hearing here on the floor of the U.S. Senate—that is how long I have been here—my colleagues, Democratic and Republican, who were not east coast or west coast Senators, ganging up and talking about how that is New York City's problem; that is New York City's problem.

The fact that most of the immigrants that come into the country land in New York City and do not leave, the fact that people flock to New York City that are well beyond the control of New York City, not New Yorkers, somehow that was viewed as only a New York problem and not a national problem.

We got the aid through, and New York City righted itself.

But whether it is a city struck by natural disaster or whether it is a rural community, the strength of this Nation has always been those who have at the time, give to those who do not have. And we should do it. We must meet whatever need is required to be met in the Midwest now. But when this is over, I hope we do not forget that it is not just the farmers of America; it is blacks and Hispanics in inner cities; it is people trapped in the deluge of despair as people who are, as a consequence of a hurricane or as a consequence of a Mariel boat lift or a consequence of a drought.

I plan on doing all I can to help my colleagues in the Midwest, see to it their constituents are given a fighting chance. And I hope we remember that when we come to other natural disasters that, in fact, are inflicted upon parts of this country that may not be inflicted by mother nature but may be inflicted as a consequence of other much more complicated factors.

So I thank the Chair.

THE PASSING OF CONGRESSMAN PAUL HENRY

Mr. HATFIELD. Madam President, I rise with a sense of deep sorrow to pay tribute to my friend and colleague, Congressman PAUL HENRY of Michigan, who passed away Saturday. Congressman HENRY had waged a valiant struggle against brain cancer since being diagnosed with that deadly condition

over 8 month ago. I know I share the feelings of the many Members of this body who knew PAUL HENRY in expressing my regret and in wishing his family and staff my heartfelt sympathy for their loss.

PAUL HENRY was a devoted husband and father. Anyone who worked with him knew of his tremendous love for his wife, Karen, and his three children, Kara, Jordan, and Megan. Nothing was more important to him than his family. This he certainly absorbed from his mother, Helga, and his father Prof. Carl F.H. Henry—a world renown and respected evangelical leader and editor of Christianity Today and the author of a number of books on theology. Their son was so talented and accomplished and they must have been so proud of everything he did. Our thoughts and prayer go to the entire Henry family.

PAUL HENRY viewed his life as a walk with Christ, and this healthy view of life drew people to him for fellowship and leadership. He integrated his well-defined faith in—and commitment to—Christ with understanding and compassion. Throughout his lifetime, he demonstrated a sense of personal balance, confidence, and humor that is the hallmark of truly great public servants.

In 1976, I traveled to Grand Rapids, MI, to speak to a group of students and faculty at Calvin College. While there I saw Prof. PAUL HENRY, a very thoughtful and energetic young professor. Professor HENRY was one of the more popular professors at the college, largely due to his innate ability to evoke from his students constructive and thoughtful dialog on almost any issue or topic—controversial or not. He sought to bring people together and often did. This is a rare gift, and PAUL HENRY shared it with so many others throughout his lifetime. After serving the State of Michigan for over a decade as a member of the State board of education and as a State Legislator, PAUL HENRY was elected to Congress in 1984, filling the seat once held by President Gerald Ford. He served with distinction as a member of the House Committee on Education and Labor, the Committee on Science, Space, and Technology, and the Select Committee on Aging.

Congressman HENRY and I shared a common interest on a number of issues. As former educators, we shared a lifelong commitment to education, including an increased emphasis on math and science education. We worked most closely together on a recycling measure known as the bottle bill, which we introduced for a number of years as companion measures in Congress. On this issue, there was no more effective advocate than PAUL HENRY. This was again vividly demonstrated to me and many others last September when Congressman HENRY graciously agreed to testify before the Energy and Natural Resources Committee's hearing on the bottle bill. His eloquence and intellect greatly focused and advanced discussion on the issue and his absence will leave an immense void for this and so many other issues.

Again, I join many others in expressing my grief at the passing of a friend and colleague, PAUL HENRY. For the Henry family, members of this committed staff, the citizens of Michigan, and those who served with him in Congress, the passing PAUL HENRY is a chance to celebrate the life and accomplishments of a devoted family man, deeply committed public servant, and an inspirational man of God, I know few I more deeply admired in my 43 years of public office than my colleague and brother PAUL HENRY. He will be missed.

I yield the floor.

AUTHORITY FOR COMMITTEES TO FILE

Mr. BIDEN. Mr. President, I ask unanimous consent that, during the recess or adjournment of the Senate, the Senate committees may file committee reported Legislative and Executive Calendar business on Tuesday, August 24, 1993, from 11 a.m. to 3 p.m.

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

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 102-521, appoints the following individuals to the Commission on Child and Family Welfare: Mary Cathcart of Maine; Kathryn Monaghan Ainsworth of Maine; Marna S. Tucker of Maryland; and Nancy Duff Campbell of the District of Columbia.

APPOINTMENT OF THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to Public Law 102-325, the appointment of the following individuals to the National Commission on Independent Higher Education: John V. Hartung of Iowa, and Dorothy Moore of Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBB. 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 PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of February 16, 1993, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. member states temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers

after the imposition of U.N. sanctions on Iraq. These funds finance Iraq's obligations for U.N. activities with respect to Iraq, including expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. The funds placed in the escrow account are to be returned, with interest, to the member states that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the United Nations Security Council. No member state is required to fund more than half of the total contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive Orders"). The report covers events from February 2, 1993, through August 1, 1993.

1. There have been no amendments to the Iraqi Sanctions Regulations during the reporting period.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On May 18, 1993, following the payment of $1,492,537.30 by the Government of the United Kingdom to a special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $1,492,537.30 from the blocked account it holds to the United Nations-controlled account. Future transfers from the blocked Federal Reserve Bank of New York account will be made on a matching basis up to the $200 million for which the United States is potentially obligated pursuant to United Nations Security Council Resolution 778.

5. Since the last report, there have been developments in two cases filed against the Government of Iraq. Another ruling was issued in *Consarc Corporation* v. *Iraqi Ministry of Industry and Minerals et al.*, No. 90-2269 (D.D.C., March 9, 1993), which arose out of a contract for the sale of furnaces by plaintiff to the Iraqi Ministry of Industry and Minerals, an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit with an Iraqi bank in favor of Consarc, which was advised by Pittsburgh National Bank, with the Bank of New York entering into a confirmed reimbursement agreement with the advising bank. Funds were set aside at the Bank of New York, in an account of the Iraqi bank, for reimbursement of the Bank of New York if Pittsburgh National Bank made a payment to Consarc on the letter of credit and sought reimbursement from the Bank of New York. Consarc received a down payment from the Iraqi Ministry of Industry and Minerals and substantially manufactured the furnaces. No goods were shipped prior to imposition of sanctions on August 2, 1990, and the United States asserted that the funds on deposit in the Iraqi bank account at the Bank of New York, as well as the furnaces manufactured for the Iraqi government or the process of any sale of those furnaces to third parties, were blocked. The district court ruled on December 29, 1992, that the furnaces or their sales proceeds were properly blocked pursuant to the declaration of the national emergency and blocking of Iraqi government property interests. However, according to the court, due to fraud on the part of the Ministry of Industry and Minerals in concluding the sales contract, the funds on deposit in an Iraqi bank account at the Bank of New York were not the property of the Government of Iraq. The court ordered the Office of Foreign Assets Control to unblock these funds, and required Consarc to block the proceeds from the sale of one furnace and to hold the remaining furnace as blocked property. On January 27, 1993, the Office of Foreign Assets Control complied with the court's order and licensed the unblocking of $6.4 million plus interest to Consarc. On March 9, 1993, the court affirmed its ruling in response to Consarc's motion to clarify the December 29 order and the Office of Foreign Assets Control's motion to correct the judgment to conform to the December 29 opinion. The Office of Foreign Assets Control and Consarc have each appealed the district court's ruling.

In *Brewer* v. *The Socialist People's Republic of Iraq*, No. 91-5325 (D.C. Cir., 1993) the United States Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling denying appellant's motion to attach U.S.-located assets of the Government of Iraq and its state tourism organization. Following the holding of *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981), the court upheld the power of the President to freeze foreign assets and prevent their attachment by private litigants in times of national emergency.

6. The Office of Foreign Assets Control has issued a total of 391 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 54 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, for legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes.

7. The expenses incurred by the Federal Government in the 6-month period from February 2, 1993, through August 1, 1993, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at about $2.5 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

8. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions, including those calling for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, and the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Discussions on implementing these resolutions resumed at the United Nations on July 7, 1993.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. Because of Iraq's failure to comply fully with United Nations Security Council resolutions, the United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1993.*

MESSAGES FROM THE HOUSE

At 3:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 33. A concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2010. An act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes;

H.R. 2150. An act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes; and

H.R. 2200. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes.

The message further announced that the House has agreed to the amendments of the Senate to the bill (H.R. 798) to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992.

The message further announced that the House has agreed to the following resolution:

H. Res. 232. A resolution relative to the death of the Honorable Paul B. Henry, a Representative from the State of Michigan.

At 6 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 bill, without amendment.

S. 1295. An act to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the act, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DURBIN, Mr. WHITTEN, Ms. KAPTUR, Mr. THORTON, Ms. DELAURO, Mr. PETERSON of Florida, Mr. PASTOR, Mr. SMITH of Iowa, Mr. NATCHER, Mr. SKEEN, Mr. MYERS of Indiana, Mrs. VUCANOVICH, Mr. WALSH, and Mr. MCDADE as managers of the conference on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2150. An act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2200. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first time and placed on the Calendar:

H.R. 2010. An act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such services, 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–1313. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to violations of the Antideficiency Act; to the Committee on Appropriations.

EC–1314. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on a soil conservation service plan for the Doyle Creek Watershed of Kansas; to the Committee on Environment and Public Works.

EC–1315. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on a soil conservation service plan for the McCoy Wash Watershed of California; to the Committee on Environment and Public Works.

EC–1316. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to the proposed allocation of funds for the Republic of Belarus; to the Committee on Armed Services.

EC–1317. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, identification of a funding source for aid the Russian Federation; to the Committee on Armed Services.

EC–1318. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a draft of proposed legislation to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

EC–1319. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report relative to shrimp harvesting in Honduras; to the Committee on Commerce, Science and Transportation.

EC–1320. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to foreign shipbuilding subsidies; to the Committee on Commerce, Science and Transportation.

EC–1321. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to modifications of the Cold Springs Dam; to the Committee on Energy and Natural Resources.

EC–1322. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the gas and oil reources on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC–1323. A communication from the Chairman of the International Trade Commission, tranmitting, pursuant to law, a report relative to the operation of the United States Trade Agreements Program; to the Committee on Finance.

EC–1324. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–59 adopted by the Council on July 20, 1993; to the Committee on Governmental Affairs.

EC-1325. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-60 adopted by the Council on July 21, 1993; to the Committee on Governmental Affairs.

EC-1326. A communication from the Vice President of the Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report and audited financial statement for the Bank's pension plan for the year ended December 31, 1992; to the Committee on Governmental Affairs.

EC-1327. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Coast Guard's retirement system; to the Committee on Governmental Affairs.

EC-1328. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on maltreatment of children in alcohol abusing families; to the Committee on Labor and Human Resources.

EC-1329. A communication from the Acting Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Securities Investor Protection Corporation; to the Committee on Banking, Housing and Urban Affairs.

EC-1330. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the uniformity of transit half-fare policies; to the Committee on Commerce, Science and Transportation.

EC-1331. A communication from the Deputy Associate Director for Compliance of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1332. A communication from the Acting Assistant Secretary for Fossil Energy, Department of Energy, transmitting, pursuant to law, the environmental report of the Strategic Petroleum Reserve for calendar year 1992; to the Committee on Energy and Natural Resources.

EC-1333. A communication from the Acting Energy Information Administrator, Department of Energy, transmitting, pursuant to law, the annual energy review of the Energy Information Administration for calendar year 1992; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-228. A concurrent resolution adopted by the Legislature of the State of Hawaii to the Committee on Indian Affairs.

"HOUSE CONCURRENT RESOLUTION 213

"Whereas, the nation of Hawaii became a kingdom, later unified by Kamehameha I in 1810 which was recognized and duly respected by other nations and kingdoms of the world; and

"Whereas, in 1887, King Kalakaua was coerced under threat of military force to sign the so called "Bayonet Constitution" that made him a ceremonial figurehead; and

"Whereas, on January 17, 1893, the United States government through its military forces, under the authority of U.S. Minister John L. Stevens, aided in the overthrow of the constitutional Hawaiian government headed by Queen Liliuokalani, and helped to establish a Provisional Government, which took full possession of all government functions and buildings of the Hawaiian Islands; and

"Whereas, on December 18, 1893, President Grover Cleveland submitted to the Congress of the United States a full report that condemned the role of the American minister and the U.S. Marines in the overthrow of the Hawaiian monarchy and called for the restoration of the Hawaiian monarchy; and

"Whereas, in 1895, Queen Liliuokalani was arrested by the Republic of Hawaii, tried and found guilty of misprision of treason, was sentenced to five years at hard labor, fined $5,000, held prisoner at Iolani Palace for eight months, later held under house arrest at Washington Place for five months, and restricted to the island of Oahu for another eight months; and

"Whereas, in 1898, Congress ignored President Cleveland's previous request and annexed the Hawaiian Islands through the "Newlands Resolution", which was legally questioned as to whether the U.S. Congress had the authority to admit territory into the union by joint resolution, for it is not specified that Congress had the power to acquire territory through any means other than conquest or treaty; and

"Whereas, the actions taken by the United States in the illegal invasion of 1893 are the basis for legal claims for the restoration of human, civil, property, and sovereign rights of Hawaii's indigenous people; and

"Whereas, the seriousness and implications of the unlawful overthrow has yet to be adequately addressed and remedied for over a century of human interaction in Hawaii; and

"Whereas, the year 1993 holds special significance for Hawaii for it marks the one hundred year anniversary of the illegal overthrow of the independent nation of Hawaii with the participation of the United States military and diplomatic representatives; and

"Whereas, such loss of independence and self-determination of the indigenous Hawaiian people remains an important cultural and political factor today; and

"Whereas, there is increasing discussion and debate in Hawaii and in the Congress of the United States of the adverse consequences of such overt acts of military aggression against a peaceful, independent nation, and to the citizens and descendants of that nation today; and

"Whereas, the even broader issue of equality for all people, irrespective of race, to exercise the right of self-determination in their homelands should be recognized; and

"Whereas, the full range of consideration of Hawaii's peoples' rights and freedoms must be completely explored in order to bring about harmony within Hawaii's society: Now, therefore, be it

"*Resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring*, That the Legislature declares that 1993 should serve Hawaii, our nation, and the world as a year of special reflection on the rights and dignities of the indigenous people of Hawaii; and be it further

"*Resolved*, That the Legislature recommits and reaffirms its efforts and support of indigenous Hawaiian's in their struggles to address the federal government's illegal and immoral wrongdoings committed against them; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Vice President of the United States, the Secretary of the Interior, the Speaker of the United States House of Representatives, Hawaii's Congressional Delegation, and the Governor of the State of Hawaii."

POM-231. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Labor and Human Resources.

"ASSEMBLY RESOLUTION NO. 134

"Whereas, Few industries have been as committed to community as the pharmaceutical companies of New Jersey; and

"Whereas, There are many examples of ways in which pharmaceutical companies have responded to the needs of the State; and

"Whereas, Hoffmann-LaRoche, Inc. has devised a concept to teach geometry through art and is bringing the method to teachers across the State; and

"Whereas, Johnson & Johnson has remained in New Brunswick in order to contribute to the vitality of an inner city; and

"Whereas, Warner-Lambert Company has adopted a low income neighborhood school and raised the educational attainments and hopes of the students at that school; and

"Whereas, Bristol-Myers Squibb Company has helped to feed the hungry and the homeless in motels in the U.S. Route 1 corridor; and

"Whereas, Schering-Plough Corporation has viewed culture and the arts as venues to unite communities and enrich the quality of life of neighborhood residents; and

"Whereas, CIBA-GEIGY Corporation has consistently run the largest Boy Scout food drive in the country; and

"Whereas, Sandoz Corporation has sponsored educational programs to help children better understand the aging process in senior citizens; and

"Whereas, Becton Dickinson & Company and Hoechst Celanese Corporation have targeted efforts to improve the lives of people suffering from diabetes; and

"Whereas, Merck & Company, Inc. has provided immunizations to children, supplied an inner-city medical van to bring medical help to underprivileged children and contributed to the building of a performing arts center in Newark; and

"Whereas, All of these examples are testimony to the fact that the pharmaceutical industry has been distinguished in its efforts to make New Jersey a better place in which to live and work: Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. The Legislature of the State of New Jersey memorializes the Congress of the United States to take into consideration the valuable contributions made by the pharmaceutical industry in the State in the field of corporate philanthropy when it deliberates health care reform and considers cost containment measures and possible price controls on pharmaceuticals.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk of the General Assembly, shall be transmitted to the presiding officers of the United States Senate and the House of Representatives, and to each member of Congress elected from this State."

POM-232. A joint resolution adopted by the General Assembly of the State of Illinois; to the Committee on Labor and Human Resources.

"HOUSE JOINT RESOLUTION NO. 6

"Whereas, more than 150 drugs which may be of benefit to women are currently being

investigated by the U.S. Food and Drug Administration, and many have been under investigation for as long as ten years; and

"Whereas, we recognize the need for thorough testing, but believe that unnecessary delays and the low priority often given to women's health care problems have resulted in much suffering that could be avoided by expediting the approval process: Therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Eighth General Assembly of the State of Illinois, the Senate concurring herein,* That we urge the U.S. Food and Drug Administration to expedite the approval of drugs that address women's health problems; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be presented to the Illinois Congressional Delegation and the U.S. Food and Drug Administration."

POM-233. A resolution adopted by the American Bar Association, relative to the Soldiers' and Sailors' Civil Relief Act; to the Committee on Veterans' Affairs.

POM-234. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 27

"Whereas, the State of Nevada has a strong moral claim upon the public land retained by the Federal Government within Nevada's borders; and

"Whereas, on October 31, 1864, the Territory of Nevada was admitted to statehood on the condition that it forever disclaim all right and title to unappropriated public land within its boundaries; and

"Whereas, Nevada received the least amount of land, 2,572,478 acres, and the smallest percentage of its total area, 3.9 percent, of the land grant states in the Far West admitted after 1864, while states of comparable location and soil, including Arizona, New Mexico and Utah, received approximately 11 percent of their total area in federal land grants; and

"Whereas, the State of Texas, when admitted to the Union in 1845, retained ownership of all unappropriated land within its borders; and

"Whereas, the federal holdings in the State of Nevada constitute 86.7 percent of the area of the state, and in Esmeralda, Lincoln, Mineral, Nye and White Pine counties the Federal Government controls from 97 to 99 percent of the land; and

"Whereas, the Federal jurisdiction over the public domain is shared among several federal agencies or departments which causes problems concerning the proper management of the land and disrupts the normal relationship between a state, its residents and its property; and

"Whereas, the intent of the framers of the Constitution of the United States was to guarantee to each of the states sovereignty over all matters within its boundaries except for those powers specifically granted to the United States as agent of the states; and

"Whereas, the exercise of dominion and control of the public lands within the State of Nevada by the United States works a severe, continuous and debilitating hardship upon the people of the State of Nevada; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the ordinance of the constitution of the State of Nevada be amended to read as follows:

"In obedience to the requirements of an act of the Congress of the United States, approved March twenty-first, A.D. eighteen hundred and sixty-four, to enable the people of Nevada to form a constitution and state government, this convention, elected and convened in obedience to said enabling act, do ordain as follows, and this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Nevada:

"First. That there shall be in this state neither slavery nor involuntary servitude, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted.

"Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said shall ever be molested, in person or property, on account of his or her mode of religious worship.

"Third. That the people inhabiting said territory do agree and declare, that [they forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that] lands belonging to citizens of the United States, residing without the said state, shall never be taxed higher than the land belonging to the residents thereof; and that no taxes shall be imposed by said state on lands or property therein belonging to, or which may hereafter be purchased by, the United States, unless otherwise provided by the Congress of the United States. And be it further

Resolved, That the Legislature of the State of Nevada hereby urges the Congress of the United States to consent to the amendment of the ordinance of the Nevada constitution to remove the disclaimer concerning the right of the Federal Government to sole and entire disposition of the unappropriated public lands in Nevada; and be it further

Resolved, That, upon approval and ratification of the amendment proposed by this resolution by the people of the State of Nevada, copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval, except that, notwithstanding any other provision of law, the proposed amendment to the ordinance of the constitution of the State of Nevada, if approved and ratified by the people of the State of Nevada, does not become effective until the Congress of the United States consents to the amendment or upon a legal determination that such consent is not necessary."

POM-235. A resolution adopted by the House of the Northern Marianas Commonwealth Legislature; to the Committee on Energy and Natural Resources.

"H.R. NO. 8-103

"Whereas, our self government has evolved through formative years under the administration of the United States Navy, the Trust Territory Government and the Congress of Micronesia; and

"Remembering that the aspirations of the people of the Northern Marianas for an affirmative political status led us toward a closer political association with the United States; and

"Evidenced on March 13, 1971 when President Richard M. Nixon appointed Ambassador Franklin Haydn Williams, the President of the Asia Foundation, as his personal representative for political status negotiations with the Marianas Political Status Commission; and

"Diligently laboring through five rounds of negotiations between 1972 and 1975, Ambassador F. Haydn Williams worked arduously as Chairman of the United States' delegation with the Marianas Political Status Commission to accordantly create the document that would ultimately embody the political desires of the people of the Northern Mariana Islands; and

"Whereas, their cooperative efforts came to fruition in the signing of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America on February 15, 1975; and

"Subsequently the people of the Northern Marianas gave their express endorsement of the Covenant by the unanimous approval of the Mariana District Legislature and the overwhelming approval by the public of the plebiscite of June 17, 1975;

"Resulting in Presidential approval by Gerald Ford of the Covenant on March 24, 1976 which effectuated the achievement of Ambassador F. Haydn Williams and the Marianas Political Status Commission into U.S. Public Law 94-241: 90 Stat. 263; and

"Whereas, Ambassador F. Haydn Williams has since continued to support the political endeavors of the Commonwealth through consultations as recently evidenced by his visit to our islands, during which he presented his valuable knowledge and approving opinion to the House Committee on Federal and Foreign Relations on the establishment of a Delegate from the Northern Mariana Islands to the United States Congress: Now, therefore, be it

"*Resolved, by the House of Representatives, Eight Northern Marianas Commonwealth Legislature,* That the House expresses its heartfelt appreciation to Ambassador Franklin Haydn Williams for his dedication and assistance to the people of the Northern Mariana Islands in the realization of their political destiny: and be it further

"*Resolved,* The the Speaker of the House shall certify and the House Clerk shall attest to the adoption of this resolution and thereafter transmit copies to: The Honorable Bill Clinton, President of the United States; Ambassador Franklin Haydn Williams; the Honorable Lorenzo I. De Leon Guerrero, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Thomas Foley, Speaker of the U.S. House of Representatives; the Honorable Richard Gephardt, Majority Leader of the U.S. House of Representatives; the Honorable Robert H. Michel, Minority Leader of the U.S. House of Representatives; the Honorable George Miller, U.S. House of Representatives; the Honorable Don Young, U.S. House of Representatives; the Honorable Ron De Lugo, U.S. House of Representatives; the Honorable Elton Gallegly, U.S. House of Representatives; the Honorable Eni F.H. Faleomavaega, U.S. House of Representatives; the Honorable Eleanor Holmes Horton, U.S. House of Representatives; the Honorable Carlos Romero-Barcelo, U.S. House of Representatives; the Honorable Robert Underwood, U.S. House of Representatives; the Honorable Al Gore, Vice President of the United States and President of the U.S. Senate; the Honorable George Mitchell, Majority Leader of the U.S. Senate; the Honorable Robert Dole, Minority Leader of the U.S. Senate; the Honorable J. Bennet Johnston, U.S. Senate; the Honorable Malcolm Wallop, U.S. Senate; the Honorable Bruce Babbitt, Secretary of the

U.S. Department of the Interior; and the Honorable Leslie M. Turner, Assistant Secretary Designee for Territorial and International Affairs."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1337. An original bill to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 1338. An original bill to authorize appropriations for fiscal year 1994 for military construction, and for other purposes.

S. 1339. An original bill to authorize appropriations for fiscal year 1994 for defense activities of the Department of Energy, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. PELL, from the Committee on Foreign Relations: Treaty Doc. 102-37, Treaty on Open Skies, (Exec. Report 103-5).

RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION SUBMITTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on Open Skies signed at Helsinki on March 24, 1992, including annexes on Quotas and maximum Flight Distances; Information on Sensors, with an Appendix on Annotation of Data Collected During an Observation Flight; Information on Observation Aircraft; Certification of Observation Aircraft and Sensors, with an Appendix on Methodologies for the Verification of the Performance of Sensors Installed on an Observation Aircraft; Procedures for Arrivals and Departures, with an appendix on Designation of Sites; Pre-Flight Inspections and Demonstration Flights; Flight Monitors, Flight Representatives, and Representatives; Co-ordination of Planned Observation Flights; Information on Airspace and Flights in Hazardous Airspace; Montreux Convention; Information on Film Processors, Duplicators and Photographic Films, and Procedures for Monitoring the Processing of Photographic Film; and Open Skies Consultative Commission (all transmitted within Treaty Doc. 102-37); all such documents being integral parts of and collectively referred to as the "Open Skies Treaty", subject to the following:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the Open Skies Treaty is subject to the following conditions, which shall be binding upon the President:

(1) CHANGES TO SENSORS.—In the event that a State Party or States Parties seek to obtain agreement, within the framework of the Open Skies Consultative Commission in accordance with Article IV, paragraph 3, and Article X, paragraph 5, of the Open Skies Treaty, to the introduction of additional categories of sensors, or to additions to the capabilities of existing sensors provided for pursuant to the Treaty, as an improvement to the viability and effectiveness of the Treaty not requiring an amendment to the Treaty, and the United States intends to agree to such proposed improvement, the President—

(A) shall provide prompt notification to the President of the Senate of each such proposed improvement, to include an analysis of the legal, cost, and national security implications of such proposed improvement; and

(B) shall not provide United States agreement to each such proposed improvement, or otherwise permit adoption of each such proposed improvement by consensus within the framework of the Open Skies Consultative Commission, until at least 30 days have elapsed from the date of notification to the Senate of the intention of the President to agree to such proposed improvement.

(2) NUMBER OF UNITED STATES OBSERVATION AIRCRAFT.—The Senate finds that United States interests may not require the utilization of the full quota of allowed observation flights or the procurement of more than one or two observation aircraft. Accordingly, within 60 days following completion of the first year after entry into force of the Open Skies Treaty, the President shall submit to the Senate a report setting forth:

(A) an analysis of the first year of operation of the Treaty, highlighting any ambiguities, differences, or problems that arose in the course of implementation, as well as any benefits that have accrued to the United States by its participation in the Open Skies regime;

(B) a determination of the estimated number of observation flights to be conducted annually by the United States for the duration of the Treaty; and

(C) an assessment of the number of United States observation aircraft required to carry out the observation flights described in subparagraph (B) above, taking into consideration the potential utilization of non-United States aircraft.

(b) DECLARATION.—The Senate's advice and consent to ratification of the Open Skies Treaty is subject to the following declaration, which expresses the intent of the Senate:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988.

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. NUNN:

S. 1337. An original bill to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 1338. An original bill to authorize appropriations for fiscal year 1994 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 1339. An original bill to authorize appropriations for fiscal year 1994 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. BINGAMAN:

S. 1340. A bill to establish a National Community Garden Grant Program to promote the prevention and elimination of urban blight and to meet community developmental needs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG:

S.J. Res. 118. A joint resolution to designate the week of October 17, 1993, through October 23, 1993, as "National Radon Action Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1340. A bill to establish a National Community Garden Grant Program to promote the prevention and elimination of urban blight and to meet community developmental needs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL COMMUNITY GARDEN GRANT PROGRAM ACT OF 1993

Mr. BINGAMAN. Mr. President, I rise today to offer legislation to help community gardening projects. Community gardens programs have proven important tools in bringing together diverse groups of people. They contribute to the rejuvenation of our inner cities, the knowledge of our students, and, in some cases, the nutrition of our citizens.

Unfortunately, the Federal Government is not doing all that is possible to help these important projects. For years we have had an urban gardening program under the auspices of the cooperative extension service in the Department of Agriculture. Although this program has provided support for urban garden projects, we do not have adequate data on garden projects receiving Federal funding from other sources, including block grant programs. We also do not seem to have a systematic method of allowing community gardens access to surplus Federal property.

My legislation addresses each of these issues. It would establish a Community Garden Grant Program, authorized to grant 100 community gardening projects up to $20,000, with a 75-percent non-Federal match. It also directs the Secretary of Agriculture to collect data on other Federal support of community gardening efforts. Finally, it makes clear that community gardens are suitable recipients of surplus Federal property. It is my hope that this modest proposal to solidify Federal support for community gardens will help improve communities across the Nation.

I ask unanimous consent that the full text of the National Community Garden Grant Program Act of 1993 be printed in the RECORD following this statement.

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

S. 1340

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 Community Garden Grant Program Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in communities across the United States there are thousands of acres of vacant lots, the number of which is rapidly increasing;

(2) these vacant lots contribute to the deterioration of neighborhoods and engender feelings of hopelessness among residents and community leaders; and

(3) a National Community Garden Grant Program will aid in the prevention and elimination of urban blight by beautifying neighborhoods, developing communities and community leadership, and increasing nutritional awareness and gardening skills.

(b) PURPOSE.—The purpose of this Act is to create a National Community Garden Grant Program, which will be a national partnership of the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Administrator of General Services, citizens, private organizations, and representatives of State and local agencies from all parts of the United States, for the promotion of community gardens.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context otherwise requires):

(1) COMMUNITY GARDEN PROGRAM.—The term "community garden program" means a gardening program that incorporates 1 or more of the following elements:

(A) Methods of gardening that promote improved nutrition and nutrition education.

(B) Gardening education.

(C) Community beautification.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. NATIONAL COMMUNITY GARDEN GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall award grants to eligible applicants to conduct community garden programs in accordance with this Act.

(2) ELIGIBLE APPLICANTS.—For purposes of paragraph (1), an eligible applicant for a grant under this Act is a unit of general local government or a nonprofit organization that is, or is capable of, carrying out a community garden program in accordance with this Act.

(3) MAXIMUM AMOUNT AND NUMBER.—The Secretary shall award up to 100 grants, each of which may not exceed $20,000.

(4) FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.—

(A) IN GENERAL.—The Federal share attributable to this section of the cost of carrying out a program for which a grant is made under this section shall be 25 percent.

(B) CALCULATION.—In providing for the remaining share of the cost of carrying out such a program, each grantee under this section—

(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

(ii) may provide for such share through State sources, local sources, or Federal sources (other than funds made available under this section).

(5) DISTRIBUTION.—The Secretary shall award grants in a manner that reflects the geographical diversity of the United States, to the maximum extent practicable.

(6) SET-ASIDE.—The Secretary shall allocate at least 20 percent of the grant funds made available under this section to grantees located in communities with populations not exceeding 50,000 inhabitants.

(b) APPLICATIONS.—

(1) IN GENERAL.—The Secretary, in conjunction with the Secretary of the Department of Health and Human Services and the Secretary of Housing and Urban Development, shall develop selection criteria and application procedures consistent with the purposes of this Act.

(2) FACTORS.—In selecting grantees, at a minimum, the Secretary shall consider the following criteria:

(A) The extent to which the applicant will maximize the use of public-private partnerships and available surplus property.

(B) The extent to which the applicant will target minority, underserved, and high-risk populations.

(C) The likelihood of the applicant developing a sustainable community gardening program.

(3) CERTIFICATION OF ELIGIBILITY.—The Secretary shall certify the eligibility of each grantee.

(4) OTHER FUNDS.—Funds from other sources may be used by a grantee in conjunction with funds made available under this Act. This Act shall not affect any guidelines governing the use of other funds.

SEC. 5. DATA COLLECTION.

(a) IN GENERAL.—The Secretary shall establish a database to compile information submitted under subsection (b) and information related to the effectiveness of the National Community Garden Grant Program in each participating community.

(b) FEDERAL FUNDS.—Grantees shall furnish the Secretary with information regarding the amount of Federal funds received by each grantee, including funds from the Secretary, the Administrator of General Services, and the Secretary of Housing and Urban Development.

SEC. 6. DONATION OF PROPERTY.

A grantee under this Act may use surplus property obtained from the Administrator of General Services and the Secretary of Defense to carry out a community garden program.

SEC. 7. PROFITS FROM COMMUNITY GARDEN PROJECTS.

If a grantee derives a profit from the sale of a product produced by a community garden program that receives funds under this Act, the grantee shall use the profits only to further carry out such program.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, $2,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1996, 1997, and 1998.

By Mr. LAUTENBERG:

S.J. Res. 118. A joint resolution to designate the week of October 17, 1993, through October 23, 1993, as "National Radon Action Week"; to the Committee on the Judiciary.

NATIONAL RADON ACTION WEEK

Mr. LAUTENBERG. Mr. President, today I am introducing a Senate Joint Resolution which would designate the week of October 17, 1993, as "National Radon Action Week." The Senate passed similar resolution in each of the last 3 years.

Radon exposure poses a serious health risk to the people of our Nation. The EPA estimates that 14,000 people die annually from lung cancer caused by exposure to radon. Fortunately, elevated radon levels can be reduced successfully at relatively low cost.

Testing in homes and schools and educating people about the risks associated with radon exposure are the first steps we can take to protect ourselves and our children from the harmful effects of radon. My resolution calls for the establishment of a National Radon Action Week to encourage these activities.

This resolution has been endorsed by a broad range of groups and associations, including the American Lung Association, the American Cancer Society, the National Congress of Parent Teachers Associations, the National Education Association, the Consumer Federation of America, and the State and Territorial Air Pollution Control Administrators.

I encourage my colleagues to cosponsor this resolution and I ask unanimous consent that a copy of the resolution appear in the RECORD.

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

S.J. RES. 118

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately 14,000 deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 6 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon level: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 17, 1993; through October 23, 1993, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 261

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 262

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a

cosponsor of S. 262, a bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes.

S. 565

At the request of Mr. WARNER, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 565, a bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations.

S. 599

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 599, a bill to amend the Internal Revenue Code of 1986 to provide a permanent extension for the issuance of first-time farmer bonds.

S. 636

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 636, a bill to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

S. 653

At the request of Mr. METZENBAUM, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 653, a bill to prohibit the transfer or possession of semiautomatic assault weapons, and for other purposes.

S. 1111

At the request of Mr. KERREY, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Alaska [Mr. STEVENS], the Senator from Mississippi [Mr. LOTT], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1111, a bill to authorize the minting of coins to commemorate the Vietnam Veterans' Memorial in Washington, D.C.

S. 1116

At the request of Mr. BURNS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1116, a bill to amend the Internal Revenue Code of 1986 to clarify the deduction for expenses of certain home offices, and for other purposes.

S. 1160

At the request of Mr. HATFIELD, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Illinois [Mr. SIMON], the Senator from Wyoming [Mr. SIMPSON], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1160, a bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes.

S. 1234

At the request of Mr. BAUCUS, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1234, a bill to authorize the payment of Servicemen's Group Life Insurance in accordance with title 38, United States Code, as amended effective on December 1, 1992, in the case of certain members of the Armed Forces killed in an aircraft accident on November 30, 1992.

SENATE JOINT RESOLUTION 117

At the request of Mr. BIDEN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 117, a joint resolution to designate August 1, 1993, as "National Incest and Sexual Abuse Healing Day."

SENATE CONCURRENT RESOLUTION 21

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution expressing the sense of the Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible if offered in a State court by a defendant in a criminal case.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on August 2, 1993, at 2:30 p.m. on the nominations of James E. Hall to be a member of the National Transportation Safety Board, Louise Frankel Stoll to be Assistant Secretary of Transportation for Budget and Programs and Frank Eugene Kruesi to be Assistant Secretary of Transportation for Transportation Policy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 2, 1993, at 3 p.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Monday, August 2, 1993, at 4 p.m. to hold a nomination hearing on Mr. Joe Grandmaison, to be Director of the Trade and Development Agency.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Labor be authorized to meet for a hearing on recent court decisions and executive life annuities, during the session of the Senate on Monday, August 2, 1993, at 10 a.m.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, August 2, 1993, at 10:30 a.m., to hold a hearing on Manville bankruptcy.

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

EXECUTIVE SESSION

NOMINATION OF RUTH BADER GINSBURG, OF NEW YORK, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

The Senate continued with the consideration of the nomination.

Mr. ROBB. Mr. President, I rise today to speak in support of the nomination of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court of the United States.

It has been 26 years since a Democrat has had the opportunity to choose a nominee for the U.S. Supreme Court, and President Clinton has made a superb choice. His nomination of Ruth Bader Ginsburg is one based on her sterling reputation as a talented judge, her role as one of the foremost legal advocates for women's rights during the 1970's, and her potential to build consensus on the Supreme Court.

Not only has Judge Ginsburg received the highest possible rating of the American Bar Association—a unanimous judgment by a 15-member panel that she is well-qualified for the job—but she has also been favorably reported out of the Senate Judiciary Committee by a unanimous vote. She has received bipartisan acclaim from Senators on the Judiciary Committee, who have praised her as an outstanding choice. She has impressed those Senators as serious, intelligent, and confident.

Colleagues of Judge Ginsburg have described her as a restrained, fair-minded, and moderate jurist with a keen intellect.

I am especially impressed with Judge Ginsburg's activism and advocacy regarding women's rights. As founder of the Women's Rights Project of the American Civil Liberties Union, Judge Ginsburg worked hard to make

changes. She skillfully invoked the equal protection clause to combat gender distinctions in the law. This approach was groundbreaking because the U.S. Supreme Court had not previously applied the 14th amendment to gender-based discrimination. Through five victories in six Supreme Court cases, she used the 14th amendment to erase gender lines in areas ranging from military benefits to jury duty to the administration of estates. This series of victories provided the impetus for altering hundreds of laws and regulations across the country. Becoming the second woman on the Supreme Court seems to be the perfect culmination of Judge Ginsburg's lifelong commitment to systematically removing barriers for women in the United States.

While at the ACLU, Judge Ginsburg did something which speaks volumes about why she has received virtually unqualified support from my colleagues. While working on a case to persuade the Supreme Court to reverse its decisions on three major 20th century cases that had sustained sex discrimination, she prepared a brief in which she listed the names of two other attorneys as counsel for the plaintiff.

This in itself was not unusual since attorneys usually list cocounsel as a matter of course. What was unusual, and instructive, in this case was that the two attorneys she listed did not write a word of the brief, but paved the way for its creation. The two attorneys listed by Judge Ginsburg were Dorothy Kenyon and Pauli Murray, true pioneers in the fight for equal treatment for women.

While judges are required to follow the decisions of those who came before them, we as human beings often fail to recognize and give due respect to those who came before us and those whose past sacrifices have made possible the successes we achieve today. Judge Ginsburg not only recognizes stare decisis, which as a judge she is compelled to do, she also recognizes the debt we owe to those who have struggled before us.

This speaks not only to her attributes as a judge, but also to her character as a person. This quality of judicial restraint tempered with human feeling makes her an especially appropriate choice for this seat.

As one article points out, Judge Ginsburg is not

* * * interested in the dogmatic pursuit of a political or ideological agenda. Rather, we can expect her to focus on cultivating the evolution of constitutional principles that are firmly grounded in important national values and reflect a mutually respectful relationship with the other branches and levels of government. That perspective may not accord with the fancies of judicial activities right or left, but it's one well worth strengthening on the Court.

Judge Ginsburg has adopted a moderate approach to judging, following the letter of the law and leaving policy choices to the legislators.

I am convinced Ruth Bader Ginsburg will be able to skillfully integrate her vast wealth of knowledge—acquired from her experiences as a wife, mother, and respected jurist, who has lived through many struggles, both personal and political—into the tough decisions put before her.

It is for these reasons and more that I strongly urge my colleagues to vote to confirm Ruth Bader Ginsburg to the Supreme Court. After having reviewed her background and life experience, I am confident that she will serve with poise, wisdom, and distinction.

Mr. President, I yield the floor.

I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the votes ordered relative to the nominations considered during today's session occur on Tuesday, August 3, as follows: That upon the disposition of H.R. 2010, the national service bill, the Senate proceed to executive session to vote on the confirmation of Judge Ruth Bader Ginsburg, and that the remaining nominees, Messrs. Payzant and Hackney, be voted on in the order in which they were debated, with all of the above occurring without intervening action or debate; that the first two votes in the voting sequence be the usual duration, that is, 15 minutes plus the extra 5 minutes, if needed, and the remaining two votes in the sequence be 10 minutes in duration; further, that upon conclusion of the last vote in the sequence, the Senate then return to legislative session.

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

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, I request that Senators, when they cast their vote on the Ginsburg nomination, cast their votes from their desks for that nomination.

ORDERS FOR TUESDAY, AUGUST 3, 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:40 a.m. Tuesday, August 3; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately following the Chair's announcement, the Senate resume consideration of S. 919, as provided for under the provisions of a previous unanimous consent agreement; that upon disposition of the Hackney nomination and the Senate returning to legislative session, that the Senate then resume consideration of H.R. 2403, the Treasury, Postal Service appropriations bill; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

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

RECESS UNTIL TOMORROW AT 9:40 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:23 p.m., recessed until Tuesday, August 3, 1993, at 9:40 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1993:

DEPARTMENT OF STATE

William Green Miller, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ukraine.

CONFIRMATION

Executive nomination confirmed by the Senate August 2, 1993:

DEPARTMENT OF JUSTICE

ELEANOR ACHESON, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL.

HOUSE OF REPRESENTATIVES—*Monday, August 2, 1993*

The House met at 12 noon.

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

O gracious God, we give thanks for all Your blessings and specially, this day, we give thanks for the life and witness of our friend and colleague, PAUL HENRY. We are grateful that You raise up people of good will to dedicate their lives to service as teachers or as leaders in government and to serve people whatever their need. We are grateful for the dedication of Your servant PAUL and his commitment to the welfare of others. We know that he was raised as Your child, O God, and was nurtured by Your grace for service in Your kingdom. May Your benediction that is new every morning, be with his family and all who mourn this day and forevermore. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair recognizes the gentleman from North Carolina [Mr. BALLENGER] to lead us in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 557. An act to combat telemarketing fraud;

S. 1273. An act to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon insured depository institutions to the extent such action is consistent with the safety and soundness of the institutions; and

S. 1274. An act to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes.

The message also announced that pursuant to Public Law 102-392, the Chair, on behalf of the Republican leader, announces his appointment of Mr. HATFIELD, to the Commission of the Bicentennial of the U.S. Capitol.

The message also announced that pursuant to Public Law 102-393, the Chair, on behalf of the majority leader, after consultation with the chairman of the Finance Committee, appoints Patricia M. Owens of New York and Robert J. Myers of Maryland, as members of the Commission on the Social Security "notch" issue.

PASSING OF THE HONORABLE PAUL B. HENRY, REPRESENTATIVE FROM MICHIGAN

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

Mr. MICHEL. Mr. Speaker, I will shortly be offering a resolution with respect to our departed friend, PAUL HENRY. May I simply, in the Chaplain's presence, thank him for the subject of his prayer as we began today's session.

SUPPORT MIDDLE EAST PEACE PROCESS

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

Mr. HASTINGS. Mr. Speaker, I would like to express my concern with the recent spate of violent activity on the Israel-Lebanon border. While I am heartened with the current détenté, I am concerned that any more activity will forge a new class of Lebanese refugees and yet another generation of Israelis who have reason to fear for their safety.

Those of us who are interested in finding a meaningful and lasting peace for the region must encourage Arab regimes to stop Hezbollah from using violence against Israel as a way to derail the Middle East peace process. We must impress upon the Government of Lebanon the need to oust the Hezbollah stronghold in the south.

We cannot let extremist regimes control the peace process through their terrorist puppets. We cannot let the recent successes be forgotten—when you get back to your office call the Ambassadors of the Middle East nations and encourage their governments to support the Middle East peace process. Many lives depend on it.

REBUKE EPA'S TOBACCO PSEUDO-SCIENCE

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

Mr. BALLENGER. Mr. Speaker, the Environmental Protection Agency [EPA] has gone too far. Administrator Carol Browner, while testifying before the House Energy and Commerce Subcommittee on Health and the Environment, defended the EPA's controversial study on the second-hand effects on using legal tobacco products.

Ms. Browner stated that the EPA is officially recommending that American citizens refrain from smoking cigarettes, even in the privacy of their own homes. This comment provides even more evidence that the clear intent of the Clinton administration is to control every aspect of American life. Tobacco is a legal product in this country. Adults are capable of making their own decisions with regard to purchasing cigarettes or any other lawful commodity.

It seems Ms. Browner and the EPA bureaucrats could better spend their time researching improved ways to eliminating pollution from the air, rivers, streams, and lakes rather than pushing lifestyle regulations to control personal behavior.

Mr. Speaker, let us end this unscientific attack on the tobacco industry. EPA will lose its credibility if it continues to engage in manipulation of scientific data to achieve politically correct results.

DEMJANJUK CITIZENSHIP SHOULD BE PROPERLY REVIEWED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, the saga of John Demjanjuk, convicted as Ivan the Terrible, continues up and down, like a puppet on a string. And it is not Israel's fault. God bless Israel and the freedom that came out in that tough decision.

But the truth is, our Government, the Justice Department, withheld critical evidence. Marchenko is Ivan the Terrible, not Demjanjuk.

Second of all, did Demjanjuk lie on his immigration papers to conceal he was a Nazi war criminal? And, if so, he should never come back.

But, Mr. Speaker, if he lied because of his Soviet identity, to be repatriated

under the terms of the Yalta agreement, stood in front of a firing squad by Stalin, that is a different matter.

I will be submitting a sense of the Congress resolution that basically says Congress supports that an appropriate court of jurisdiction review the matter of this man's citizenship. If he is a war criminal, I do not support him. But if he is not, Mr. Speaker, Congress, the bastion of freedom of last resort, should finally show some backbone. I am asking for your help.

CLINTON MUST SHOW LEADERSHIP IN BOSNIAN CRISIS

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

Mr. ROTH. Mr. Speaker, it is inconceivable to me, and I hope to all rational thinking people, the alacrity with which the Clinton administration is marching us into the nightmare in Bosnia.

No thought given to the consequences.

No thought given to how we will extricate ourselves once we are embroiled.

No plan, no forethought, their only mission being to get the United States involved.

They have no sense of history.

They are the same group of heroes who in the 1960's—when America was involved in another war—ran off to foreign countries to demonstrate and organize demonstrations against our troops and our country.

If Clinton sends Americans into Bosnia, he must lead them not send them.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair welcomes our guests in the gallery, but they are not to participate through applause in the debate on the floor.

VISA PROCESSING PROCEDURE MUST BE REVISED

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

Mr. GLICKMAN. Mr. Speaker, the current system for processing visas is badly in need of repair. Chairman HAMILTON of the Committee on Foreign Affairs and my Committee on Intelligence have been looking at that. The circumstances surrounding the issuance of U.S. visas to the sheik and others require an immediate revision on the way we permit entry into this country.

Mr. Speaker, the gentleman from Indiana [Mr. HAMILTON] and I have written a letter to Secretary Christopher. We are trying to get the Secretary to do some things immediately that do not take legislative action.

No. 1, we need a legal interpretation of existing immigration law to go to all embassies and consulates, telling them what is and what is not required with respect to entering this country. Right now they are making that decision ad hoc. They do not know what is required out there, and other sheiks could be entering this country without a clear determination.

In addition, we need to upgrade the hardware and software associated with the consular lookout and support system. We need to assign more experienced officers to Embassies and consulates, particularly in areas of the world that are potentially hot spots for trouble makers.

Mr. Speaker, I urge the Secretary of State in the strongest possible terms to take the action now that he should be doing to make sure terrorists are not permitted entry into this country.

□ 1210

THE TAXPAYER'S WATCHDOG

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

Mr. THOMAS of Wyoming. Mr. Speaker, certain Members of the Democratic majority have accused Republicans of being attack dogs for opposing the President's world class tax plan.

I guess you would have to add Senator DAVID BOREN to that list of attack dogs.

BOREN and Republicans oppose the President's plan, not because we are attack dogs, but because we are watchdogs.

We are the taxpayer's watchdogs. We speak out to making certain that the taxpayer is not blindsided by another huge tax increase.

We bark loud when we see that the President wants to pass the largest tax increase in history.

And we cry out in disdain when we see the President promising spending cuts, but giving us spending increases in reality.

Mr. Speaker, the middle-class taxpayers want more watchdogs who will look after their interests here in Washington. The last thing they want is a lapdog, who is content voting for the largest tax increase in history.

SHAME ON UNITED AIR LINES

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

Mr. MILLER of California. Mr. Speaker, last Saturday the friendly skies of United Air Lines were not so friendly to Rick Douglas, who is the Executive Director of the President's Committee on Employment of People With Disabilities.

Mr. Douglas, on his way to a conference, had to drag himself up five stairs into the air lines run by United Air Lines to get to that conference, because no employee would help him out of his wheelchair into the airliner and into his seat.

When the airliner arrived at its destination, Mr. Douglas, after all passengers disembarked, had to get himself out of his seat, dragging himself back down the stairs onto the tarmac and finally into the wheelchair. As his wife said, as she watched him, "To watch him do this made me cry."

United Air Lines should be ashamed of itself. It owes Mr. Douglas a very serious apology, and the FAA owes United Air Lines a very serious investigation of this matter. They owe it to Mr. Douglas and to all disabled people in the United States.

DOUBLESPEAK

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, I have seen the future, and it is now. George Orwell, your time has come, 9 years later. Doublespeak is here. Good is bad. Up is down. Cuts are increases. Change is the status quo.

The Clinton administration has decided to abandon the facts of its plan in favor of body language. Look at the document it has put out in order to promote its tax increase.

"Hallelujah! Change is coming." I quote from this document:

> Anytime you're asked about a specific in the economic plan, look for ways to bring it back to the general points that this is good for the country, and this is real change * * * Never forget that the optimism, energy, enthusiasm you project is vital * * * Your body language, attitude and confidence will be infectious. If you become a merchant of pain, you'll find that the middle class isn't buying * * *

Well, Mr. Speaker, the middle class is not buying. The administration is a merchant of death to many small businesses that create the bulk of the jobs.

Bad is bad, down is down, and increased spending and taxes are just that. No manner of body language can stop the truth.

TONE DOWN THE DIALOG

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this weekend, I was called a witch, a snake, and a wicked woman by none other than Randall Terry, who was visiting Denver, CO, in preparation for the papal visit.

He addressed hundreds of people and told them that they had to get very tough and stop being fraidy cats.

I really hope Members in this body start trying to chill out this kind of dialog. We have been very concerned about papal security while he visits in Denver. But I guess we better start getting concerned about personal security also, because it seems that people no longer want to just engage in debate. They want to make threats, and they want to encourage people to do much more than that.

I find this absolutely appalling, and it only shows the level of violence to which this country has risen. I think it is incumbent upon this body that believes in debate and free speech and the meeting of ideas to call upon people such as Randall Terry to change the tone of this dialog.

IN OPPOSITION TO THE DEFICIT REDUCTION BILL

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

Mr. LAZIO. Mr. Speaker, I congratulate my colleagues on the other side of the aisle for apparently agreeing on a deficit reduction bill. I know this was difficult and I know the hard part—passing this legislation without the vote of a single Republican—is before them.

I speak only for this Member, but the principal reason for withholding my vote is only partly because I was completely excluded from the process. Rather, my objection is that I find too many of the provisions highly objectionable and, because of my exclusion, I had no chance to even nudge the legislation in my direction.

One of my major objections to this legislation is that it does not go as far as is being claimed by its supporters. This agreement is being falsely advertised as cutting the deficit $490 to $500 billion when the actual savings are at least $44 billion less.

Some $36 billion in savings from cuts in discretionary spending for fiscal years 1994 and 1995 are being claimed as part of this year's budget package, even though they will be the direct and independent result of statutory provisions in the 1990 legislation. Adding interest savings brings this double counting to $44 billion.

Mr. Speaker, it is true that President Bush renounced his role in the Budget Enforcement Act of 1990, but that does not give President Clinton and congressional Democrats the right to claim savings achieved in that agreement as part of this year's deficit reduction package.

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JOINT REFERRAL OF H.R. 2800 TO COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY AND COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that the bill (H.R. 2800), to promote and support management reorganization of the National Aeronautics and Space Administration, be rereferred jointly to the Committee on Science, Space, and Technology and the Committee on Post Office and Civil Service.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

FREEDOM LOST

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

Mr. SMITH. Madam Speaker, when I looked at the Capitol dome this morning on my way into the Capitol, I couldn't help but see a bit of irony. The statue of freedom has been lifted from the Capitol dome. I thought Congress has lost part of its freedom to decide how to spend its tax revenues.

The discretionary portion of the Federal budget is disappearing because of burgeoning interest payments. Automatic interest payments on the public debt is $295 billion this year. That is roughly 60 percent of all the personal income tax revenues!

Most alarming is that there is no end in sight. Under the budget that is being pushed through this body the public debt will go from $4.3 trillion to $6.2 trillion by 1998 and interest payments could be cost to $450 billion a year.

It seems to me this is madness.

We must show some spending restraint now, before it is too late. Next time you look up at the Capitol dome, remember that as we repair statue of Freedom, let us resolve to limit the size of big Government spendng and the growth of our public debt that take away our freedoms as individuals and as a society. We have to cut spending and get the budget deficit under control.

THE LATE HON. PAUL. B. HENRY, A REPRESENTATIVE FROM MICHIGAN

Mr. DINGELL. Madam Speaker, I offer a privileged resolution (H. Res. 232) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 232

Resolved, That the House has heard with profound sorrow of the death of the Honorable Paul B. Henry, a Representative from the State of Michigan.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] is recognized for 1 hour.

GENERAL LEAVE

Mr. DINGELL. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

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

Madam Speaker, I announce with great sadness the death of the Honorable PAUL B. HENRY, a Representative of the Congress from the State of Michigan.

□ 1220

The gentleman from Michigan [Mr. HENRY] has served with great distinction here. He was respected by his colleagues as a man of courage, decency, and respect. He was a likable man, a family man, was very much loved by his family and by his constituents. His colleagues in the Congress on both sides of the aisle, and especially those of us who served with him from Michigan, had a particular fondness and respect for him because of his decency and because of the dedication with which he served his people and his State.

Madam Speaker, he died after a long an severe illness which he fought with great courage and with great dignity. All of us who knew him and loved him will be praying that the good Lord will receive him graciously, and although we are sad that he has left us, we rejoice that he will no longer suffer the great pain which he had known for so long while we contended with this serious, difficult, and debilitating illness.

Madam Speaker, I ask unanimous consent that my dear friend, the gentleman from Michigan [Mr. UPTON], be permitted to control the balance of the time which has been yielded to me.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Madam Speaker, PAUL HENRY was first elected to this House in 1984, and was really one of the great men of this House in the limited time in which he lived to serve. An evangelical Christian, a former Peace Corps volunteer, and a level-headed intellectual, PAUL exemplified the word "integrity." His dignified bearing, his thoughtfulness, and his willingness to listen improved this House. His life should serve as a model to all who follow him.

PAUL HENRY was a good man, a great American, and a shining credit to this institution. He is certainly going to be sorely missed. I offer my deepest regrets to PAUL's wife, Karen Anne, and their three children. It will be my sad obligation and responsibility at his funeral tomorrow to deliver one of the eulogies, so I will defer at this juncture, with the hope that even with this busy week we will have an opportunity for special orders possibly Wednesday evening, after all business of the House has been disposed of, so that all Members might participate in a special order.

Madam Speaker, I ask unanimous consent to include with my remarks today the editorial obituaries of the New York Times from Sunday and the Washington Post for PAUL HENRY.

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

There was no objection.

[From the Washington Post, Aug. 1, 1993]

MICHIGAN REPRESENTATIVE PAUL B. HENRY DIES

GRAND RAPIDS, MI—Paul B. Henry, 51, a Michigan Republican who had served in the House of Representatives since 1985 and whose hard work and moderate views made him a rising star in his party, died of cancer July 31 at his home in Grand Rapids Township.

In October, he had been found to have glioblastoma multiforme, a type of brain cancer, after complaining of headaches while campaigning for his fifth term. On Oct. 21, surgeons removed most of a three-inch malignant tumor from the right frontal lobe of his brain. The popular politician easily won reelection two weeks later. Thousands of letters of support flooded his home and offices. Since late spring, Mr. Henry had been mostly bedridden at his Michigan home.

First elected to Congress in 1984, he had won by increasing margins in each of his runs for Congress.

In 1990, he was named one of 11 "rising stars" by the National Journal magazine. He was said to be a strong contender for the 1994 race against Sen. Donald W. Riegle Jr. (D-Mich).

Mr. Henry's 3rd District, in western Lower Michigan, included Grand Rapids and surrounding Kent County, as well as neighboring Barry and Ionia counties.

Mr. Henry, a Chicago native, was a 1963 graduate of Wheaton College in Illinois. He served with the Peace Corps in Ethiopia and Liberia for two years before receiving a master's degree and doctorate from Duke University.

He taught political science at Duke in 1969 and at Calvin College in Grand Rapids from 1970 to 1978 before being elected to the Michigan legislature in 1979. He served in the state House from 1979 to 1982, and in the state Senate in 1983 and 1984. He also had served on the Michigan State Board of Education from 1975 to 1978.

He was elected to the seat in the U.S. House of Representatives that once was held by Gerald Ford.

Mr. Henry served on the House committees on education and labor and on science, space and technology, and on the Select Committee on Aging.

Survivors include his wife, the former Karen Anne Borthistle, of Grand Rapids Township; and three children.

[From the New York Times, Aug. 1, 1993]

REPRESENTATIVE PAUL B. HENRY, 51, DIES AFTER BATTLING BRAIN CANCER

GRAND RAPIDS, MI, July 31—Representative Paul B. Henry, whose hard work and moderate views made him a rising star in the national Republican Party, died Saturday at his home here. He was 51.

Mr. Henry died of brain cancer, which was diagnosed in October after he complained of headaches while compaigning for his fifth term, according to a statement released by his office.

On Oct. 21, doctors removed most of a 3-inch malignant tumor from the right frontal lobe of Mr. Henry's brain. Despite the surgery and prognosis, he easily won re-election two weeks later. Thousands of letters of support flooded his home and offices.

While Mr. Henry's doctors initially expressed optimism, cancer experts said patients with his type of cancer, glioblastoma multiforme, survived an average of about a year, and fewer than 5 percent survived five years.

Increasing Margins of Victory

In the months after the surgery, Mr. Henry, his family and staff members tried to remain upbeat and did not address the possibility of his resignation. But by late spring, he was mostly bedridden, and by midsummer, his staff said that he could no longer communicate and that they were not sure if he recognized friends.

First elected to Congress in 1984, Mr. Henry earned increasing margins of victory in each election.

In 1990, he was named one of the 11 "rising stars" by the National Journal. He was said to be a strong contender for the 1994 race against Senator Donald W. Riegle, Jr., a Democrat.

The district Mr. Henry represented is in western lower Michigan and included Grand Rapids.

Taught Political Science

A Chicago native, Mr. Henry graduated from Wheaton College in Illinois and then served with the Peace Corps in Ethiopia and Liberia for two years before earning a master's degree and doctorate from Duke University.

He taught political science at Duke in 1969 and at Calvin College from 1970 to 1978 before being elected to the Michigan Legislature in 1979. He served in the state House from 1979 to 1982, and in the state Senate in 1983 and 1984.

He was elected to Congress in 1984, to the seat once held by former President Gerald R. Ford.

Mr. Henry served on the House Committees on Education and Labor and Science, Space, and Technology, as well as the Select Committee on Aging. Shortly after the cancer was diagnosed, he failed in an effort to win a seat on the House Ways and Means Committee.

He was survived by his wife, Karen, and his three children, Kara, Jordan and Megan.

Mr. UPTON. Madam Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Madam Speaker, I thank the gentleman for yielding to me.

PAUL HENRY was a great American. All that knew him are saddened by his death. Bonnie's and my prayers go to his wife, Karen, and their family.

PAUL and I were both first elected to the Michigan Legislature in 1978. Our careers were somewhat parallel entering the Michigan Senate in 1982. We were seatmates and our offices were next to each other. We had many discussions and I respected his careful deliberations on issues and determination to do good. I looked forward to serving with PAUL in Congress.

PAUL was a leader in his efforts to improve education in Michigan and the Nation. In January, I became a member of the Science, Space, and Technology Committee where PAUL also served. His work on that committee and on the Education and Labor Committee has been very much respected by his colleagues.

His and Karen's support of their community and their religious values have been a wonderful example to all who know them. Congressman PAUL HENRY'S contributions to his community and to the country will be missed. His influence to improve public policy at the State and Federal level will live on.

I join with other Members of Congress in supporting this resolution honoring a great man Congressman PAUL HENRY.

Mr. UPTON. Madam Speaker, I join with the dean of our Michigan delegation, obviously, in very strong support of this resolution. PAUL HENRY was a very special friend to all in this House, Members and staff alike. For me he was a mentor, he was a trusted friend, and our prayers are extended to Karen Anne, Kara, Jordan, and Megan.

He represented his district, our State, and our Nation so well. He had so many successes on this floor. He was widely respected by both sides of the aisle, and I know that on Wednesday night when we have our special orders in honor of PAUL, that many Members will take this floor to laud his many achievements, both personal as well as legislative.

Madam Speaker, I yield back the balance of my time in support of this resolution.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION RATES CODIFICATION ACT OF 1993

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 798) to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. DISABILITY COMPENSATION.

Section 1114 of title 38, United States Code, is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$85";

(2) by striking out "$157" in subsection (b) and inserting in lieu thereof "$162";

(3) by striking out "$240" in subsection (c) and inserting in lieu thereof "$247";

(4) by striking out "$342" in subsection (d) and inserting in lieu thereof "$352";

(5) by striking out "$487" in subsection (e) and inserting in lieu thereof "$502";

(6) by striking out "$614" in subsection (f) and inserting in lieu thereof "$632";

(7) by striking out "$776" in subsection (g) and inserting in lieu thereof "$799";

(8) by striking out "$897" in subsection (h) and inserting in lieu thereof "$924";

(9) by striking out "$1,010" in subsection (i) and inserting in lieu thereof "$1,040";

(10) by striking out "$1,680" in subsection (j) and inserting in lieu thereof "$1,730";

(11) by striking out "$2,089", "$68", and "$2,927" in subsection (k) and inserting in lieu thereof "$2,152", "$70", and "$3,015", respectively;

(12) by striking out "$2,089" in subsection (l) and inserting in lieu thereof "$2,152";

(13) by striking out "$2,302" in subsection (m) and inserting in lieu thereof "$2,371";

(14) by striking out "$2,619" in subsection (n) and inserting in lieu thereof "$2,698";

(15) by striking out "$2,927" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,015";

(16) by striking out "$1,257" and "$1,872" in subsection (r) and inserting in lieu thereof "$1,295" and "$1,928", respectively; and

(17) by striking out "$1,879" in subsection (s) and inserting in lieu thereof "$1,935".

SEC. 2. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) of title 38, United States Code, is amended—

(1) by striking out "$100" in subparagraph (A) and inserting in lieu thereof "$103";

(2) by striking out "$169" and "$52" in subparagraph (B) and inserting in lieu thereof "$174" and "$54", respectively;

(3) by striking out "$69" and "$52" in subparagraph (C) and inserting in lieu thereof "$71" and "$54", respectively;

(4) by striking out "$80" in subparagraph (D) and inserting in lieu thereof "$82";

(5) by striking out "$185" in subparagraph (E) and inserting in lieu thereof "$191"; and

(6) by striking out "$155" in subparagraph (F) and inserting in lieu thereof "$160".

SEC. 3. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 of title 38, United States Code, is amended by striking out "$452" and inserting in lieu thereof "$466."

SEC. 4. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a)(3) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$634	W–4	$911
E–2	654	O–1	803
E–3	672	O–2	829
E–4	714	O–3	888
E–5	732	O–4	939
E–6	749	O–5	1,035
E–7	785	O–6	1,168
E–8	829	O–7	1,262
E–9	[1] 866	O–8	1,383
W–1	803	O–9	1,483
W–2	835	O–10	[2] 1,627
W–3	860		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $934.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,744.";

(2) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191"; and

(3) by striking out "$90" in subsection (d) and inserting in lieu thereof "$93".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) of title 38, United States Code, is amended—

(1) by striking out "$310" in paragraph (1) and inserting in lieu thereof "$319";

(2) by striking out "$447" in paragraph (2) and inserting in lieu thereof "$460";

(3) by striking out "$578" in paragraph (3) and inserting in lieu thereof "$595"; and

(4) by striking out "$578" and "$114" in paragraph (4) and inserting in lieu thereof "$595" and "$117", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 of such title is amended—

(1) by striking out "$185" in subsection (a) and inserting in lieu thereof "$191";

(2) by striking out "$310" in subsection (b) and inserting in lieu thereof "$319"; and

(3) by striking out "$157" in subsection (c) and inserting in lieu thereof "$162".

SEC. 6. TECHNICAL CORRECTION RELATING TO THE FINANCING OF DISCOUNT POINTS.

Section 3703(c)(4)(B) of title 38, United States Code, is amended in the second sentence by striking out "Discount" and inserting in lieu thereof "Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount".

SEC. 7. RATE ADJUSTMENTS FOR ADJUSTABLE RATE MORTGAGES.

Section 3707(b)(2) of title 38, United States Code, is amended by striking out "on the anniversary of the date on which the loan was closed".

Mr. MONTGOMERY (during the reading). Madam Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

Mr. STUMP. Madam Speaker, reserving the right to object, and I shall not object, I yield to the chairman of the committee for a brief explanation.

Mr. MONTGOMERY. Madam Speaker, will the gentleman yield?

Mr. STUMP. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Madam Speaker, on April 27, H.R. 798 passed the House. It would codify the increased compensation and DIC rates enacted late last year. The other body has added two technical housing amendments. No other changes were made to the bill which passed the House.

Madam Speaker, I would hope we could get full support on ratifying the codifying of the compensation for our veterans.

Mr. SLATTERY. Madam Speaker, as Chairman MONTGOMERY has indicated, this bill would codify the cost-of-living adjustment in the rates of disability compensation and DIC which were authorized by Public Law 102–510. The increased rates became effective on December 1 of last year.

At the time we enacted last year's COLA, the fourth quarter change in the Consumer Price Index was not available to us. In order to ensure that veterans and their survivors would receive the proper COLA in their benefits, we enacted an administrative mechanism authorizing the Secretary of Veterans Affairs to increase these benefit rates by the same percentage as the increase provided for Social Security benefits. That increase turned out to be 3 percent.

This bill simply amends title 38, United States Code, to correctly reflect these new rates, and let me say again that these rates have been in effect since December 1, 1992.

Also, so that there will be no confusion, I want to make clear that this bill does not provide a COLA in these rates for fiscal year 1994. This year's COLA is addressed in a separate bill I have introduced, H.R. 2341, which we will consider at a later date.

I want to thank my chairman, Mr. STUMP, and Mr. BILIRAKIS for their support of this bill, and I also want to thank Chairman ROCKEFELLER and Senator SPECTER for moving this bill through the other body.

Mr. STUMP. Madam Speaker, as explained, these amendments are technical in nature, and I withdraw my reservation of objection.

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

There was no objection.

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

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SERVICEMEN'S GROUP LIFE INSURANCE AMENDMENTS OF 1993

Mr. MONTGOMERY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2647) to amend title 38, United States Code, to provide that the effective date of any changes in benefits under the Servicemen's Group Life Insurance Program shall be based on the International Date Line, as amended.

The Clerk read as follows:

H.R. 2647

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

SECTION 1. EFFECTIVE DATE FOR CHANGES IN SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.

(A) USE OF INTERNATIONAL DATE LINE.—Section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f) The effective date and time for any change in benefits under the Servicemen's Group Life Insurance program shall be based on the date and time according to the time zone immediately west of the International Date Line.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amendments to chapter 19 of title 38, United States Code, that take effect after November 29, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

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

GENERAL LEAVE

Mr. MONTGOMERY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 2647, and on the subsequent two bills, H.R. 821 and H.R. 2535.

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

There was no objection.

Mr. MONTGOMERY. Madam Speaker, I yield myself such time as I may consume, and I rise in strong support of H.R. 2647, as amended.

H.R. 2647 would change the time used in determining eligibility for benefits under the Servicemen's Group Life Insurance Program.

I want to thank my colleagues, MIKE KREIDLER and BUDDY DARDEN, for sponsoring this legislation.

I want to thank the very able chairman of the Subcommittee on Compensation, Pension, and Insurance, Mr. SLATTERY of Kansas, and the ranking minority member of the subcommittee, MIKE BILIRAKIS of Florida, for allowing the bill to be brought before the House so quickly. Mr. KREIDLER introduced the bill on July 15 and Mr. SLATTERY, with the concurrence of Mr. BILIRAKIS, asked that it be considered by the full committee on July 27.

□ 1230

Madam Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Kansas [Mr. SLATTERY] for a further explanation of the bill.

Mr. SLATTERY. Madam Speaker, I thank the chairman of the committee for his kind remarks.

Madam Speaker, H.R. 2647, as amended, would establish a more equitable manner for setting the effective date for changes the Congress makes to the Servicemen's Group Life Insurance Program, which we refer to as the SGLI Program.

Last year, as part of our veterans' benefits package that reformed the DIC Program, we increased the maximum coverage available under the SGLI Program from $100,000 to $200,000, with the proviso that coverage above $100,000 must now be elected by service members. By law, the increased coverage went into effect on December 1, 1992.

On the evening of November 30, 1992, two separate Air Force crashes occurred in Montana and Texas, resulting in the deaths of 17 crewmembers. According to the Department of Veterans Affairs, 11 of the service members had completed application for increased SGLI coverage prior to their deaths. The VA ruled that these deaths occurred prior to December 1, 1992, according to the local time and, as a result, their coverage under the SGLI Program was limited to whatever amount may have been in effect at that time, up to $100,000.

The VA's decision was technically correct under current law. According to the Uniform Time Act of 1966, if a change is made in law which affects an individual's rights or obligations, the change is considered to become effective in accordance with the local time zone in which the person is located.

In the case of the two Air Force crashes, the hour of midnight, December 1, had not yet occurred according to local time. This produced what many believe is an unfair result, particularly since these individuals had expressed their intention to receive the additional coverage.

In response to this, the gentleman from Washington [Mr. KREIDLER] introduced H.R. 2647, to provide legislative relief for the survivors of these service members. Very simply, the bill states that when determining the effective date for a change in the SGLI Program, the time zone immediately west of the international date line will be used, rather than the local time in the 24 time zones around the world. This establishes a uniform manner for determining when a SGLI change is to go into effect, and I commend the gentleman highly for his quick action and leadership.

I also want to commend Chairman MONTGOMERY and the gentleman from Arizona [Mr. STUMP], as well as the ranking minority member of my subcommittee, Mr. BILIRAKIS, for their excellent work in bringing this bill out of the committee so quickly.

I urge my colleagues to support this very fine bill.

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

Madam Speaker, I rise in support of H.R. 2647, a bill to provide increased insurance coverage to those service personnel who died just hours before the effective date of the law increasing their servicemen's group life insurance from $100,000 to $200,000.

I commend my colleague, MIKE KREIDLER, for introducing H.R. 2647. It will ensure that the survivors of those who had applied for the additional life insurance receive it.

Madam Speaker, I also wish to applaud my good friend, SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for his efforts in bringing this bill to the floor in such a timely manner.

Additional recognition should also go to the gentleman from Kansas [Mr. SLATTERY], chairman of the Subcommittee on Compensation, Pension, and Insurance, and the gentleman from Florida [Mr. BILIRAKIS], the subcommittee's ranking member, for their support of this measure.

I recommend that H.R. 2647 be passed.

Madam Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I too want to thank the very able ranking minority member of the full committee, the gentleman from Arizona [Mr. STUMP], for the excellent cooperation he has given in bringing this bill to the full House so quickly.

Madam Speaker, I yield 4 minutes to the gentleman from Washington [Mr. KREIDLER], the chief sponsor of this legislation, and also a member of the Committee on Veterans' Affairs.

Mr. KREIDLER. Madam Speaker, I especially want to thank the gentleman from Mississippi [Mr. MONTGOMERY], chairman of our committee, and our ranking minority member, and the gentleman from Arizona [Mr.

STUMP]. But I particularly also want to thank the members of the subcommittee who were most involved here, the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Florida [Mr. BILIRAKIS], for their able assistance in bringing this matter to the floor.

As was pointed out by the gentleman from Kansas [Mr. SLATTERY], the Veterans Benefit Act of 1992, was enacted on October 29, 1992 and increased the benefits for the Servicemen's Group Life Insurance Program from $100,000 to $200,000.

The new law also established a requirement for participants to voluntarily elect this increased coverage.

This is in contrast with how the benefits had been invested in years past where it had been a negative check-off system. This one required a positive indication of voluntary signing up for the increased benefits. That provision, along with the expansion of the benefits, took place on December 1, 1992.

As was pointed out, on November 30, 1992, two C-141's from McChord Air Force Base crashed over Montana. That crash, and another one involving a B-1B from Texas, claimed the lives of 17 U.S. airmen.

In addition to these 17 deaths, 10 other service members are believed to have died on November 30, 1992. We have been informed by Jesse Brown, Secretary of Veterans Affairs, that 11 of these service members had signed up for increased benefits.

Today, those crashes and the aftermath are an ongoing nightmare for the 11 qualified survivors, because they have been denied increased insurance benefits.

And why?

For one simple tragic reason. These airmen happened to have 2½ hours before the effective date of their new insurance policies, according to local time.

The irony of this situation is that the crashes occurred 16 to 18 hours after it became December 1 west of the international dateline.

The denial of increased benefits to the 11 qualified survivors demonstrates that the current law governing effective dates in SGLI is archaic and outdated.

Eligibility, Madam Speaker, is by law based entirely on local time. Each time new benefits under the SGLI program are provided by laws, the benefits are phased in at 24 local separate times zones, beginning at the international dateline and ending in the Pacific region.

So, we arrive at a tragic situation when a crash over Montana occurs 2½ hours before December 1, local time, although it had been December 1 in most of the rest of the world.

I might also point out that these training activities that involve these military personnel are dangerous. They are the type of necessary training that the military must complete as a part of their activities, but they certainly would not be condoned in the more usual civilian-type activities. So these are military-related training activities that cause these deaths.

What is the true meaning of those 2½ hours? Just take a few minutes and think about Lori Parent, the widow of Capt. Edward D. Parent, Jr., who was my constituent at the time of the crash.

"The pain of losing my husband is at times almost unbearable," she wrote to me. "I know his big gentle heart would break if he knew the circumstances following his death. Especially if he knew that his last wishes had been denied."

□ 1240

He had signed up for insurance, thought his dependents were covered, and found out, if he had lived, that, indeed, they were not.

Madam Speaker, my bill, H.R. 2647, resolves this problem. It provides full benefits to all qualified survivors of service members who died November 30, 1992.

It does so by changing the underlying problem, as was pointed out by the gentleman from Kansas [Mr. SLATTERY], by using the international dateline so that benefits would take effect for everyone once that particular date had been reached.

Secretary Brown, who supports this bill, has informed us there is no pay-as-you-go effect of this legislation since the increased SGLI coverage will come from the SGLI contingency reserve fund.

The Secretary also informed us that the Office of Management and Budget has no objections to this bill.

Again, Mr. Speaker, I thank you for your consideration and I ask my colleagues today to pass H.R. 2647.

Mr. MONTGOMERY. Madam Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Madam Speaker, I thank the distinguished chairman for yielding me this time.

Madam Speaker, I have had an opportunity and honor to serve in this body now for almost 10 years, and during that time I have had a lot of contact with all of the committees in the House of Representatives and a few in the Senate as well. But I think that my colleagues and I will agree that no committee is more responsive or cooperative than the Veterans' Committee, and I want to thank its chairman, the gentleman from Mississippi [Mr. MONTGOMERY], the ranking member, the gentleman from Arizona [Mr. STUMP], his staff, and all others who have moved so rapidly to expedite the consideration of this bill.

Madam Speaker, I rise in strong support of H.R. 2647, the Servicemen's Group Life Insurance Amendments of 1993. This bill would benefit the same group of families targeted by legislation I introduced earlier this year. Although the House will not be taking up the bill I introduced, I support H.R. 2647 and have cosponsored this bill. I also want to commend the House Veterans' Affairs Committee for bringing this legislation to the floor quickly.

On November 30, 1992, 13 Air Force crewmen died in a midair collision over Harlem, MT. Nine of the thirteen had signed up for supplemental veterans insurance of $100,000 as they were entitled to under the Dependency and Indemnity Compensation Reform Act (Public Law 102-568). However, the accident occurred approximately 10 p.m. mountain standard time—2 hours before the insurance coverage went into effect. The Department of Veterans Affairs ruled that the crewmen were therefore not covered.

To be frank I was very disappointed to learn of the Department of Veterans Affairs decision. It would be a travesty, Madam Speaker, if the families of the deceased were denied these benefits due to a mere 2-hour technicality.

The legislation I introduced in June of this year, H.R. 2372, would establish an earlier effective date for the increase in serviceman's group life insurance coverage for the servicemembers who died in the Harlem, MT tragedy. By its terms H.R. 2647 would provide coverage for the families of these men by providing that the effective date would be based on the international date line.

I took a personal interest in this matter when I learned that one of the Air Force officers who died in the Montana tragedy was Capt. Jimmy Lee Jenkins. Captain Jenkins, 27, was originally from Marietta, GA, and had been on active duty with the Air Force for 9 years. Captain Jenkins was an outstanding Air Force officer and was a credit to his State and country.

H.R. 2647 will allow the families of the Montana crash victims to receive the benefits they are entitled to. I urge my colleagues to support this bill. It is the right thing to do.

Mr. MONTGOMERY. Madam Speaker, I yield 3 minutes to the gentleman from Washington [Mr. DICKS], also a cosponsor of this bill.

Mr. DICKS. Madam Speaker, I want to say thank you very much to the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], for yielding me this time and also for the prompt work of his committee and the help of my classmate, the gentleman from Arizona [Mr. STUMP], and the gentleman from Kansas [Mr. SLATTERY], subcommittee chairman, for the great work they did in reporting out the bill introduced by my colleague, the gentleman from Washington [Mr. KREIDLER], H.R. 2647.

This bill would amend Federal law to clarify the effective date of changes in

the Servicemen's Group Life Insurance Program.

As we have heard, the gentleman from Washington [Mr. KREIDLER] has come up, I think, with a uniform way to deal with the problems that have occurred because of this local time requirement, and I think it rectifies a terribly inequitable situation where 13 Air Force servicemen, flying out of McChord Air Force Base from Tacoma, WA, were killed when two C-141 aircraft collided over Montana last fall.

I must say, I guess, that the Department of Veterans Affairs had no choice but to make the ruling that they did. But I am glad that we here in the Congress are able to rectify this situation today and to equitably correct a situation and to extend the $100,000 in supplemental life insurance policies which the Veterans Affairs Department had determined they were not eligible for because of the time difference.

So I just want to say that I hope that my colleagues on both sides of the aisle will support this bill. I think the gentleman from Washington [Mr. KREIDLER] has come up with a very good way of dealing with it, and, Madam Speaker, I am going to enter the rest of my statement in the RECORD and urge my colleagues to support this bill and, again, thank the chairman and the leadership of this committee for their prompt action on the legislation introduced by the gentleman from Washington [Mr. KREIDLER].

Madam Speaker, I rise in strong support of H.R. 2647, a bill that would amend Federal law to clarify the effective date of changes to the Servicemen's Group Life Insurance Program.

This legislation has been made necessary by a terrible unfortunate situation: Thirteen Air Force servicemen flying out of McChord Air Force Base in Washington State were killed when two C-141 aircraft collided over Montana last fall.

But the Department of Veterans Affairs has told the families of nine of these personnel that their loved ones died 2½ hours too early.

These crewmembers of the tanker aircraft had $100,000 supplemental life insurance policies which the Veterans Affairs Department has determined were not in effect at the exact time of the crash. The families have been told that since the crash occurred at 9:30 p.m. on the evening of November 30, and the effective date of the new Government-sponsored supplemental life insurance program was December 1, 1992, they are not eligible for any benefits.

One of the family members has noted that the U.S. military operates universally on Greenwich mean time, and that even the clock in the cockpit of the aircraft that was destroyed was set at Greenwich mean time. According to Greenwich mean time, the crash occurred on the morning of December 1, and thus the families of the crash victims would be eligible to receive the supplemental benefits. What this means is that if this crash occurred over the Atlantic Ocean at the same exact moment, these personnel would have been covered by the supplemental insurance.

My colleague from Washington State, Congressman MIKE KREIDLER, has prepared a legislative solution that will alter, retroactively, the effective date and time of the serviceman's group life insurance increased benefits.

H.R. 2647 would accomplish two main goals. It would provide the appropriate amount of servicemen's group life insurance [SGLI] benefits to the nine military personnel who died while in service to their country—as well as to four airmen killed that same night in the crash of a B-1 bomber—and, it would establish a more rational and equitable effective date policy for changes to SGLI. I believe we all agree that American personnel should be treated equally, not with regard to which time zone they're serving their country in at that moment. I call on my colleagues to support H.R. 2647, to guarantee that every eligible participant of this insurance program is covered at the same moment in time around the world.

[From the Associated Press, July 14, 1993]

VA RULES MID-AIR CRASH VICTIMS DIED 2½ HOURS TOO EARLY; DENIES INSURANCE

GREAT FALLS, MT.—The families of nine airmen killed in an air collision are being denied $100,000 each in insurance benefits because the crash occurred 2½ hours before the policies took effect.

Thirteen Air Force fliers from McChord Air Force Base near Tacoma, Wash., were killed last fall when two C-141B jet transports collided during a night aerial refueling mission over Montana and exploded.

Nine of the victims had signed up for a $100,000 supplemental life insurance policy, scheduled to take effect Dec. 1.

But the crash occurred about 9:30 on Nov. 30. Paul Koons of the Department of Veterans Affairs said no benefits can be paid.

"Given the number of people we cover, somebody is always going to die five minutes, 10 minutes, or a half an hour before a new policy takes effect," Koons said.

But the dead men's wives and parents say the ruling is unfair. They also note that the military operates on Greenwich Mean Time, an international time standard that is seven hours ahead of Mountain Standard Time.

"My husband dedicated his life to the Air Force, and the clock in his cockpit said it was December first when that plane went down." said Lori Parent, who now lives near Chico, Calif.

Koons said the VA would be happy to pay the benefits if Congress approves a retroactive change in the effective date. He said that has happened before, notably after a 1985 crash of a military transport in Gander, Newfoundland, and for some victims in the Persian Gulf War.

"If we can find a way to pay the survivors, we'd certainly like to do so," he said.

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

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

Madam Speaker, the administration totally supports this legislation, and I urge my colleagues to adopt this bill.

Mr. BISHOP. Madam Speaker, 13 airmen were killed on November 30, at 8:20 p.m. mountain standard time in a Montana midair collision. And four airmen died in a Texas crash on November 30, at 11 p.m. central standard time. These crashes came 16 to 18 hours after it became December 1 just west of the international dateline. Under H.R. 2647, supplemental life insurance benefits would be extended to survivors of the airmen who died just hours before the effective date of coverage. This bill will do what is proper, Madam Speaker, and it will do what it right. That is to increase the maximum Servicemen's Group Life Insurance coverage from $100,000 to $200,000 based on the international dateline, so that the families of these service members will receive those benefits. I support this effort, and I urge my distinguished colleagues on both sides of this Chamber to join me.

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

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2647, as amended.

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

A motion to reconsider was laid on the table.

RESERVISTS' ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES

Mr. MONTGOMERY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 821) to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a Reserve component of the Armed Forces.

The Clerk read as follows:

H.R. 821

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

SECTION 1. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES.

(a) IN GENERAL.—Section 2402 of title 38, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by adding after paragraph (5) the following new paragraph:

"(6) Any person who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) CONFORMING AMENDMENTS.—(1) Section 2301(e) of such title is amended by striking out "section 2402(6)" and inserting in lieu thereof "section 2402(7)".

(2) Section 2306(a)(2) of such title is amended by striking out "(6)" and inserting in lieu thereof "(7)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

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

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

Madam Speaker, I rise in strong support of this legislation.

H.R. 821 extends eligibility for burial in the national cemeteries for certain reserve and National Guard members.

I want to thank the distinguished chairman of the Subcommittee on Housing and Memorial Affairs, Mr. SANGMEISTER, for his support of the bill and for the outstanding leadership he is providing as chairman of this subcommittee. He will explain this bill.

I also appreciate the cooperation we have received from the gentleman from Indiana [Mr. BURTON], ranking minority members of the subcommittee.

Madam Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Madam Speaker, I would like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his leadership and ongoing support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and subcommittee for their efforts and support. In particular, I would like to thank HENRY BONILLA who introduced this bipartisan bill along with CHARLIE STENHOLM, TOM DELAY, and Veterans' Affairs Committee members FRANK TEJEDA and STEPHEN BUYER. This legislation would extend eligibility for burial in national cemeteries to members of the Reserves and National Guard who have qualified service of 20 or more years.

Madam Speaker, under current law, the only members of Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who:

First, die under honorable conditions while hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred while such member is performing active duty for training, inactive duty training or traveling to and from such duty;

Second, are disabled or die from disease or injury incurred or aggravated in line of duty during or en route to or from active duty for training; or

Third, are disabled or die from injury, but not disease, incurred or aggravated in line of duty during or en route to or from inactive duty training.

However, members of the Reserves who have spent 20 years in a state of continual readiness to defend our Nation at a moments notice are not eligible for burial in our national cemeteries.

Our Nation has long depended upon and recognized the contribution of our citizen soldiers. From the Minutemen of the Revolution to the valiant men and women who served during Desert Storm, our reserve and National Guard members must satisfy the full mobilization requirements of all Active Duty Forces. He or she may be called upon to perform capably in a highly complex, hostile, and demanding environment, to operate sophisticated military equipment, and to not only augment Active Forces but to actually perform a wide range of critical functions whose skills exist entirely within the reserve components. Additionally, these dedicated individuals also honor their obligations to family, home, and civilian employers. During a 20-year career the men and women of our Reserve Forces perform more than 2 years of collective military service, an amount of time equivalent to that which currently qualifies active duty veterans for burial in a national cemetery.

Madam Speaker, in the report of the Sixth Quadrennial Review of Military Compensation [6th QRMC], it was noted that, with the advent of the All Volunteer Force, the scope, size, and importance of missions assigned to Reserve components have increased dramatically. The Armed Forces now depend heavily on reservists as a key part of the total force. This was demonstrated most recently during the Persian Gulf war, during which a total of about 228,000 reservists were ultimately activated in support of Operation Desert Storm. Additionally, reservists stand ready to assist their fellow Americans when a disaster hits home such as the flooding along the Mississippi corridor, hurricane relief along coastal areas, and the maintenance of law and order and provision of humanitarian assistance whenever and wherever needed.

In view of this expanded role, the 6th QRMC recommended that all members of the Selected Reserve, plus reservists in any category who have completed the service requirements for retired pay, 20 years, under chapter 67, title 10, or who are in receipt of such pay, should be added to the list of persons qualified for burial in a national cemetery.

According to the Sixth QRMC, extension of this benefit to such members is clearly warranted. Their participation requirements, their mobilization vulnerability, and the requirement that they be prepared to report within 24 hours of notification underscore the fact that today's selected reservists are continuous members of the total force. National Guard and Reserve members who have maintained a commitment to the Armed Forces for at least 20 years should also be afforded eligibility for burial in our national cemeteries as a reflection of the service they have voluntarily rendered their country.

Madam Speaker, as you are aware, similar legislation, H.R. 4368, which provided the burial benefits specified in H.R. 821 passed the full House of Representatives during the 102d Congress.

Madam Speaker, I urge favorable consideration of this bill.

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

Madam Speaker, I rise in support of H.R. 821, a bill to provide full burial benefits in national cemeteries to National Guard and Reserve retirees who have completed 20 years or more as members of a Reserve component of the armed services.

I commend my colleague, HENRY BONILLA, for introducing H.R. 821. The bill will ensure that our Reserve component forces receive the Nation's full recognition as a final tribute for their service.

Madam Speaker, I also wish to thank my good friend SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for his timely action on this bill.

In addition, I wish to recognize the gentleman from Illinois [Mr. SANGMEISTER], chairman of the Subcommittee on Housing and Memorial Affairs, and the gentleman from Indiana [Mr. BURTON], the subcommittee's ranking member, for their consideration of this measure.

I recommend that H.R. 821 be passed.

□ 1250

Madam Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Madam Speaker, on behalf of over 1 million reservists and their families across this great Nation, I appreciate the opportunity to offer this bill—H.R. 821—for consideration by the House of Representatives. This bipartisan measure received strong support from members of the Veterans' Affairs Committee. As you know, this legislation would extend eligibility for burial in national cemeteries to members of the Reserve components of our Armed Forces who have at least 20 years of service creditable for retired pay.

Under current law, the only members of the Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who: First, die under honorable conditions while hospitalized or undergoing treatment at the expense of the United States, for injury or disease contracted or incurred while such member is performing active duty for training, inactive duty training or traveling to or from such duty; second, are disabled or die from disease or injury incurred or aggravated in line of duty during or enroute to or from inactive duty training; or third, are disabled or die from injury—but not disease—incurred or aggravated in line of duty during or enroute to or from active duty training.

However, members of the Reserves who have spent 20 years preparing both

physically and mentally to defend our Nation at a moments notice are not eligible for burial in the National Cemetery System.

Reservists have served this Nation admirably over the years. Reserve units participated in large numbers and were key elements of operations such as: Urgent Fury in Grenada; Just Cause and Kindle Liberty in Panama; and Desert Shield/Desert Storm. Reservists also stand ready to assist Americans when a disaster hits home such as Hurricane Andrew—after which we saw Reserve forces maintaining law and order and providing humanitarian assistance in south Florida.

These instances that I have just noted are only a few of the ways in which reservists serve our Nation. I believe that this dedicated service must be fully acknowledged. Our reservists should be provided the benefit of burial in a national cemetery.

Madam Speaker, as you know, H.R. 821 passed through subcommittee and full committee markup with broad bipartisan support, and I believe that we should do as the Members of the 102d Congress did in recognizing that reservists who dedicate years to their country should be accorded burial rights in our national cemeteries.

Madam Speaker, I urge all Members to support this bill.

Mr. MONTGOMERY. Madam Speaker, I yield 2 minutes to the gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. I thank the chairman for yielding this time to me.

Madam Speaker, I rise also to commend the individuals involved with this legislation: the chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY]; the chairman of the subcommittee, the gentleman from Illinois [Mr. SANGMEISTER]; and the ranking Republican on the committee, the gentleman from Arizona [Mr. STUMP]; and the sponsor of this bill, the gentleman from Texas [Mr. BONILLA], for introducing this legislation.

Madam Speaker, as an Army reservist with 20 years' eligibility, this has some bearing on me personally. I have 23 months of active-duty service time, not 24 months, which would be the requirement now for interment in one of the veterans cemeteries. As a result, still serving for 20 months during the Vietnam war and 3 months during Operation Desert Shield and Storm, I still would not be eligible. With this legislation, I would be eligible.

I might point out that there are very few individuals who have 20 years of eligible service in the Reserve and Guard who do not have 2 years of active-duty time in conjunction. So, this applies to a very relatively small number of individuals like myself. But it does give us the opportunity to select, if we so desire, the opportunity to be buried and interred in a national cemetery, as this bill would authorize.

So, I commend the individuals involved with this legislation and very much appreciate the opportunity to be a part of urging other Members to join us in this legislation.

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. I thank the gentleman for yielding this time to me.

Madam Speaker, I rise today to lend my strong support to H.R. 821, which extends eligibility for burial in national cemeteries to those who have 20 years of service as members of the Reserve component of the Armed Services.

I recognize with distinction the efforts of the gentleman from Illinois [Mr. SANGMEISTER], along with the efforts of the gentleman from Indiana [Mr. BURTON]; the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the committee on Veterans' Affairs; and the gentleman from Arizona [Mr. STUMP] for their efforts and their leadership.

We hear a great deal about the fears of our military leaders who caution about the return of the hollow force, the hollow military.

In 1973, at the end of the Vietnam conflict, the beginning of an All-Volunteer Force, the hollow force was a reality.

In an effort to rectify this problem, then-Secretary of Defense, James Schlesinger, with the advice and support of the Joint Chiefs of Staff, created the total-force policy. This policy called for an increase in interdependence of active-duty forces along with the integration of the National Guard.

At the same time, it stated that, "The integration of planning, programming, and budgeting for the manning, equipping, and maintaining and training of the mix of active and Reserve forces is essential for meeting the initial contingency demands for our forces," that is, the total-force concept.

Nowhere was this interdependence more evident than during Operations Desert Shield and Desert Storm. Within 10 days of invasion, President Bush authorized the callup of 200,000 Reserve and National Guard personnel in response to this national emergency. These citizen-soldiers, the modern-day Minutemen and Minutewomen, served with distinction in every aspect of this campaign. The concept of the total force must go far beyond the training and integration with the active component first envisioned by those planners 20 years ago. If our reservists and National Guard must share the dangers or the possibilities of these dangers, then they should share in the benefits as well.

This bill takes another step in helping these dedicated men and women reap the benefits of their service.

H.R. 821 will provide burial eligibility to those who make the long-term commitment to their country while serving in the Reserves and the National Guard. While they may never be called to active duty or federalized in response to a national emergency, I feel their readiness and dedication to serve should be rewarded with benefits for having given 20 years to this country.

I urge my colleagues to support this legislation and to help honor those who are twice the citizen by having served their Nation and in our hometowns across America. With great compliments, I extend to HENRY BONILLA for introducing and bringing this legislation to the floor.

Mr. STUMP. Madam Speaker, I urge my colleagues to support H.R. 821.

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

Mr. MONTGOMERY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, this bill sends a clear signal that the role of the members of the Reserve forces is very important to the defense of our country. It recognizes the total-force concept, and I urge my colleagues to adopt this legislation.

Madam Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, who has also been interested in this legislation.

Mr. DE LA GARZA. I thank the chairman for yielding this time to me.

Madam Speaker and Mr. Chairman, I appreciate this opportunity. Let me say that what has been said here this morning about members of the National Guard serving their country, that in that respect, three of my National Guardsmen recently were killed while on their 2-week training period at Fort Hood. They died as heroes in a tragic accident. But this exemplifies what is being attempted here in this legislation, because they served during Desert Storm in every phase from training in one area to the actual front. They will be treated as full military service casualties. But the fact that they served during peacetime in the National Guard should not be forgotten. I think this would be a tribute to the three military men who died in the service of their country recently, that they also should receive some of the rewards that we give to all those who serve.

I join with the chairman in support of this legislation.

Mr. MONTGOMERY. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentleman for yielding.

Madam Speaker, I thank the gentleman for bringing up this sad tragedy

which happened on a training mission. These guardsmen were on active-duty training, on their 15-day annual training. When you deal with ammunition and with heavy equipment, you do have sadness and people do get hurt.

I want to thank the gentleman for coming over here and participating. These National Guard men and reservists are part of the total force now.

□ 1300

As we reduce the military, these guardsmen and reservists have to take more responsibility, and this is just one way to show our appreciation.

If the gentleman has any problems, I am not sure, but if these three guardsmen, I believe since they were on active duty they might be eligible to be buried in a national cemetery, but if problems do develop, our committee certainly would like to be of help.

Mr. DE LA GARZA. The military is conducting the necessary investigation. There has been one problem with one of them. They are buried already.

Both the Texas National Guard and the Regular Army are working with the families, I am working with the families.

The point I wanted to make was that whether you are in the Reserves or in the National Guard, you are always in the service of your country. When you deal in this type of training, you are never out of harm's way, and anything that we can do for them I think is merited and more.

Mr. BUYER. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Indiana.

Mr. BUYER. Madam Speaker, to clarify the record, this is a bill that extends eligibility to those National Guard men who have given 20 years and having perhaps never having served in Federal service beyond their annual training.

While I sit here with great distinction and honor for the three men who lost their lives in the National Guard, this bill in particular does not extend burial rights to them unless they were beyond 20 years of service.

Would that be correct?

Mr. MONTGOMERY. Madam Speaker, if the gentleman will yield further, that is correct.

The SPEAKER pro tempore (Mrs. SCHROEDER). The time of the gentleman from Texas has expired.

Mr. MONTGOMERY. Madam Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. DE LA GARZA. That is perfectly understood. My purpose here is to say that these three signify that they also served and were in harm's way. What we do here is for their buddies who will serve similarly and serve their 20 years, that we enhance their position through this legislation.

Those who died in this tragic accident will be considered as and receive the benefits of the Regular Army, having died on active duty. That is being handled by the regular military at this time.

Mr. BUYER. And their sacrifice is defined as the total force concept, and the total integration of the National Guard and Reserves in the active component for the service of our country.

Mr. SANGMEISTER. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Illinois.

Mr. SANGMEISTER. Just as a bit of clarification, Madam Speaker, I am not quite sure what the facts were surrounding these National Guard people, but I understood they were on active duty at that point, is that correct?

Mr. DE LA GARZA. The gentleman is correct.

Mr. SANGMEISTER. If you are on active duty, in my opinion, they are covered by the legislation, so they would qualify.

Mr. DE LA GARZA. It has been handled as if they were Regular Army, serving on active duty. That is not an issue at this time. The investigation is continuing.

My intervention at this point is to thank these gentlemen for what they do for their buddies who served in the National Guard in peacetime and that if they served their 20 years, then they should be compensated similarly, because they are always in harm's way, regardless of whether they are just training on weekends or they are training for 2 weeks, but when they wear the uniform of either the Texas National Guard, which translates to the military of the United States of America, they should be treated with the same honor and respect and credits that we can do.

This is a measure which in part enhances their position.

Mr. BISHOP. Madam Speaker, I rise in support of H.R. 821. This bill would make our loyal military reservists who have 20 years of service eligible for burial in national cemeteries. This action is a long time coming, Madam Speaker, and a just reward for these men and women who have dedicated their lives to serving our country and for their families, who also make the sacrifice. Our reservists stand ready for the call, Madam Speaker, as many proved during the Persian Gulf war. Under this bill, reservists entitled to retirement pay but who are under 60 years of age could be buried beside their comrades. Many of my constituents are military reservists, Madam Speaker, and many of them served in the Persian Gulf as part of their duty. Now it is our duty, Madam Speaker, to bestow upon them this honor.

Mr. GILMAN. Madam Speaker, I am honored to rise in support of H.R. 821. I commend my distinguished colleague from Texas, Mr. BONILLA, for introducing this worthwhile legislation. I would also like to praise the Committee on Veterans' Affairs. Under the leadership of the chairman of the committee, my colleague from Mississippi, Mr. MONTGOMERY, and the ranking minority member, my colleague from Arizona, Mr. STUMP, a continued commitment has been shown to veterans' issues.

I am pleased to support this legislation which will extend eligibility of national cemetery burial benefits to National Guard and reservist retirees who have completed 20 or more years of service. Under current law, members of the Reserves may be buried in national cemeteries only if they are disabled or die as a result of active duty. I believe that H.R. 821 is worthy legislation enabling our Nation to pay final tribute to National Guard and reservist retirees who have given so much of themselves to our country.

I am pleased that the House is reviewing this important issue. The death of a loved one causes an unfortunately emotional strain. However, the death of a loved one should not cause a financial strain too. Accordingly, it is for that reason that I have introduced legislation, H.R. 34, that will boost funeral benefits to a level previously afforded to all our wartime veterans.

Prior to 1981, a burial allowance of up to $300 was provided in all cases where a veteran died: First, of service-connected disability; second, if he was a veteran of any war; third, if he was discharged for a disability incurred or aggravated in the line of duty; or fourth, if he was in receipt of, or entitled to, disability compensation.

Under the Omnibus Budget Reconciliation Act of 1981, the veterans' burial benefits were decreased significantly by limiting funeral benefits to veterans receiving pension or compensation benefits, or residing in a VA-supported health facility at the time of death. That reduction mistakenly placed an economic value on a benefit given by Congress to ensure that all veterans would be buried with dignity and respect, regardless of their income or social standing at time of death. I believe this is also in direct violation of the longstanding principle held by the American Legion which calls for equal benefits for equal service.

The 1990 Omnibus Budget Reconciliation Act further limited burial plot allowances. The 1990 veterans benefits and services reconciliation conference agreement eliminates the plot allowance of $150, with the exception of veterans who are in receipt of DVA disability benefits, such as compenstion or pension.

H.R. 34 restores the pre-1981 eligibility for veterans for the purposes of receiving funeral benefits, increases the amount of those benefits from $300 to $400, and increases the plot allowance from $150 to $300.

As a nation, we have a moral obligation to provide our service men and women with funeral benefits. For this reason I am pleased to support H.R. 821. However, I believe that we must go a step further. I urge my colleagues to support my legislation which will reinstate our veterans' funeral benefits. By doing this we will fulfill our obligation to all those who have fought and risked their lives to protect the ideals and the people of our great Nation. We should do no less, for those who have given so much to defend our freedom.

Accordingly, I urge my colleagues to support H.R. 821, as an important step in acknowledging the devotion by our veterans to our Nation.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 821.

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

A motion to reconsider was laid on the table.

PRIORITY VA HEALTH CARE FOR PERSIAN GULF VETERANS

Mr. MONTGOMERY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2535) to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war, as amended.

The Clerk read as follows:

H.R. 2535

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

SECTION 1. AUTHORITY TO PROVIDE PRIORITY HEALTH CARE.

(a) AUTHORIZED INPATIENT CARE.—(1) Section 1710(a)(1)(G) of title 38, United States Code, is amended by striking out "or radiation" and inserting in lieu thereof ", radiation, or environmental hazard".

(2) Section 1710(e) of such title is amended—

(A) by inserting at the end of paragraph (1) the following new subparagraph:

"(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability which becomes manifest before October 1, 1996, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.";

(B) in paragraph (2), by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A), (B), or (C)"; and

(C) in paragraph (3), by striking out the period at the end and inserting in lieu thereof ", or, in the case of care for a veteran described in paragraph (1)(C), after September 30, 1998.".

(b) AUTHORIZED OUTPATIENT CARE.—Section 1712(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(D) during the period before October 1, 1998, for any disability which becomes manifest before October 1, 1996, in the case of a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and who the Secretary finds may have been exposed to a toxic substance or environmental hazard during such service, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure."; and

(2) by adding at the end the following new paragraph:

"(7) Medical services may not be furnished under paragraph (1)(D) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.".

SEC. 2. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by section 1 shall take effect as of August 2, 1990.

(b) PROCEDURE FOR REFUNDS OF PRIOR PAYMENTS.—Upon application of a veteran submitted after the date of the enactment of this Act, the Secretary of Veterans Affairs shall refund to the veteran any amount paid by the veteran to the Secretary before the date of the enactment of this Act in accordance with sections 1710(f) and 1712(f) of title 38, United States Code, for care and services covered by the amendments made by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

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

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

This bill would provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war.

I want to thank the distinguished chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs, the gentleman from Georgia [Mr. ROWLAND] for his leadership and the leadership of the ranking minority member of the subcommittee, the gentleman from New Jersey [Mr. SMITH] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their cooperation.

I also want to acknowledge the good work of the chairman of the Subcommittee on Oversight and Investigations, the gentleman from Illinois [Mr. EVANS], whose oversight hearings disclosed very clearly the health problems so many Persian Gulf veterans are having since returning home.

Madam Speaker, I am pleased to yield such time as he may consume to the chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs, the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Madam Speaker, I appreciate the gentleman yielding this time to me.

I commend the gentleman from Mississippi and the gentleman from Arizona [Mr. STUMP], the ranking member of the Committee on Veterans' Affairs, for the support and assistance they have given in developing this legislation and bringing it to the floor.

Madam Speaker, I rise in support of H.R. 2535, as amended, legislation granting VA authority to provide health care on a priority basis to veterans of the Persian Gulf war.

There have been many concerns raised that U.S. troops were exposed to potential environmental and chemical hazards during their service in the Persian Gulf war and that these potential hazards are now causing health problems in some returning veterans. These concerns prompted several hearings by two different subcommittees.

The Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs, chaired by the gentleman from Illinois [Mr. EVANS] held two hearings.

The hearings provided a basis to examine what had been learned to date about the health effects and risks of exposure to environmental and chemical factors in the Persian Gulf as well as the health status of Persian Gulf veterans. As a result of the testimony received during the hearings, our members saw the need for legislation.

I particularly want to thank the gentleman from Tennessee [Mr. CLEMENT], the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Illinois [Mr. GUTIERREZ] for the work they have done on this, and for the work of the ranking member of the subcommittee, the gentleman from New Jersey [Mr. SMITH]. I really appreciate his help as well in putting this bill together.

Madam Speaker, H.R. 2535, as amended, would authorize the VA to provide health care on a priority basis to veterans who may have been exposed to toxic substances or environmental hazards while on active duty in-theater during the Persian Gulf war. This authority would expire on September 30, 1998.

Such care or treatment, whether inpatient, outpatient, or long-term care would be available for any condition which manifests itself prior to October 1, 1996. This would include all conditions, other than conditions which the VA finds have resulted from a cause other than an exposure to either toxic substances or environmental hazards. This authority would be retroactive to August 2, 1990, in order to avoid any veteran being billed for care that the VA has already provided to that veteran.

I think this is a good bill and thank my colleagues for their input into its drafting. This bill assures comprehensive treatment for a reasonable period, while giving us time to do oversight and see if there is a need to go further.

Madam Speaker, I urge my colleagues to support the bill.

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

Madam Speaker, I want to commend Chairman MONTGOMERY for his leadership on this issue.

I also want to thank the subcommittee chairman, the gentleman from Georgia [Mr. ROWLAND], and the ranking minority member, the gentleman from New Jersey [Mr. SMITH] for their leadership and expertise as well.

In addition, I would like to acknowledge also the gentleman from Illinois [Mr. EVANS] for his work on this issue as chairman of the Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs.

I also think the gentleman from Indiana [Mr. BUYER] should be recognized for all his hard work on behalf of the men and women who served in the Persian Gulf.

Last year, the House passed legislation, Public Law 102-585, which allowed Persian Gulf veterans the opportunity to receive health examinations, counseling, and to participate in a health-related registry.

H.R. 2535, as amended, gives the VA additional authority to provide health care to Persian Gulf war veterans on a priority basis.

It is my hope that this legislation in combination with Public Law 102-585 will address the health care problems of these veterans.

Madam Speaker, I support this bill and urge the support of my colleagues.

□ 1310

Madam Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH], the ranking member of the Subcommittee on Hospitals and Health Care.

Mr. SMITH of New Jersey. Madam Speaker, I rise today in strong support of H.R. 2535, legislation to authorize the Department of Veterans Affairs to provide priority health care to veterans who may have been exposed to toxic substances or environmental hazards while on active duty during the Persian Gulf war.

In what is clearly a lesson learned from the agent orange issue, I am pleased to see that legislation to assist our gulf war veterans has moved so quickly to the House floor. Chairman MONTGOMERY and Mr. ROWLAND are to be commended for putting this issue at the top of the committee's agenda.

Madam Speaker, H.R. 2535 is truly a comprehensive bill. Inpatient hospital care and outpatient services are both required under this measure. Likewise, nursing home services are also authorized for veterans. All medical conditions which become manifest before October 1, 1996, are also covered under H.R. 2535 unless specifically found by the Under Secretary for Health not to be caused by environmental hazards or toxic substances.

The Secretary shall also refund any copayments made by veterans for care provided prior to enactment. To ensure that all veterans are covered under the provisions of this bill, its effective date is retroactive to August 2, 1990. During fiscal year 1992, the Department of Veterans Affairs had treated 242 gulf war veterans in New Jersey on an outpatient basis.

Madam Speaker, the Veterans' Affairs Committee has conducted several crucial hearings on the lingering health problems associated with service in the Persian Gulf. Last year's Hospitals and Health Care Subcommittee hearing resulted in the creation of the Persian Gulf Registry. Also, the recent hearings called by Chairman LANE EVANS in the Oversight and Investigations Subcommittee underscored the need for a specific authorization for the VA to provide care to gulf veterans for those mysterious conditions which could be connected to their service.

Madam Speaker, the terms toxic substances or environmental hazard were also used to provide the VA with the greatest leeway in determining eligibility. The bill's report language will list several specific definitions, but eligibility will not be limited to those enumerated.

During Operation Desert Storm, Madam Speaker, our service men and women were subjected to myriad toxic substances and environmental threats which may prove hazardous to their health. Among the risks faced were the many oil well fires and burning landfills, the chemical agents and pharmaceuticals dispensed by the Department of Defense to protect our soldiers from Iraqi poison gas or biological weapons, and the indigenous diseases or infections which were transmitted by parasites. In addition, the pesticides which were used on a widespread basis to limit insects could also pose significant medical risks. Finally, there was the risk presented by depleted uranium [DU]. American tanks fired projectiles hardened with depleted uranium to increase their punch and stopping power. The shells produced a residue after exploding that could prove quite dangerous. Some veterans ingested the residue or had wounds contaminated with the DU shrapnel. At least two veterans from New Jersey have been treated by the VA for exposure to DU. Their conditions—and the other such exposed veterans—will be carefully monitored.

Despite the astonishingly few combat casualties and the remarkably few nonbattle injuries sustained during the conflict, the DOD wisely performed physical examinations on each of the 675,000 service men and women who were stationed in the gulf. This information, combined with findings from the VA resulting from the Persian Gulf Health Registry—which now holds records on approximately 75,000 veterans—will form the basis for an epidemiological research study to find the answers to the mysterious illnesses which are afflicting gulf veterans. Thus far, 45 New Jersey gulf war veterans have had registry examinations. They report 51 different diagnoses including headaches, fatigue, hair loss, and depression. In addition, several more unusual symptoms were reported such as bleeding gums, thyroid conditions, and anemia.

Madam Speaker, as a cosponsor of H.R. 2535, I wholeheartedly endorse its adoption by the House.

Mr. MONTGOMERY. Madam Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS], a cosponsor of this legislation.

Mr. EVANS. Madam Speaker, I want to first thank Chairman MONTGOMERY and the ranking Republican member, the gentleman from Arizona [Mr. STUMP], for helping us move through this legislation, along with the subcommittee chairman, the gentleman from Georgia [Mr. ROWLAND], the chairman of the Subcommittee on Hospitals and Health Care, for moving this legislation through very quickly.

I also want to thank my subcommittee members, the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Illinois [Mr. GUTIERREZ], the gentleman from Indiana [Mr. BUYER], and the gentleman from Tennessee [Mr. CLEMENT], for their hard work in getting this legislation through and their attendance at both hearings.

On June 9, the Committee on Veterans' Affairs' Subcommittee on Oversights and Investigations held a 9-hour hearing which received testimony stating that there were perhaps 4,000 Persian Gulf veterans, including our colleague, the gentleman from Indiana [Mr. BUYER], who suffered from health problems related to their service to our country in the gulf. These men and women went to battle for our country, and it is the VA's duty to care for them now.

Nonetheless, the subcommittee also heard that some veterans were denied the health care they needed because they could not prove that their illnesses were service connected.

This is absurd. The VA's inability to diagnose their illnesses should not hinder their ability to receive care. These are veterans that need our help and need it now.

Furthermore, these veterans should not be forced to pay out of their pocket for the illnesses that they are suffering from and for their treatment. Since the VA was not able to diagnose those illnesses, many veterans have been charged copayments for health care. This is unfair, because other service-connected veterans do not pay for VA-related health care.

Madam Speaker, this legislation would ensure these veterans access to VA health care, forgive outstanding bills, and force the VA to repay those bills these veterans have paid. That is why I strongly support the legislation. But I urge my colleagues to take a close look at this issue. I believe more will need to be done. The gentlewoman

from Colorado [Mrs. SCHROEDER] and the gentleman from California [Mr. DELLUMS] have included legislation in the DOD legislation that we passed out of committee the other night funding for studies concerning multiple chemical sensitivity and depleted uranium. We thank them for their strong support for Persian Gulf veterans, and all of our colleagues for their hard work.

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. Madam Speaker, I rise today on the third anniversary of the beginning of the Persian Gulf war to speak in strong support of H.R. 2535. It is fitting that on this anniversary that the Congress consider this legislation that will provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of this conflict.

In listening to the hours of testimony before the Committee on Veterans' Affairs' Subcommittee on Oversight, led by the gentleman from Illinois [Mr. EVANS] along with the gentleman from Alabama [Mr. BACHUS], I was struck by the widespread incidence of mysterious symptoms suffered by many of the veterans of this war.

At the same time I was very concerned that both the Department of Defense and the Veterans' Administration were categorizing these veterans as having post-traumatic stress disorder, chronic fatigue syndrome, or other unidentified mental disorders. It was obvious from the testimony that there was more to this than what meets the eye. However, the military and the VA medical communities were giving us a catch-all diagnosis, which is entirely disappointing to this Member.

In addition, I was also surprised to learn that over 73,000 gulf war veterans have sought outpatient medical treatment for various medical problems over the past 3 years. Yet only 26 veterans have been admitted to special gulf referral centers with diagnostic workups.

I am encouraged by the quick action, though, taken by this Congress to rectify the problem. I note it was brought up earlier that the National Academy of Sciences released its report on the health effects of herbicides used in Vietnam. The debate over the agent orange issue still haunts the veterans of the Vietnam era. We have learned from that experience and will not repeat the same mistakes.

The veterans all across America can be well assured that the lineup of the Committee on Veterans' Affairs in the House of Representatives is in fact the lineup that stands strong for the veterans and can work in a bipartisan effort to move legislation quickly through this House.

I would like to thank my colleagues, the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Tennessee [Mr. CLEMENT], the gentleman from Illinois [Mr. GUTIERREZ], the gentleman from New Jersey [Mr. SMITH], and the gentleman from Alabama [Mr. BACHUS], for their hard work on this issue.

I would also like to thank the gentleman from Georgia [Mr. ROWLAND], the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from Arizona [Mr. STUMP] for their quick action and leadership in bringing this bill to the floor. This bill, in essence, gives priority car to the gulf war veterans as the military and the VA medical community set the diagnostic criteria, and at the same time allows us to continue the oversight responsibilities of the gulf war illness.

I strongly urge my colleagues to support this legislation so that those who served this Nation in a time of crisis can receive the health care they deserve.

I also note and appreciate with great distinction the gentlewoman from Colorado [Mrs. SCHROEDER] for her Subcommittee on Research and Technology of the Committee on Armed Services, to include legislation that would have the testing of multiple chemical sensitivity on an environmental unit that will allow and push the bounds of medical science, which is extremely important, since we have tens of thousands of gulf war veterans out there, and ensure that it will be gender and racial coded.

Mr. MONTGOMERY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, I would also like to thank you, as the chairman of the Subcommittee on Research that helped us on the Committee on Armed Services so we could move ahead with testing. I just want to say, thank you very much.

Madam Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. KENNEDY], a member of both the committee and the subcommittee.

The SPEAKER pro tempore. The Chair also wants to thank both of the Members for helping with that study.

Mr. KENNEDY. Madam Speaker, I rise in strong support of H.R. 2535, legislation to provide priority health care to the brave men and women who served our Nation in the Persian Gulf war. This legislation is the first part of a comprehensive legislative package I have introduced with several colleagues of the Committee on Veterans' Affairs to address the immediate health care needs of Persian Gulf veterans and needed research on the health effects of exposure to multiple chemicals and toxic substances, and to depleted uranium in the gulf war. Our next step must be passage of these two research initiatives which are pending as part of the Department of Defense authorization bill.

I would like to recognize the leadership of Representatives LANE EVANS, BOB CLEMENT, STEVE BUYER, and LUIS GUTIERREZ in this truly bipartisan effort. I would also like to thank Chairman MONTGOMERY and Subcommittee on Hospitals and Health Care Chairman ROWLAND for expediting consideration of this legislation.

Literally, thousands of former Persian Gulf troops are reporting a number of serious and often disabling illnesses. Over 6,125 have been tracked by the Persian Gulf Registry. They were exposed to a unique array of environmental hazards and chemical agents administered by the Department of Defense including: petrochemicals, depleted uranium, vaccines, pesticides, and parasites. Under this legislation, Persian Gulf veterans are given the benefit of the doubt. They will be eligible for hospital, nursing home, and outpatient care at the VA for illnesses that may have resulted from exposures to toxic substances and other environmental hazards while serving in the gulf.

The Clinton administration and Secretary of Veterans Affairs Jesse Brown have come a long way in recognizing the severity of this problem—from the previous administration's attempt to sweep the health care concerns of Persian Gulf veterans under the carpet and dismiss them as "all in veterans' heads."

But, there are still some wrinkles in the carpet. For this policy to work, it must be implemented by all of VA's medical centers and clinics. Recent, troubling accounts from the Houston Medical Center—one of only three special referral centers set up in the Nation to treat complex Persian Gulf cases—reveal that the VA is currently not making the grade. For the chief of staff of the Houston Referral Center—designed especially for Persian Gulf veterans—to write off their physical illnesses with ridicule is absolutely unacceptable.

Now, the VA must fulfill their mission—to take veterans health concerns seriously, and to respond to them accordingly. After all, the Department of Veterans Affairs was created for veterans and is charged with providing an atmosphere where veterans feel they can seek the health care to which they are entitled.

Lessons learned from the Vietnam experience instruct us that we must move forward to address the full range of health consequences that resulted from serving in the gulf. Last week's release of the National Academy of Sciences report on agent orange reinforces that the decades of Government indifference with respect to Vietnam vets and exposure to agent orange must not be repeated and will not be tolerated.

The urgent health care needs of the men and women who served our country so honorably in the gulf demand our immediate action. This legislation

provides the framework for Persian Gulf war veterans to get the critical medical care they deserve. I urge my colleagues to support this important bill.

□ 1320

Mr. BUYER. Madam Speaker, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Indiana.

Mr. BUYER. Madam Speaker, I want to congratulate the gentleman from Massachusetts [Mr. KENNEDY] for breaking through tremendous barriers at a time when nobody would seek recognition of the problem. The gentleman stepped forward, along with the gentleman from Illinois [Mr. EVANS] and the gentleman from New Jersey [Mr. SMITH] and the gentleman from Massachusetts in particular.

Madam Speaker, why this is so important is, the gentleman is absolutely right. It shows how bipartisan effort can work to move a cause forward. What happened and what we have done here is set a tone for gulf war veterans throughout the world, because other countries were not recognizing gulf war illnesses. Now, all of a sudden, we have stepped forward and move forward.

Now, 3 weeks ago, Great Britain recognized it. And as of last week, last Friday, Prague of Czechoslovakia, the Ministry of Defense have recognized gulf war illnesses.

Madam Speaker, I would like to congratulate the gentleman from Massachusetts [Mr. KENNEDY].

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Madam Speaker, I rise today in support of H.R. 2535. This legislation is an important step in recognizing the fact that some soldiers who served in Operation Desert Shield/Desert Storm have been exposed to environmentally hazardous materials that have produced long-term effects.

In this regard, I would like to share with the Members of this Congress the fact that my hometown newspaper, the Birmingham News, recognized early on that some of the veterans living in and around Birmingham had health problems so severe that they were unable to work. Their indepth investigation not only raised public awareness; it also alerted me to the desperate plight of many Alabama veterans. As a result of their work, many of these same veterans traveled to Washington and shared their experiences with the oversight committee.

Last week, the House Committee on Veterans' Affairs unanimously passed this legislation, which gives veterans who manifest conditions related to their service in the gulf priority treatment within the VA system.

I am proud to say that I am a cosponsor of this legislation.

I want to commend Mr. ROWLAND for his leadership in this matter; the gentleman from Illinois [Mr. EVANS], who I, as the ranking Republican present, had the opportunity to work with at the oversight committee hearings; and the gentleman from Mississippi [Mr. MONTGOMERY].

As a Republican, I am especially proud of my colleagues the gentleman from Indiana [Mr. BUYER], who himself gave such strong and convincing testimony; the gentleman from New Jersey [Mr. SMITH]; and the ranking minority member, the gentleman from Arizona [Mr. STUMP]. I consider it a privilege to have worked with them on this side of the aisle.

The gentleman from Indiana [Mr. BUYER] has correctly stated that it was a real show of bipartisan concern by our entire committee.

But our task is not over. To ensure the successful treatment of these veterans, the VA, the Department of Defense, the medical community, and this Congress must not only continue to recognize the urgency of this situation, but also to join together in providing these veterans continued adequate care and treatment.

This cooperation and willingness to work together, we found, is absolutely essential and must continue.

There is no excuse for allowing these veterans, who have so valiantly risked life and limb in service to our country, to have their service-connected illness ignored or their treatment delayed.

Rest assured, the Committee on Veterans' Affairs will continue to encourage an open dialog on this issue and support any further legislative initiatives which may be necessary to address the health care problems of these veterans.

Again, I would like to commend and tell my fellow Members of the Committee on Veterans' Affairs how proud I am of them for their work in this matter.

Mr. MONTGOMERY. Madam Speaker, I yield 4 minutes to the gentleman from Tennessee [Mr. CLEMENT], who is also a sponsor of this legislation. I want to thank him for the help he gives us on the full committee.

Mr. CLEMENT. Madam Speaker, I also applaud our chairman of the Committee on Veterans' Affairs. As the only Tennessee Congressman on the Committee on Veterans' Affairs, I wish to note how responsive this committee is and how Democrats and Republicans alike work together as a cohesive team. We surely do not have gridlock in the Committee on Veterans' Affairs. This legislation is important to all of us, providing health care for Persian Gulf veterans that deserve health care.

I rise in strong support of H.R. 2535 and urge my colleagues to support this legislation.

Madam Speaker, our committee heard testimony from veterans suffering from symptoms they believe are linked to their service in the gulf, testimony from officials with the Department of Veterans Affairs, and testimony from outside medical experts. In addition, I have researched another 70 cases. Based on this information, I can reach no other conclusion but that the maladies these individuals are complaining of are real.

More than 72,000 veterans have visited the VA since their return home from the gulf. Of these 72,000 only 6,000 exams have been recorded in the Persian Gulf Registry data base. When comparing these numbers it is apparent that there has been a breakdown somewhere. One explanation could be that since there is no identifiable cause or diagnosis and thus no service connection, VA doctors have been caught in a quagmire.

Madam Speaker, I want to reiterate that this legislation was requested by the Department of Veterans Affairs and is needed to ensure that the VA has the legal authority to treat veterans of the Persian Gulf experiencing the mysterious ailments. It is my hope that giving the VA this additional authority will not only ensure that the veterans receive treatment but will eliminate the quagmire confronting VA physicians and result in a more accurate assessment of the situation.

This bill before us today is the product of a highly productive, bipartisan discussion on the Clement and Evans bills. It is not a bill to end all, but it will allow the suffering veterans to receive treatment while research is conducted into the cause of their ailments.

For my colleagues concerned about malingerers, let me assure you that H.R. 2535 states that eligibility is dependant on a determination that the symptoms experienced by the veteran must be reasonably connected to service in the gulf. This is not a catchall. These veterans are sick. They are not asking for a hand out. They simply want to receive the care that they are entitled to as a veteran.

Madam Speaker, allow me to express my appreciation to Chairman MONTGOMERY, Mr. ROWLAND, and Mr. STUMP, the ranking member of the committee, and the gentleman from New Jersey [Mr. SMITH], the ranking member on the subcommittee. I am thankful for their willingness to move this bill expeditiously and to work with Mr. EVANS, Mr. KENNEDY, and myself to ensure that this bill is reflective of our views.

In addition, Madam Speaker, I want to recognize the contribution of Mr. GUTIERREZ and Mr. BUYER. Though both are new to this body they have already contributed greatly to the quality of debate within the committee. In particular, I want to commend Mr. BUYER and the other veterans who appeared before the committee. It took tremendous courage to face the skeptics. I am convinced we would not be

here if it had not been for their emotional and moving testimony.

Madam Speaker, there is an immediate need for this legislation and I urge my colleagues to support this bill.

□ 1340

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS], a member of the Committee on Veterans' Affairs.

Mr. STEARNS. Madam Speaker, I rise in support of H.R. 2535. I want to commend Chairman MONTGOMERY and the ranking minority member, the gentleman from Arizona [Mr. STUMP], for bringing H.R. 2535, the Priority VA Health Care For Persian Gulf Veterans Act to the floor.

For the past 3 years, the Veterans' Committee has heard disturbing testimony on health problems from veterans who served in Operations Desert Shield and Desert Storm.

A constituent of mine—Michael C. Adcock—of Ocala, FL—served in the gulf war. He suffered the symptoms many other gulf war vets have endured—persistent nausea, skin rashes, aching joints, hair loss, bleeding gums, blurred vision, lack of energy.

At 22 years of age, Michael Adcock died. It is sad enough that his life came to such an early end, but that Michael may have died from the cumulative effects of prolonged exposure to toxins during his stint in the gulf war—that would be truly tragic.

While the ground war in the gulf was over in 100 hours, many of our troops—from the national guard to active duty personnel—were stationed in-theater for months on end. They breathed the fallout from Kuwait's torched oil fields. They were exposed to radiation from rounds of depleted uranium. Some experienced reactions from vaccines, and others believed they were exposed to gas attacks.

I have read that Army Maj. Gen. Ronald Blanck—the commander of the Walter Reed Army Medical Center—said that these illnesses are not psychosomatic. In his words, "It is real, but I do not know what it is."

Madam Speaker, let us find out what caused these illnesses. Let us do that so we can avoid the same mistakes. In the meantime, let us take care of the brave men and women suffering the symptoms. They put their lives on the line once in the gulf. Now, after the shooting has stopped, their lives are at risk again. This bill begin the process. More may be required and, if so, I am sure that the committee will be the challenge.

Last year, the Veterans' Committee and the House passed legislation that established the Persian Gulf War Veterans Registry. This bill provided the necessary statutory authority for the VA to begin its physical examinations of gulf veterans, and to place those findings into a national computer database. H.R. 2535 builds on the commitment this committee has made to our gulf war veterans.

H.R. 2535 will require the VA to provide health care on a priority basis, through September 30, 1998, to veterans who may have been exposed to toxins while on active duty in-theater during the Persian Gulf war. The bill mandates that the VA provide health care to any veterans regardless of income level who may have been exposed to toxic substances or environmental hazards while serving in the Persian Gulf war. Such care will be available for the treatment of any condition which becomes apparent before October 1, 1996, other than a condition which the VA finds to have resulted from a cause other than exposure to a toxic substance or environmental hazard, in accordance with the guidelines issued by the Under Secretary for Health.

This bill would not close the books on health problems experienced by our gulf war veterans. However, it does move in the right direction and will go a long way to deliver the health care of our service men and women deserve.

Mr. MONTGOMERY. Madam Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. GUTIERREZ], a member of the Committee on Veterans' Affairs.

Mr. GUTIERREZ. Madam Speaker, I am very pleased to be a part of this process this morning. I am glad that we have taken steps—quick steps—to deal with an issue that deserves nothing less than our full and speedy attention.

It was only a few weeks ago that some of us had the opportunity to take part in hearings chaired by the gentleman from Illinois, LANE EVANS, where we heard testimony from men and women who fought a war half way around the world, but had to fight to get the medical treatment that they deserve right here at home.

After those hearings, I felt frustration, sorrow, and even anger.

I felt this way because I heard about—and heard from—men and women who turned away a tyrant, but who were then turned away by those who were supposed to treat their wounds.

Today, I am happy that there is a way to address those problems, through the passage of H.R. 2535.

Madam Speaker, this past memorial day and Fourth of July, we all had the opportunity to visit grand monuments and simple headstones that pay tribute to those who have fought for us in battle long ago.

Let us keep in mind that not all of our heroes fought long ago—for some, the soldiers of Desert Shield and Desert Storm, the battle ended recently. Some, in fact, still wear the uniform.

These recent heroes—today's heroes—are heroes just the same.

And while we justifiably build quiet monuments of stone to honor some wars, today we have the opportunity to honor these soldiers with a tribute more fitting to their particular needs. We can honor them—we must honor them—by giving them hope and by giving them action.

That is what passage of H.R. 2535 means to me. And that is what it means to the veterans of the United States.

I am glad to have had the opportunity to participate in the passage of this legislation, and glad to have worked with several Members who have led us to this timely action today: Chairman MONTGOMERY; Dr. ROWLAND, chair of the Hospitals and Healthcare Subcommittee; my friend LANE EVANS, chair of the Subcommittee on Oversight; and Mr. KENNEDY; Mr. CLEMENT; and Mr. BUYER.

I know firsthand that the veterans of the Fourth District appreciate the work that we have done.

Mr. STUMP. Madam Speaker, once again, I rise in strong support of H.R. 2535, and I yield back the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, I hope the rest of the week we could have this bipartisan feeling that we have seen here today on this veterans legislation.

I would like to point out to my colleagues that the blue sheets here that are on the leader's table are available. They further explain the bills we have passed.

Mr. GILMAN. Madam Speaker, I am honored to rise in support of H.R. 2535, legislation that will ensure that veterans of the Persian Gulf war receive priority VA health care. I wish to commend the distinguished gentleman from Georgia [Mr. ROWLAND] for introducing this worthy legislation.

Madam Speaker, I am pleased that today, on August 2, 1993, the House of Representatives is discussing this worthwhile legislation that will benefit our American soldiers who gave so much during the Persian Gulf war. I would like to note that today, the second of August, is the anniversary of the date when our service men and women were officially called to active duty in the Persian Gulf. I believe it is therefore appropriate, that today, we are discussing legislation that will provide those, who gave so much during the Persian Gulf war, with the medical services and care that they need.

This legislation is of importance as it will authorize the Department of Veterans Affairs to provide medical treatment to any veteran who may have been exposed to harmful or even toxic substances while on active duty during the Persian Gulf war. Recently, some veterans of the gulf war have experienced unusual symptoms that have, in some cases, lead to serious illness. It is believed that these symptoms are caused by prolonged exposure to toxic substances that were prevalent during the Persian Gulf war. I am pleased to join my colleagues in support of this legislation that will provide medical compensation and benefits to an unknowing victim of the Persian Gulf war—the American soldier.

The 103d Congress, under the leadership and guidance of the Veterans' Affairs Committee has been active in ensuring that our Nation's veterans are provided with the medical service, the compensation, and the benefits that they have earned. This legislation will continue to strengthen the services that our veterans are provided.

Our sympathy and best wishes go to each and every veteran who has experienced medical problems that are associated with his or her service during the Persian Gulf war. I am hopeful that today, the second of August, the 103d Congress will continue the tradition of assisting our Nation's service men and women, by approving this legislation that will ensure that our Persian Gulf veterans receive priority health care.

Mr. BISHOP. Madam Speaker, our military service personnel answered a call from their country when they fought in the Persian Gulf war. Now it is time for us to answer the call of many of those in our Armed Forces who were exposed to toxic substances and who are now suffering a variety of illnesses. Passing H.R. 2535 will let our military personnel know, Madam Speaker, that we are not afraid to stand by them in their time of need, and that we are not afraid to do what is necessary to help them become well again. When many of the men and women who served in Operation Desert Storm returned home, Madam Speaker, the war was not over. They now are battling rashes and pain that we can't possibly imagine. I urge my colleagues on both sides of this Chamber to support this measure, Madam Speaker, to help ease the pain of worrying about medical care when they need it most.

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

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2535, as amended.

The question was taken.

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

The yeas and nays were ordered.

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

FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS ACT

Mr. BROOKS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 454) to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court, as amended.

The Clerk read as follows:

H.R. 454

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 "Full Faith and Credit for Child Support Orders Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(2) the laws by which the courts of these jurisdictions determine their authority to establish child support orders are not uniform;

(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries

(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels which are based solely on the noncustodial parent's choice of residence;

(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusing, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

(4) among the results of these conditions is the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States, the deprivation of rights of liberty and property without due process of law, burdens on commerce among the States, and harm to the welfare of children and their parents and other custodians.

(b) STATEMENT OF POLICY.—For the reasons set forth in subsection (a), it is necessary to establish national standards under which the courts of different States will determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

(c) PURPOSES.—The purposes of this Act are to—

(1) facilitate the enforcement of child support orders among the States;

(2) discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

(3) avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

SEC. 3. FULL FAITH AND CREDIT GIVEN TO CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

"§ 1738B. Full faith and credit given to child support orders

"(a) GENERAL RULE.—The appropriate authorities of each State shall enforce according to its terms, and shall not modify except as provided in subsection (e), any child support order made consistently with the provisions of this section by a court of another State.

"(b) DEFINITIONS.—As used in this section, the term—

"(1) 'child' means any person under the 18 years of age, and includes an individual 18 or more years of age for whom a child support order has been issued pursuant to the laws of a State;

"(2) 'child's State' means the State in which a child currently resides;

"(3) 'child support order' means a judgment, decree, or order of a court requiring the payment of money, or the provision of a benefit, including health insurance, whether in periodic amounts or lump sum, for the support of a child and includes permanent and temporary orders, initial orders and modifications, ongoing support, reimbursements, and arrearages;

"(4) 'child support' means a payment of money or provision of a benefit described in paragraph (3) for the support of a child;

"(5) 'contestant' means a person, including a parent, who claims a right to receive child support or is under a child support order, and the term 'contestant' includes States and political subdivisions to whom the right to obtain child support has been assigned;

"(6) 'court' means a court or administrative agency of a State which is authorized by State law to establish the amount of child support payable by a contestant or modify the amount of child support payable by a contestant;

"(7) 'modification' and 'modify' refer to a change in a child support order which affects the amount, scope, or duration of such order and modifies, replaces, supersedes, or otherwise is made subsequent to such child support order, whether or not made by the same court as such child support order; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country as defined in section 1151 of title 18.

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of a State is consistent with the provisions of this section only if—

"(1) such court, pursuant to the laws of the State in which such court is located, had jurisdiction to hear the matter and enter such an order and had personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard was given to the contestants.

"(d) CONTINUING JURISDICTION.—A court of a State which has made a child support order consistently with the provisions of this section has continuing, exclusive jurisdiction of that order when such State is the child's State or the residence of any individual who is a contestant unless another State, acting in accordance with subsection (e), has modified that order.

"(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order with respect to a child that is made by a court of another State, if—

"(1) it has jurisdiction to make such a child support order; and

"(2) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because such State no longer is the child's State or the residence of any individual who is a contestant, or each contestant has filed written consent for the State to modify the order and assume continuing, exclusive jurisdiction of such order.

"(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State which no longer has continuing, exclusive jurisdiction of a child support order may enforce such order with respect to nonmodifiable obligations, and with respect to unsatisfied obligations which accrued before the date on which a modification of such order is made under subsection (e).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following:

"1738B. Full faith and credit given to child support orders.".

SEC. 4. DEFINITION.

As used in section 2, the term "State" has the meaning given that term in section 1738B(b) of title 28, United States Code, as added by section 3 of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. GOODLATTE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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

Madam Speaker, I rise in support of H.R. 454, the Full Faith and Credit for Child Support Orders Act.

H.R. 454 requires the authorities of each State to enforce—without modification—the child support orders of sister States, except in limited circumstances. There are two circumstances where modification by another State are in order. One is where none of the parties nor the child reside any longer in the State that issued the original order. The other is where all the parties to a child support order of one State consent to the exercise of jurisdiction by another State.

Madam Speaker, this bill helps to address the serious problem of parents who move to other States and then try to get out of their child support obligations through the use of the courts of their new State. The statistics in interstate child support cases are telling—indeed, they are tragic—with only $1 collected out of every $10 owed to the children and their custodial parents.

I want to compliment the gentleman from Texas [Mr. BRYANT], who chairs the Judiciary Committee's Subcommittee on Administrative Law and Governmental Relations, for his good work on the bill. I also compliment the gentleman from Massachusetts [Mr. FRANK] for introducing this bill and being such an ardent supporter in its behalf.

H.R. 454 is an important piece of legislation for children and for families, and I urge the Members to cast their votes in support of it.

Madam Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Madam Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 454.

This legislation will be of considerable importance in responding to the problem created when State courts modify the child support order of different States. This occurs at the petition of one of the spouses, usually the noncustodial parent, and its effect is to undercut the entire child support system.

The Constitution requires States to give full faith and credit to the "acts, records and judicial proceedings" of other States—article IV, section 1. This has, however, been construed not to apply to orders for future child support payments because these are not considered final for purposes of full faith and credit. As a result, a parent who leaves a State where a child support order has been entered can seek to have that order modified in the new State of his or her domicile. This creates myriad problems for the efficiency of the child support payment structure, ranging from problems inherent in locating delinquent parents to the difficulty in coordinating the court systems of the different States.

H.R. 454 adopts in essence a proposal of the U.S. Commission on Interstate Child Support that full faith and credit be extended to orders for child support. The bill sets out the requirements that a court must adhere to in entering its original order and prescribes the conditions another State must satisfy before modifying that order—conditions assuring that both parties are participatory.

This bill was passed by the House under suspension during the 102d Congress, too late, unfortunately, for Senate action.

Madam Speaker, I urge my colleagues to support this legislation.

□ 1440

Mr. BROOKS. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK], author of the bill.

Mr. FRANK of Massachusetts. Madam Speaker, I appreciate the leadership the chairman has shown and the bipartisan support we have had. The gentleman from Virginia, who has been the ranking minority member of the committee, has been very constructive, and the gentleman from Texas who chairs the subcommittee.

The bill has been well explained. I just want to add one thought about its history.

This bill came about because last summer a woman named Susan Riley, who lived in my district in Massachusetts, wrote to me to tell me that she had been the victim of an out-of-State court action reducing the child support to which she was entitled, with adverse economic consequences.

Based on that letter, I began consultations with my colleagues, and that is why we are here today. I cite that because I would like people to understand that this system does work when it is dealt with appropriately. Here was a case of a woman who was aggrieved. She had a very legitimate concern. She brought it to our attention, and frankly, within a year of her having brought that to our attention we are in the process of sending a bill over to the other body, and I believe it has the sponsorship of the junior Senator from Illinois as well as support from others. I think it is going to become law.

So I want to thank those who have helped us get to this point. This is a very appropriate use of the Federal Government's power to protect children. It is not interfering in any State's right to make judicial decisions about its own legitimate issues. It is saying if you bring a child into the world, the State where that child is living, where the court order was issued, that should govern.

It is a reasonable proposal. I thank my colleagues for their support.

Mrs. KENNELLY. Madam Speaker, I would like to lend my support to H.R. 454, the Full Faith and Credit for Child Support Orders Act. This is an important step toward ensuring that children who deserve and need child support get the assistance they need.

Requiring States to recognize and enforce support orders issued by other States will help to restrict the ability of individuals to avoid payments by moving across State lines.

As a member of the U.S. Commission on Interstate Child Support, I have been most involved with this issue over the past several years. I support this effort we have before us today, and I hope that this is just the first step in our attempt to modify the current child support system.

Mr. GOODLATTE. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 454, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members shall have 5 legislative days to revise and extend their remarks on the bill just passed.

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

There was no objection.

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 184) to provide for the exchange of certain lands within the State of Utah, and for other purposes, as amended.

The Clerk read as follows:

S. 184

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Schools and Lands Improvement Act of 1993".

SEC. 2. UTAH-NAVAJO LAND EXCHANGE.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Navajo Nation certain lands belonging to the State of Utah, which comprise approximately thirty-eight thousand five hundred acres of surface and subsurface estate, and approximately an additional nine thousand five hundred areas of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Navajo Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

SEC. 3. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State of Utah, which comprise approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate, as generally depicted on the map entitled "Utah-Goshute Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

(c) OTHER LAND.—(1) The following tract of Federal land located in the State of Nevada, comprising approximately five acres more or less, together with all improvements thereon, is hereby declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe: Township 30 North, Range 69 East, lots 5, 6, 7, 9, 11, and 14 of section 34.

(2) No part of the lands referred to in paragraph (1) shall be used for gaming or any related purpose.

SEC. 4. IMPLEMENTATION.

The exchanges authorized by sections 2 and 3 of this Act shall be conducted without cost to the Navajo Nation and the Goshute Indian Tribe.

SEC. 5. STATE LANDS WITHIN THE NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION.—The Secretary of Agriculture is authorized to accept on behalf of the United States title to the school and institutional trust lands by the State of Utah within units of the National Forest System, comprising approximately seventy-six thousand acres as depicted on a map entitled "Utah Forest Land Exchange", dated May 18, 1992.

(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become a part of the national forest within which such lands are located and shall be subject to all the laws and regulations applicable to the National Forest System.

SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior is hereby authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah located within all units of the National Park System, comprising approximately eighty thousand acres, located within the State of Utah on the date of enactment of this Act.

(b) STATUS.—(1) Notwithstanding any other provision of law, all lands of the State of Utah within units of the National Park System that are conveyed to the United States pursuant to this section shall become a part of the appropriate unit of the National Park System, and shall be subject to all laws and regulations applicable to that unit of the National Park System.

(2) The Secretary of the Interior shall, as a part of the exchange process of this Act, compensate the State of Utah for the fair market value of five hundred eighty and sixty-four one-hundredths acres within Capitol Reef National Park that were conveyed by the State of Utah to the United States on July 2, 1971, for which the State has never been compensated. The fair market value of these lands shall be established pursuant to section 8 of this Act.

SEC. 7. OFFER TO STATE.

(a) SPECIFIC OFFERS.—Within thirty days after enactment of this Act, the Secretary of the Interior shall transmit to the State of Utah a list of lands, or interests in lands, within the State of Utah for transfer to the State of Utah in exchange for the state lands and interests described in sections 2, 3, 5, and 6 of this Act. Such list shall include only the following Federal lands, or interests therein:

(1) Blue Mountain Telecommunications Site, fee estate, approximately six hundred and forty acres.

(2) Beaver Mountain Ski Resort site, fee estate, approximately three thousand acres, as generally depicted on the map entitled "Beaver Mountain Ski Resort" dated September 16, 1992.

(3) The unleased coal located in the Winter Quarters Tract.

(4) The unleased coal located in the Crandall Canyon Tract.

(5) All royalties receivable by the United States with respect to coal leases in the Quitchupah (Convulsion Canyon) Tract.

(6) The unleased coal located in the Cottonwood Canyon Tract.

(7) The unleased coal located in the Soldier Creek Tract.

(b) ADDITIONAL OFFERS.—(1) In addition to the lands and interests specified in subsection (a), the Secretary of the Interior shall offer to the State of Utah a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, or other mineral interests in Utah which on December 31, 1992, were under lease and covered by an approved permit to drill or plan of development and plan of reclamation, were in production, and were not under administrative or judicial appeal.

(2) No offer under this subsection shall be for royalties aggregating more than 50 per centum of the total appraised value of the State lands described in sections 2, 3, 5, and 6.

(3) The Secretary shall make no offer under this subsection which would enable the State of Utah to receive royalties under this section exceeding $25,000,000.

(4) If the total value of lands and interests therein and royalties offered to the State pursuant to subsections (a) and (b) is less than the total value of the State lands described in sections 2, 3, 5, and 6, the Secretary shall provide the State a list of all public lands in Utah that as of December 31, 1992, the Secretary, in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976, had identified as suitable for disposal by exchange or otherwise, and shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange for such State lands, to the extent consistent with other applicable laws and regulations.

SEC. 8. APPRAISAL OF LANDS TO BE EXCHANGED.

(a) EQUAL VALUE.—All exchanges authorized under this Act shall be for equal value. No later than ninety days after enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Governor of the State of Utah shall provide for an appraisal of the lands or interests therein involved in the exchanges authorized by this Act. A detailed appraisal report shall utilize nationally recognized appraisal standards including, to the extent appropriate, the uniform appraisal standards for Federal land acquisition.

(b) DEADLINE AND DISPUTE RESOLUTION.—(1) If after two years from the date of enactment of this Act, the parties have not agreed upon the final terms of some or all of the exchanges authorized by this Act, including the value of the lands involved in some or all of such exchanges, notwithstanding any other provisions of law, *any appropriate United States District Court, including but not limited to* the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(2) No action provided for in this subsection may be filed with the Court sooner than two years and later than five years after the date of enactment of this Act. Any decision of a District Court under this Act may be appealed in accordance with the applicable laws and rules.

(c) ADJUSTMENT.—If the State shares revenue from the selected Federal properties, the value of such properties shall be the value otherwise established under this section, less the percentage which represents the Federal revenue sharing obligation, but such adjustment shall not be considered as reflecting a property right of the State of Utah.

(d) INTEREST.—Any royalty offer by the Secretary pursuant to subsection 7(b) shall be adjusted to reflect net present value as of the effective date of the exchange. The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year Treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States as prescribed by subsection 9(a)(3).

SEC. 9. TRANSFER OF TITLE.

(a) TERMS.—(1) The State of Utah shall be entitled to receive so much of those lands or

interests in lands and additional royalties described in section 7 that are offered by the Secretary of the Interior and accepted by the State as are equal in value to the State lands and interests described in sections 2, 3, 5, and 6.

(2) For those properties where fee simple title is to be conveyed to the State of Utah, the Secretary of the Interior shall convey, subject to valid existing rights, all right, title, and interest, subject to the provisions of subsection (b). For those properties where less than fee simple is to be conveyed to the State of Utah, the Secretary shall reserve to the United States all remaining right, title, and interest of the United States.

(3) All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State of Utah pursuant to this Act shall revert to the United States upon removal of minerals equal in value to the value attributed to such rights in connection with an exchange under this Act.

(4) If the State of Utah accepts the offers provided for in this Act, the State shall convey to the United States, subject to valid existing rights, all right, title, and interest of the State to all school and institutional trust lands described in sections 2, 3, 5, and 6 of this Act. Except as provided in section 7(b), conveyance of all lands or interests in lands shall take place within sixty days following agreement by the Secretary of the Interior and the Governor of the State of Utah, or entry of an appropriate order of judgment by the District Court.

(b) INSPECTIONS.—Both parties shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. Responsibility for costs of remedial action related to materials identified by such inspections shall be borne by those entities responsible under existing law.

(c) CONDITIONS.—(1) With respect to the lands and interests described in section 7(a), enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(2) Development of any mineral interest transferred to the State of Utah pursuant to this Act shall be subject to all laws, rules, and regulations applicable to development of non-Federal mineral interests, including, where appropriate, laws, rules, and regulations applicable to such development within National Forests. Extraction of any coal resources described in section 7(a) shall occur only through underground coal mining operations.

SEC. 10. LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the offices of the Secretary of Agriculture and the Secretary of the Interior and the Utah offices of the appropriate agencies of the Department of the Interior and Department of Agriculture.

(b) PILT.—Section 6902(b) of title 31, United States Code, is amended by striking "acquisition." and inserting in lieu thereof "acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired.".

(c) INTENT.—The lands and interests described in section 7 are an offer related only to the State lands and interests described in this Act, and nothing in this Act shall be construed as precluding conveyance of other lands or interests to the State of Utah pursuant to other exchanges under applicable existing law or subsequent act of Congress. It is the intent of Congress that the State should establish a funding mechanism, or some other mechanism, to assure that counties within the State are treated equitably as a result of this exchange.

(d) COSTS.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

(e) DEFINITION.—As used in this Act, the term (1) "School and Institutional Trust Lands" means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act; and (2) "Secretary" means the Secretary of the Interior; unless specifically defined otherwise.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, S. 184 is the Senate-passed companion bill to a measure introduced by my friends and colleagues on the committee, the gentleman from Utah [Mr. JIM HANSEN] and the gentlewoman from Utah [Ms. KAREN SHEPHERD], both members of the Committee on Natural Resources, who have worked tirelessly along with the State administration to enable us to bring this measure to the floor today.

The bill which passed the Senate was similar but not identical to a version sponsored by our former colleague from Utah, Mr. OWENS, that the House in fact passed late last year, and we bring it to the floor today.

Principally the bill includes amendments adopted in the Committee on Natural Resources that are intended to bridge the differences between the 1992 bill and the bill the Senate passed last month. There was not time, even though we had passed this last year, to conclude action on it in the 102d Congress.

Principally what the bill does is deal with a mixed land ownership pattern in the State of Utah that grows out of its earliest history in terms of becoming a State. There is a significant amount of land that is transferred to the State of Utah for the support of schools and for other purposes. What this bill does is try to rationalize and trade off so we could have competent management by the national land management agencies and the State of Utah of some of the lands which have this mixed pattern of ownership.

There is a long history to it, and I am certain that my colleagues from Utah on the committee, Mr. JIM HANSEN and Ms. KAREN SHEPHERD, will explain that. But essentially what it does is exchanges about 202,000 acres of land, both surface and subsurface lands which are in national parks, they are in national forests, and some are in native American lands, Indian reservations which exist in the great State of Utah.

So what happens in return is the National Government offers lands, it offers various types of high-value sites that would be compatible, and would not again replicate the problem of mixed land ownership patterns that we are trying to resolve. And finally, it would offer some minimal leases and/or royalty payments from active leases in the State of Utah.

It does provide a mechanism to come to a common understanding with regards to the value of the lands that are being exchanged, and provides for a court action in the event that the parties themselves cannot agree.

As I said, there is a long history to this, but this should clear up the problem for the Forest Service, for the Park Service lands and for the native American lands in the State of Utah. So it is a big step forward.

I commend the bill to my colleagues and thank my colleagues from the State of Utah for their work on this matter.

Mr. Speaker, S. 184 is the Senate-passed companion bill to a measure introduced by Representatives HANSEN and SHEPHERD of Utah, both members of the Natural Resources Committee, who have worked tirelessly, along with the State administration, to enable us to bring it to the floor today.

As passed by the Senate, the bill was similar but not identical to a version, sponsored by

our former colleague from Utah, Mr. Owens, that the House passed last year. As we bring it to the floor today, the bill includes amendments adopted in the Natural Resources Committee that are intended to bridge the differences between the 1992 House bill and the bill the Senate passed last month.

The bill provides for transfer to the National Government of more than 202,600 acres of State-owned lands and minerals located within Utah units of the National Park and National Forest Systems and Indian reservations, in return for which the State will receive equal value in the form of a mix of specified lands, minerals, and an increased share of the royalties from existing, producing Federal mineral leases in Utah.

The Natural Resources Committee adopted an amendment which would provide a lower limit on such additional revenue sharing than would have been permitted under the Senate-passed bill.

The bill is called the Utah Schools and Lands Improvement Act because the transfers to the State will benefit the school trust established at the time of Utah's statehood and because the bill addresses land-management problems that have their roots in the history of the American people's public domain.

Mr. Speaker, the current pattern of land ownership in Utah, as in other Western States, leaves much to be desired. The National Government granted more than 7.5 million acres of land to the new State of Utah at the time of its admission to the Union. These grants were intended to promote economic development and, through the largest of the several grants to the State, to benefit Utah's public schools.

Unfortunately, because the grants were based on the arbitrary straight lines of surveyors rather than on topography or other characteristics of the land, the result has been to fragment land ownership patterns in ways that present difficult problems for all concerned, especially for those responsible for managing the lands held by the State and National Governments.

More than 10 years ago, under the leadership of Utah's former Governor, the late Scott Matheson, the State government developed a proposal—known as Project Bold—for broad-scale adjustment of the land-ownership pattern in Utah through the exchange of State lands for lands held by the National Government on behalf of the American people. While legislation was introduced to facilitate such a large-scale adjustment of ownership, after Governor Matheson's retirement from office, the State administration decided to try to implement administrative exchanges instead, rather than seek new legislation.

However, that attempt was unsuccessful, primarily because there was no mutually acceptable method to resolve disagreements between the State and National administrations about the values to be assigned to the lands and interests proposed for exchange.

Last year, the State and the National administration did reach agreement on the outline of a legislative proposal. The bill now before the House, like the bill the House passed last year, reflects that proposal.

The bill requires appraisal of all the lands and interests to be exchanged, and provides that disagreements over valuation can be resolved through judicial action in Federal court. The purpose is to keep such disagreements from frustrating completion of the overall exchange, by assuring that once an issue of valuation has been referred to the courts, unless they agree to a settlement, both the United States and the State of Utah will be committed to accept a final judicial decision on that issue.

Mr. Speaker, the bill is explained in more detail in the report of the Committee on Natural Resources, so I will conclude by saying that this is a very significant measure and by again expressing my appreciation for the hard work of the gentleman from Utah [Mr. HANSEN], and the leadership of the gentlewoman from Utah [Mrs. SHEPHERD], on this bill—a bill that honors the memory of Governor Matheson, a bill that is in the interest both of the State of Utah and the National Government, and a bill that deserves the approval of the House.

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

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

Mr. Speaker, I appreciate my friend and chairman of the committee, the gentleman from Minnesota [Mr. VENTO] for all of the help he has given us on this particular piece of legislation.

Mr. Speaker, I rise today in support of S. 184, the Utah school trust lands bill. The idea behind this legislation began in the early 1970's and it was my good friend Gov. Scott Matheson who provided the foresight and the courage to propose what was then called Project BOLD. Governor Matheson's idea was to make Utah's land ownership more manageable through extensive land exchanges. Finally, in 1984, I introduced this legislation and we have been working diligently ever since to perfect it and to reach a consensus. Although the school trust lands involved in S. 184 are but a portion of the original Project BOLD, I thank the late Governor Matheson and this legislation is a tribute to his leadership.

S. 184 is vitally important to the children of Utah and the future of our State. Although Utah spends nearly half of its annual budget on educating our youth, our children are last in expenditures per pupil. This continually growing problem is due in large part to the State's inability to reap the benefits of the State school trust lands that are land locked by Federal reservations. In fact, Utah receives less income from its school trust lands than any other Western State. We believe S. 184 will cure this problem and provide a secure future for our educational system.

Mr. Speaker, S. 184 is not perfect in everyone's eyes but it does represent compromise by many divergent groups. I would like to thank the many people who have helped bring this legislation this far, including former Senator Jake Garn, former Governor Bangeter, current Governor Leavitt, Congresswoman SHEPHERD, Congressman ORTON and Senators HATCH and BENNETT. I urge my colleagues' support of S. 184.

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

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Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Utah [Ms. SHEPHERD], one of the principal architects of this legislation.

Ms. SHEPHERD. Mr. Speaker, I appreciate this opportunity to speak in support of the Utah Schools and Lands Improvement Act of 1993. First, I would like to thank the chairman for his instrumental help in bringing this bill to the floor today.

There are many who have worked tirelessly on this issue and who have brought a spirit of optimism and collaboration to a process that frequently is lacking in these qualities. A broad-based coalition came together last year under the leadership of my predecessor, Wayne Owens, Congressman HANSEN, and continued this year with representives from Utah's congressional delegation, Gov. Mike Leavitt's office, Attorney General Jan Graham's office, the environmental community, the Utah Education Association and local government. This group has successfully crafted a bill that enjoys wide bipartisan support and will result in real money for Utah's schoolchildren.

Because about 66 percent of the land in Utah is owned by the Federal Government, this leaves only about one-third available to develop an economic base to help support our schools. It is because of this fact that the school trust lands are so very important to the schoolchildren of Utah. In Utah there is no fat to trim. There is no waste to cut. There is no other source to look to. Utah already makes the greatest financial effort of any State to fund education, spending half of the State's annual budget, including 100 percent of its income tax, on the classroom. Still it falls last among the 50 States in per capita student funding. Our bottom line is inescapable. We have a narrow tax base and a lot of children. Generating funds from Utah's school trust lands is of critical importance to us.

The bill that we have before us takes a giant step toward resolving the problem. In exchange for the State school trust lands within all of Utah's national parks as well as some lands within national forests and Indian reservations, Utah will select from a specific menu of lands and interests in order to receive full compensation for the appraised value of the lands.

Only 200,000 acres out of more than 3 million possible acres of State school lands are involved in this exchange. Clearly, this bill is just one of many steps we must make to fulfill the promise the Federal Government made when

the lands were originally granted to the State. Undoubtedly, there are other ways to receive value for State school lands in Utah, but what we have done here in this bill will work, and without delay, to bring money into the State school trust as soon as possible. All of Utah's schoolchildren—from San Juan County in the canyons of southern Utah to Salt Lake County in the urban north—will benefit from this infusion of many millions of dollars to the schools.

In addition, passage of this bill will mean better and more consistent management of Utah's natural lands. It will mean that the next generations of children from all of the United States and the rest of the world will have these outdoor classrooms to learn from and enjoy. The threat of inappropriate development within Utah's national parks will be gone and this bill will serve as a precedent for future agreements addressing remaining inholdings on public land. Most of all, passage of this bill will make possible partial realization of the promise offered by the Federal Government at the time of statehood—that these lands are for the support of Utah's schools.

Mr. Speaker, Utah has waited a long time for a solution to this perplexing dilemma. I look forward to final passage for this bill today.

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

Mr. VENTO. Mr. Speaker, this is a good bill. It deserves to be passed. I commend the sponsors.

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

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 184, as amended.

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

A motion to reconsider was laid on the table.

ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2134) to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2134

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 "Atlantic Coastal Fisheries Cooperative Management Act of 1993".

SEC. 2. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERIES MANAGEMENT.

(a) FEDERAL SUPPORT FOR STATE COASTAL FISHERIES PROGRAMS.—The Secretaries shall develop and implement a program to support the fisheries management programs of the Commission. The program shall include elements to support and enhance State cooperation in—

(1) collection, management, and analysis of fisheries data;

(2) law enforcement;

(3) habitat conservation;

(4) fisheries research, including biological and socioeconomic research; and

(5) fishery management planning.

(b) FEDERAL REGULATIONS PERTAINING TO AN ATLANTIC OCEAN FISHERY COVERED BY AN INTERSTATE FISHERY MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary, after consultation with the Councils having jurisdiction over fisheries to which an interstate fishery management plan applies, may prescribe regulations to govern fishing in the exclusive economic zone that are necessary to support the effective implementation of the interstate fishery management plan adopted for a fishery for which no Federal fishery management plan is in effect. These regulations may include measures recommended by the Commission that are necessary to support the provisions of the interstate fishery management plan for that fishery.

(2) SUPERSEDING REGULATIONS.—Regulations issued by the Secretary to implement a Federal fishery management plan for a fishery shall supersede regulations issued by the Secretary under this section for that fishery.

(3) ENFORCEMENT.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations prescribed under this section.

SEC. 3. ADOPTION AND IMPLEMENTATION OF INTERSTATE FISHERY MANAGEMENT PLANS.

(a) ADOPTION OF PLANS.—

(1) IN GENERAL.—The Commission shall prepare and adopt fishery management plans or amendments to fishery management plans in accordance with this section to provide for the conservation and management of coastal fishery resources.

(2) CONSULTATION.—In preparing a fishery management plan or amendment, the Commission shall consult with the appropriate Councils to determine ways Federal fishery management plans and interstate fishery management plans may complement each other.

(3) CONTENTS.—Each fishery management plan or amendment prepared under this subsection shall—

(A) contain information regarding the status of the coastal fishery resources and fisheries covered by the plan or amendment;

(B) identify each State that is required to implement and enforce the plan or amendment;

(C) specify actions to be taken by States to implement and comply with the plan or amendment; and

(D) recommend actions for the Secretary to take in the exclusive economic zone to conserve and manage the fishery resources and fisheries covered by the plan or amendment.

(4) TIME FRAME FOR IMPLEMENTATION AND ENFORCEMENT BY STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State that is identified in an interstate fishery management plan pursuant to paragraph (3)(B) shall implement and enforce the plan within the time established in the plan.

(B) EXISTING PLANS.—Not later than 90 days after the date of the enactment of this Act, the Commission shall develop a schedule for States to implement and enforce of interstate fishery management plans adopted by the Commission before the date of the enactment of this Act. The schedule shall require each State with a declared interest in a plan to implement and enforce that plan within 1 year after the date of the enactment of this Act.

(5) ADOPTION OF STANDARDS AND PROCEDURES FOR THE PREPARATION OF INTERSTATE FISHERY MANAGEMENT PLANS.—Within 1 year after the date of enactment of this Act, the Commission shall establish standards and procedures to govern the preparation of interstate fishery management plans under this Act, including standards and procedures to ensure that—

(A) such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available, and

(B) the Commission provides adequate opportunity for public participation in the plan preparation process.".

(b) COMMISSION MONITORING OF STATE IMPLEMENTATION AND ENFORCEMENT.—Within 1 year after the date of the enactment of this Act and at least annually thereafter, the Commission shall—

(1) review each interstate fishery management plan and determine whether each State which has declared an interest in the plan, or that is required under the plan to implement and enforce the plan, has implemented and enforced the plan; and

(2) submit a report on the results of that review to the Secretaries.

SEC. 4. STATE NONCOMPLIANCE WITH INTERSTATE FISHERY MANAGEMENT PLANS.

(a) DETERMINATION.—The Commission shall determine that a State is not in compliance with an interstate fishery management plan if it finds that the State has not implemented and enforced the plan within the period established under section 3(a)(4).

(b) NOTIFICATION.—If the Commission determines under subsection (a) that a State is not in compliance with an interstate fishery management plan, the Commission shall notify the Secretaries of that determination within 10 working days. The notification shall include the reasons for making the determination and specify an explicit list of actions that the affected State must take to comply with the interstate fishery management plan. The Commission shall provide a copy of the notification to the State.

(c) MONITORING; WITHDRAWAL OF DETERMINATION.—After making a determination under subsection (a) regarding a State, the Commission shall continue to monitor implementation and enforcement of the plan by the State. On finding that a State has taken all actions specified in the notification issued under subsection (b), the Commission shall promptly notify the Secretaries that the State is in compliance.

SEC. 5. SECRETARIAL ACTION.

(a) SECRETARIAL REVIEW OF COMMISSION DETERMINATION OF NONCOMPLIANCE.—Within

30 days after receiving a notification regarding a State from the Commission under section 4(b), the Secretary, in consultation with the Secretary of the Interior, shall review the Commission's determination of noncompliance and determine whether—

(1) the State has failed to implement and enforce the interstate fishery management plan in question;

(2) the measures which the State has failed to implement and enforce are necessary to conserve and manage the fishery in question; and

(3) in the case of an interstate fishery management plan adopted after January 1, 1995, the plan in question was prepared under the standards and procedures required to be established by the Commission under section 3(a)(5).

(b) COMMENTS.—In making a determination under subsection (a), the Secretary shall—

(1) give careful consideration to the comments of the State that the Commission has determined under section 4(a) is not in compliance with an interstate fishery management plan, and provide that State, upon request, the opportunity to meet with and present its comments directly to the Secretary; and

(2) solicit, review, and consider the comments of the Commission and the appropriate councils.

(c) DECLARATION OF MORATORIUM.—On determining under subsection (a) that a State has failed to implement and enforce an interstate fishery management plan, the Secretary shall declare a moratorium on fishing for the species covered by the plan within the waters of that State. The Secretary shall establish the effective date of the moratorium to commence at any time within 6 months following the declaration.

(d) SUSPENSION OF MORATORIUM.—On notification by the Commission under section 4(c) that a State is in compliance with an interstate fishery management plan, the Secretary shall terminate the moratorium declared under subsection (c) affecting fish species covered by that plan.

(e) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations necessary to implement this Act.

(2) CONTENT.—These regulations—

(A) may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(B) shall allow for the retention of fish that are subject to a moratorium declared under subsection (c) and unavoidably taken as incidental catch in fisheries directed toward menhaden, if—

(i) discarding the retained fish is impracticable;

(ii) the retained fish do not constitute a significant portion of the catch of the vessel; and

(iii) the retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(f) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium a person may not—

(1) engage in fishing for a species of fish subject to a moratorium within waters of the State subject to the moratorium;

(2) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium, this Act, or any regulation promulgated under this Act;

(3) fail to return to the water immediately, with a minimum of injury, any fish subject to a moratorium taken in waters of a State under a moratorium incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations prescribed under subsection (e);

(4) land, within a State that is subject to a moratorium, any fish subject to a moratorium, regardless of where it was caught;

(5) refuse to permit an authorized officer to board a fishing vessel to conduct a search or inspection in connection with the enforcement of this Act;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer attempting to conduct a search or inspection under this Act;

(7) resist a lawful arrest for an act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, fish taken or possessed in violation of this Act; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of a person, knowing that person has committed any act prohibited by this section.

(g) PENALTIES.—

(1) CIVIL PENALTY.—A person violating subsection (f) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858). Subsections (b) through (e) of section 308 of the Magnuson Fishery Conservation and Management Act apply to persons assessed a penalty under this paragraph.

(2) CRIMINAL PENALTIES.—A person violating subsection (f)(5), (6), (7), or (9) is guilty of an offense punishable under subsections (a)(1) and (b) of section 309 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859).

(h) CIVIL FORFEITURES.—

(1) FORFEITURE.—A vessel (including its gear, equipment, appurtenances, stores, and cargo) used in connection with an act unlawful under subsection (f), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or the result of, the commission of an act prohibited under subsection (f), shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this Act may be disposed of under an order of a court of competent jurisdiction or, if perishable, in a manner provided by regulation prescribed by the Secretary.

(i) ENFORCEMENT.—A moratorium declared under subsection (c) shall be enforced by the Secretaries and the Secretary of the Department in which the Coast Guard is operating, as provided in section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861 et seq.). The Secretaries may, by agreement, on a reimbursable basis or otherwise, use the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

SEC. 6. FINANCIAL ASSISTANCE.

The Secretaries may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this Act, including—

(1) the preparation, implementation, and enforcement of interstate fishery management plans; and

(2) State activities that are specifically required in interstate fishery management plans.

SEC. 7. DEFINITIONS.

For the purposes of this Act, the term—

(1) "coastal fishery resource" means any species of fish that move among, or are broadly distributed across—

(A) waters under the jurisdiction of 2 or more States that border the Atlantic Ocean; or

(B) waters under the jurisdiction of any State that borders the Atlantic Ocean and waters of the exclusive economic zone;

(2) "Commission" means the Atlantic States Marine Fisheries Commission constituted under the interstate compact consented to and approved by the Congress in the Acts of May 4, 1942 (56 Stat. 267), and August 19, 1950 (64 Stat. 467);

(3) "Councils" means the Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) with jurisdiction over fisheries in the Atlantic Ocean;

(4) "exclusive economic zone" means that portion in the Atlantic Ocean of the exclusive economic zone established by Presidential Proclamation Number 5030, dated March 10, 1983;

(5) "Federal Fishery management plan" means a fishery management plan prepared by a Council or the Secretary under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds;

(7) "fishery" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802);

(8) "fishing" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802);

(9) "implement and enforce" means the enactment or adoption laws, regulations, or rules as required to—

(A) comply with the provisions of an interstate fishery management plan; and

(B) assure compliance with such laws, regulations, or rules by persons participating in a fishery that is subject to such plans;

(10) "interstate fishery management plan" means—

(A) a fishery management plan or amendment adopted by the Commission under section 3; or

(B) a fishery management plan or amendment for managing a coastal fishery resource adopted by the Commission before the date of the enactment of this Act;

(11) "Secretaries" means the Secretary of Commerce and the Secretary of the Interior;

(12) "Secretary" means the Secretary of Commerce; and

(13) "State" means each of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, and the Potomac River Fisheries Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretaries for the purposes of carrying out the provisions of this Act $2,000,000 for each of the fiscal years 1994, 1995, and 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, H.R. 2134, the Atlantic Coastal Fisheries Cooperative Management Act, is modeled after the successful Striped Bass Act of 1984. It creates a partnership between the States and the Federal Government to protect and rebuild our fish stocks along the Atlantic seaboard.

The statistics for these fisheries are alarming; weakfish landings down by 85 percent in the past decade; summer flounder by 70 percent in just the past 4 years. The Atlantic States Marine Fisheries Commission has management plans for many of these species, and while some States, like Massachusetts, have adopted the necessary conservation measures in good faith, other States have not been as consistent in their implementation efforts. As a result, fishermen in my district, already facing economic devastation due to the decline of offshore groundfish stocks, are watching their coastal fisheries disappear as well, despite the sacrifices they have made in the name of conservation.

H.R. 2134 authorizes a cooperative effort between the States and the Federal Government to ensure that everyone shares the responsibility for conserving and rebuilding these species. It also makes the States' and Commission's job of managing the fisheries easier by providing money for research and making the resources of the Federal Government available, if needed, to enforce Commission rules. The bill represents more than 2 years of work by the States, the Commission, fisheries managers and user groups, and others interested in the long-term productivity of our coastal fisheries. We have addressed almost all of the concerns expressed by Members in our committee bill. We have gone to great lengths to ensure that coastal States retain their authority to manage their own fisheries. With the passage of this legislation, we will implement a coordinated management program to ensure that our small coastal communities can continue to rely on these resources for their livelihoods and recreation now and in the future.

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

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of H.R. 2134, a bill to manage interjurisdictional fisheries of the Atlantic coast.

Interjurisdictional fisheries are those stocks that migrate between waters of different States, or between State and Federal waters. The Magnuson Fishery Conservation and Management Act gave management authority to the States for fisheries that are predominantly harvested in State waters. These fisheries are managed by State marine fisheries commissions rather than by regional fishery management councils.

The commissions develop cooperative fisheries management plans that are to be implemented by the States. The commissions have oversight responsibilities for the fisheries, however, they do not have enforcement authority to ensure that States comply with or implement the plans. As a result, some stocks of coastal fisheries, most notably along the Atlantic seaboard, have declined to seriously low levels. The failure of one State to comply with a management plan imposes a disproportionate share of the conservation of fish stocks on the other States, while that State reaps benefits by continuing to harvest without restriction.

Let me point out, this bill only affects the Atlantic States Marine Fisheries Commission [ASMFC]. This Commission is plagued by the failure of some States to fully implement the interstate fishery management plans. Because the ASMFC has 15 member States, consensus is never easy. However, conservation efforts by some States should not be jeopardized by the inaction of other States.

H.R. 2134 would impose a regulatory scheme similar to the current and successful one in the Atlantic Striped Bass Conservation Act. Under this bill, if the Commission finds that a State is not in compliance with a plan, the Secretary of Commerce would impose a fishing moratorium in the waters of that State.

This is a noncontroversial bill and I urge my colleagues to join me in supporting it.

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

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON], the distinguished chairman of the Subcommittee on Fisheries.

Mr. MANTON. Mr. Speaker, I rise to support H.R. 2134, legislation to help conserve fish within State waters along the east coast. H.R. 2134 was one of the first matters considered by the newly created Fishery Management Subcommittee, which I chair, and it demonstrates the considerable need for Congress to devote greater attention to marine conservation issues. H.R. 2134 is an important fish conservation bill that will reinforce and strengthen the Federal fishery management and conservation system established by the Magnuson Fishery Conservation and Management Act.

To develop coordinated responses to fishery problems, coastal States have established interstate fishery commissions. Under current law, a State may choose to implement a Commission approved conservation plan, take another course of action—or the State may choose inaction.

When a State chooses inaction, it undermines the conservation effort. While fishermen from neighboring States reduce their catches so as to allow the stock to grow, fishermen in the noncomplying State continue the practices that initially forced the Commission to recommend restrictions.

If a State failed to act responsibly, the Secretary of Commerce would be required to impose a fishing moratorium on that State. The moratorium would prohibit fishing for the species covered by the plan, within the waters of the noncomplying State.

H.R. 2134 would impose strong sanctions on a State that failed to take appropriate conservation steps, but these steps are necessary and essential if we are to responsibly manage and conserve our marine fisheries.

In conclusion, I thank Chairman STUDDS for his assistance with this bill and I urge my colleagues to join me in supporting this important conservation initiative.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 2134, a bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast. I urge passage of this legislation.

The States along the Atlantic coast have faced many obstacles in coordinating the management of the fisheries found in State waters. Regulatory action by one State may have no success due to the inaction of another State. As a result, many once commercially valuable species like weakfish and summer flounder have suffered significant declines which appear to be leading to commercial extinction of the resources.

The options to provide for better control of the fisheries are fewer and further between. I must note that I have serious concerns about Federal preemption of the rights of the States to manage their own natural resources. However, the bill seems to contain sufficient safeguards for maintaining State rights. The very serious nature of this problem mandates Federal intervention as the Atlantic coast States have not achieved cooperation in their management attempts.

During the last decade, another Atlantic coast species, the striped bass, faced similar hurdles. In 1984, the Congress passed the Atlantic Striped Bass Conservation Act (Public Law 98–613) which provided Federal oversight to the fishery to ensure cooperation among the Atlantic Coast States. This act is credited with restoring the striped bass to the waters of the Atlantic coast. H.R. 2134 parallels the provisions of the Striped Bass Act. I hope it has the ability to save other fisheries as well.

Congressional action appears to be a viable solution for the declining fisheries. I urge adoption of H.R. 2134.

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

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

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question

is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2134, as amended.

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

A motion to reconsider was laid on the table.

DIRECTING CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY TO THE STATE OF OHIO

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2495) to direct the Secretary of the Interior to convey to the State of Ohio the Senecaville National Fish Hatchery.

The Clerk read as follows:

H.R. 2495

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

SECTION 1. CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Ohio without reimbursement all right, title, and interest of the United States in and to the property known as the Senecaville National Fish Hatchery, located in Senacaville, Ohio, including—

(1) all easements and water rights relating to that property, and

(2) all land, improvements, and related personal property comprising that hatchery.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Ohio Department of Natural Resources for the Ohio fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Ohio fishery resources management program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, H.R. 2495, introduced by the gentleman from Ohio [Mr. APPLEGATE] directs the Secretary of the Interior to convey ownership of the Senacaville National Fish Hatchery in Senacaville, OH, to the State.

The hatchery is part of the National Fish Hatchery Program, which is administered by the U.S. Fish and Wildlife Service. Its primary function is to raise sportfish—like walleye, hybrid striped bass, and sauger—for the Great Lakes region. Although considered a part of the Federal program, Senacaville Hatchery operations have been funded and administered by the Ohio Department of Natural Resources since 1987 at a cost of $350,000 a year. The State is now interested in making some necessary repairs and upgrading the facility, but would like title to the facility before making such a large capital investment.

H.R. 2495 would transfer ownership of the hatchery and the property on which it is located to the State of Ohio. Should the State decide at some time in the future that it no longer wants or needs to operate the hatchery or wants to use the facility for some other purpose, ownership of the facility and the land would revert back to the Federal Government.

The bill is supported by both the State and the U.S. Fish and Wildlife Service, and I urge Members to support this legislation.

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

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2495, a bill to transfer ownership of the Senacaville National Fish Hatchery to the State of Ohio.

Although this fish hatchery has been a part of the Federal program, the Ohio Department of Natural Resources has been effectively funding and managing the facility since 1987. The State uses the facility to raise selected species of walleye, striped bass, and channel catfish.

Let me note there is a provision in this bill that would return the facility and the adjacent land to the U.S. Fish and Wildlife Service should the State cease operation of the hatchery.

This is a noncontroversial bill and I urge my colleagues to support it.

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

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON], the chairman of the subcommittee.

Mr. MANTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to support H.R. 2495, legislation introduced by my distinguished colleague from Ohio, DOUG APPLEGATE.

H.R. 2495 directs the Secretary of the Interior to transfer a federally owned fish hatchery to the State of Ohio. The State of Ohio assumed financial responsibility for this hatchery in 1987. H.R. 2495 will complete this shift of responsibility by transferring the ownership of the hatchery to the State. Under H.R. 2495, all responsibility for this hatchery, along with all costs and burdens of running the facility will be transferred to the State.

This is wise legislation that will reduce Federal expenditures and relieve the Federal Government of liability and responsibility for this hatchery. I urge my colleagues to join me in supporting this bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the author of the legislation, the distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. I thank the chairman of the committee very much for the opportunity to speak and for bringing this up.

I merely want to say that I thank the gentleman from Massachusetts, the chairman of the committee, Mr. STUDDS, and the chairman of the subcommittee, the gentleman from New York [Mr. MANTON], as well as the ranking minority member, the gentleman from Texas [Mr. FIELDS], and though I do not see him here, the gentleman from Alaska [Mr. YOUNG].

It has been very properly explained, and I appreciate the expediency with which it handled and brought to the floor.

I know the people of Ohio will be happy for the way it turned out.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 2495, directing the conveyance of the Senecaville National Fish Hatchery to the State of Ohio, and urge adoption of this legislation.

Providing the most appropriate use of funding and personnel should be a priority for the Federal Government. Providing State ownership in certain property that the Federal Government no longer desires or directs is also important. H.R. 2495 achieves both goals.

Since 1987, the State of Ohio has funded and managed the Senecaville National Fish Hatchery where it raises striped bass, walleye, and catfish. It seems only appropriate that the State be given title to the facility and the surrounding land so that it can best oversee the hatchery without the threat of unnecessary intervention by the Federal Government that no longer has any interest in the property. The legislation also provides proper safeguards to ensure that the State continues the appropriate use of the fish hatchery.

H.R. 2495 represents a win-win situation for all parties involved. I urge its adoption.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2495.

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

A motion to reconsider was laid on the table.

WHITE HOUSE SMALL BUSINESS CONFERENCE AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2746) to amend the White House Conference on Small Business Authorization Act, as amended.

The Clerk read as follows:

H.R. 2746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended—

(1) in section 2 by striking from subsection (a) "not earlier than January 1, 1994, and not later than April 1, 1994" and by inserting in lieu thereof "not earlier than May 1, 1995, and not later than September 30, 1995";

(2) in section 2 by striking from subsection (a) "December 1, 1992" and by inserting in lieu thereof "March 1, 1994";

(3) in section 5 by striking the second sentence of subsection (a) and by inserting in lieu thereof the following: "Subsequent to the date of enactment of this Act, but not later than 30 days after the date of enactment of this Act, the President shall select and appoint eleven individuals to the Commission."; and

(4) in section 9 by striking from subsection (a) "$5,000,000" and by inserting in lieu thereof "$7,000,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognized the gentleman from New York [Mr. LAFALCE].

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

Mr. Speaker, I rise in strong support of H.R. 2746, amendments to the White House Conference on Small Business Authorization Act.

Mr. Speaker, this law, Public Law 101-409, was enacted on October 5, 1990. It authorizes and directs the President to conduct a National White House Conference on Small Business to be held between January 1 and April 1, 1994. This National Conference would be held after State and regional conferences. These should have commenced 6 months ago. The Conference would be administered by an executive director under guidance from an 11-member Commission appointed by the President.

Most of the delegates to the National Conference would be elected by participants at the State conferences; in addition, however, each Governor and each Member of the U.S. House of Representatives and each member of the U.S. Senate would appoint one delegate. The President would also appoint an additional 100 delegates.

Within 4 months after the conclusion of the National Conference, a final report would be submitted to the President and the Congress. The report would include the findings and recommendations of the Conference, as well as proposals for legislative action to implement them.

Unfortunately, the previous administration did not begin preparations for the Conference and allowed the law to lie dormant for more than 2 years. This lack of preparation and planning, of course, necessitates that we delay the dates of the Conference.

The bill now under consideration provides that the State conferences should begin as soon after March 1, 1994, as is possible. They would then be completed and the Washington Conference would be held some time between May 1, 1995, and September 30, 1995.

In addition, the bill would authorize and direct the President to appoint new Commissioners to run the Conference and to do so within 30 days of the date of enactment of this bill.

This would be the third White House Conference on Small Business. The prior National Conferences were held in 1980 and 1986. Both were well attended by small business delegates totaling some 2,000 per conference.

Mr. Speaker, these conferences are significant and influential affairs for the small business community. Delegates must volunteer their own time to participate in this process and pay their own expenses. They have done so in the past in large numbers. It is this commitment to the development of meaningful recommendation for small business legislative and regulatory action that leads to successful Conferences.

I am confident that this level of interest and commitment still exists today, both on the part of the small business sector and this administration. With the planning time provided by this bill, and the provision for appointment of Commissioners, I am hopeful that the 1995 Conference can be the best we have had yet.

Mr. Speaker, this bill received the unanimous approval of the Small Business Committee and deserves the support of all Members of the House.

Attached is a sectional summary of this legislation:

SECTIONAL SUMMARY OF H.R. 2746 (AMENDED), WHITE HOUSE SMALL BUSINESS CONFERENCE AMENDMENTS

Section 1(1) and (2) delay the dates for the White House Conference on Small Business. The state meetings would begin not earlier than March 1, 1994 (instead of not earlier than December 1, 1992), and the national conference would be held between May 1, 1995 and September 30, 1995 (instead of between January 1, 1994 and April 1, 1994 under existing law).

Section 1(3) provides that the President shall appoint commissioners to oversee the conference, and that such appointments shall be made after the enactment of this Act but not later than 30 days after the date of such enactment.

Section 1(4) also increases the authorization for the conference to $7 million (now $5 million).

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

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to rise in support of H.R. 2764 during the 40th anniversary of the Small Business Administration. I congratulate the chairman of the House Small Business Committee, Mr. LAFALCE, for his leadership in bringing the bill to the floor.

Mr. Speaker, I am also very proud to help put in motion a very important event—the White House Conference on Small Business.

This forum brings thousands upon thousands of small business owners of every race, creed, color, and gender together, exercising their most profound and fundamental right—to express their opinions freely.

H.R. 2746 is a bipartisan bill that represents a compromise reached between the majority and minority elements of the Small Business Committee, in consultation and concurrence with the Small Business Administration. While there were some differences of opinion on when the State and national conferences should be held, there is no disagreement in our strong belief that small businesses should have this opportunity to send a message to Congress on their priorities with one voice.

One of the reasons the White House Conference on Small Business has been so successful is that it was organized in recognition of the importance of involving all small businesses from the ground up. Beginning next March, small enterprise owners from coast to coast will begin gathering to voice their opinions in State conferences. Representatives from those conventions will carry their recommendations to regional symposiums where the ideas will be argued, refined, and condensed again. Freely elected small business owners will then travel to a National Conference to take the best of the best, and forge them into 60 recommendations that will guide us into the 21st century.

I regret that this admirable process has not already begun. Unfortunately, the previous administration did not have plans for the conferences sufficiently underway in such a manner that would have allowed the new administration to keep the timetable set in current law. However, through swift passage of this legislation, I hope that Administrator Bowles and his team at the Small Business Administration will move forward quickly with plans to make the 1995 White House Conference on Small Business the most successful ever.

I would like to thank the chairman for his most cooperative efforts in bringing about this bipartisan legislation, and I strongly urge our colleagues to support enactment of H.R. 2746.

□ 1410

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

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

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that House suspend the rules and pass the bill, H.R. 2746, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2746, the bill just passed.

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

There was no objection.

CERTIFIED DEVELOPMENT COMPANY AUTHORIZATION INCREASES

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2747), to increase the authorization for the development company loan and debenture guarantee program administered by the Small Business Administration.

The Clerk read as follows:

H.R. 2747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (g)(2) by striking "$7,030,000,000" and by inserting in lieu thereof "$7,155,000,000";

(2) in subsection (g)(2) by striking "$775,000,000" and by inserting in lieu thereof "$900,000,000";

(3) in subsection (i)(2) by striking "$8,083,000,000" and by inserting in lieu thereof "$8,458,000,000"; and

(4) in subsection (i)(2) by striking "825,000,000" and by inserting in lieu thereof "$1,200,000,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes, and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

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

Mr. Speaker, I rise in strong support of H.R. 2747, which would increase the authorization for the development company loan and debenture guarantee program.

The Small Business Administration, acting through a financial intermediary called a development company, provides financing to small businesses for plant and equipment needs.

These development companies receive charters from a State or local government in the area of their operation.

Also licensed by SBA, they issue debentures or long-term notes which are guaranteed by the Government. The debentures are then sold to private investors and the proceeds of this sale are then re-lent by the development company to small businesses to finance part of the cost of plant acquisition, construction, conversion or expansion, including the acquisition of land.

The financing packages obtained through a development company by a small business typically include 50-percent funding from a commercial lender who takes a first mortgage lien on the property. An additional 40 percent of the project cost is provided through the development company from the debenture proceeds and a second mortgage lien is placed upon the property to secure this financing. The final share, 10 percent, is provided by the small business concern.

This program is highly successful and is directed toward those small firms which either create jobs or which carry out certain specified public policy goals such as business district revitalization, expansion of exports or minority small business development, rural development or enhanced economic competition.

The demand for this program has increased substantially during this fiscal year. The program is currently authorized to provide $775 million in debenture guarantees this fiscal year and $825 million in debenture guarantees during fiscal year 1994. Demand is such that if these limits are not increased, the program will be forced to suspend operations before the end of this year and again next year.

The bill proposes to increase the authorization for this year to $900 million and, for next year, to $1.2 billion.

I want to point out that this program is one of the most effective in the Federal Government today. Under the Credit Reform Act of 1990, we are required to appropriate the cost of the program up front as is the case with other loan programs. The cost of the Certified Development Company Loan Program is less than one-half of 1 percent.

Thus the increase in the 1993 authorization would cost $625,000 and the increase in next year's authorization would cost less than $2 million.

In addition to the benefits accruing from the jobs generated and maintained, I want to point out to the Members that even the minimal additional cost of expanding the program will not require the appropriation of supplemental moneys. It is anticipated that SBA, subject to the usual procedures for approval by Congress and the executive branch, will shift unused money from other programs to pay for this increase.

Mr. Speaker, this is a great program and it yields tremendous dividends to our economy. The bill was unanimously approved by the Small Business Committee, and I urge support for the bill.

I am attaching to my statement a sectional summary of its provisions, as follows:

SECTIONAL SUMMARY OF H.R. 2747, CERTIFIED DEVELOPMENT COMPANY AUTHORIZATION AMENDMENTS

Section 1(1) increases the total authorization for loan and debenture guarantees by the Small Business Administration in fiscal year 1993 from $7.03 billion to $7.155 billion, and within these amounts section 1(2) increases the authorization for debenture and loan guarantees for development companies from $775 million to $900 million.

Section 1(3) increases the total authorization for loan and debenture guarantees by the Small Business Administration in fiscal year 1994 from $8.083 billion to $8.458 billion, and within these amounts section 1(4) increases the authorization for debenture and loan guarantees for development companies from $825 million to $1.2 billion.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2747. The section 504 Certified Development Company Program provides vital long-term, fixed-rate financing to small businesses for capital improvements. This is a bricks and mortar program for new construction, expansion, renovation, and equipment purchases. The 504 program has an impressive loss rate of only one-half of 1 percent, and it requires cooperation between the small business, the development company, and community institutions for its financing packages. Mr. Speaker, this is one of the few Government programs that has a job creation requirement; creating one job for every $8,900 in loan guarantees—a figure we would be hard pressed to duplicate elsewhere.

This bill will simply increase the 504 Development Company Program's authorization, allowing the SBA to reprogram funds from a lesser utilized program. It will require no new appropriations and it will prevent the 504 Development Company Program from shutting down prior to the end of fiscal year 1993. Without this new authority, the program will be out of funds by mid-September and small business will face the loss of one of its best sources of long-term financing. I urge my colleagues to join me in supporting adoption of H.R. 2747.

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 2747, the Small Business Development Companies Loan Guarantees Act. I believe this bill supports an increasingly important Small Business Administration program. The authorization reflects the new attention focused on this program by increasing the funding for the program's loan guarantees by approximately 40 percent in the next fiscal year.

The Small Business Development Company Program combines the resources of the Federal, State, and local governments with commercial lenders to provide the necessary long-term financing businesses need to expand or

convert their fixed assets. For many small businesses, this program will mean the difference between closing their doors or retooling to compete in a rapidly changing economic environment.

At a time when our economy is slowly coming out of a long-term recession, businesses need the money now to finance their capital. Unfortunately, as any small business person in this country can tell you, the type of funding they need for such capital improvements is very difficult to get from today's financial markets.

I believe the funding increases included in this legislation will help lay the foundation for a stronger and sustained economic recovery, particularly in areas of our country which have been hard hit.

I urge my colleagues to support this bill, and support the idea that public and private partnerships can work together and can strengthen our recovery by helping the real engine of our national economy—small business. I urge my colleagues to support H.R. 2747.

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

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

The SPEAKER pro tempore (Mr. HASTINGS). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2747.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2747, the bill just passed.

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

There was no objection.

SMALL BUSINESS DEVELOPMENT CENTER PROGRAM AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2748) to amend the Small Business Development Center Program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 21(c)(7) of the Small Business Act (15 U.S.C. 648) is amended by striking "system which will" and by inserting in lieu thereof the following: "system. Subject to amount approved in advance in appropriations acts, the Administration may make grants or enter cooperative agreements with one or more centers to carry out the provisions of this paragraph. Said grants or cooperative agreements shall be awarded for periods of no more than five years duration. The matching funds provisions of subsection (a) shall not be applicable to grants to cooperative agreements under this paragraph. The system shall".

(b) Section 25(i) of the Small Business Act (15 U.S.C. 652) is amended by striking "$8,000,000 for fiscal year 1993" and by inserting in lieu thereof "$2,000,000 for each of fiscal years 1993, 1994, 1995, and 1996".

(c) Section 223 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (106 Stat. 986) is amended by striking the last sentence of subsection (b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

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

Mr. Speaker, I rise in strong support of H.R. 2748, which would make minor amendments to the Small Business Development Center Program administered by the Small Business Administration.

Most Members are aware of the financial needs of the small business community and know that we attempt to address part of these needs through loan guarantee programs administered by the Small Business Administration. Of equal importance to the small business community, however, is the need for adequate knowledge and training on how to operate a small business.

We have addressed this need primarily by establishing the Small Business Development Center Program as a partnership between the Federal Government and the States. Each State is authorized to develop a network of centers, which generally are at universities, to provide management and technical assistance and training to small businesses within the State. The cost of the program is shared between the Federal Government and State and local interests, but, by statute, the Federal Government may not pay more than 50 percent of the cost of operating the program.

This is a highly successful program and represents a good leveraging of Federal moneys.

During fiscal year 1992, the program, which now exists in every State, delivered over 1.1 million hours of counseling to 222,500 small firms.

In order to effectively utilize the program resources, the Small Business Act authorizes SBA to establish a reference library of materials which is available for the use of all of the Small Business Development Centers and the 700 subcenters throughout the United States. This information sharing network or clearinghouse is partly funded by SBA at a cost of approximately $250,000 per year. In examining the operation of this clearinghouse, it became apparent that the most logical mechanism to fund it would be to allow the Agency to negotiate the work with one of the SBDC's. This approach clearly would be better than contracting out this network to those who have neither expertise in assisting small business nor a basic library upon which the clearinghouse could build.

Accordingly, the bill simply changes the funding mechanism to allow SBA to negotiate with an SBDC to carry out this function and to pay for it through a grant or cooperative agreement mechanism.

Because the SBDC concept has been so successful in the United States, several years ago we established a pilot program to see if we could teach several countries in Central Europe how to assist their small businesses by establishing their own SBDC program. This pilot program is now underway in three countries and the bill proposes to extend the authorization for 3 additional years at a cost of not to exceed $2 million per year. Once the teaching phase of this pilot program is completed, the cost of the continued operation would be borne by the host country, not by the Small Business Administration.

Finally, the bill makes a technical amendment which would authorize the Small Business Administration to implement regulations governing the operation of the program in the United States.

Mr. Speaker, this legislation was unanimously approved by the Small Business Committee on a bipartisan basis and I urge its approval by the House.

Attached is a sectional summary of this legislation:

SECTIONAL SUMMARY OF H.R. 2748, SMALL BUSINESS DEVELOPMENT CENTER PROGRAM AMENDMENTS

Section 1 authorizes the Small Business Administration to fund Small Business Development Center information sharing systems (i.e., a library of materials) by making grants or cooperative agreements with one or more such centers instead of by issuing a contract after soliciting proposals.

Subsection (b) reduces the authorization for the Small Business Development Center replication program in Central Europe for 1993 from $8 million to $2 million and authorizes a similar amount for each of fiscal years 1994 through 1996.

Subsection (c) strikes a provision of current law which prohibits the Small Business Administration from publishing regulations on the Small Business Development Center Program in the Federal Register.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in strong support of H.R. 2748. This bill will make three improvements in the Small Business Development Center [SBDC] Program. First, it authorizes competitive grant procedures for placement of the SBDC

information sharing network to replace the current confusing and burdensome contracting system. The Small Business Development Centers provide counseling and support for small businesses through colleges and universities, and this information network will aid them in their efforts to help the small business community grow and prosper.

Second, H.R. 2748 will change the authorization for the Central European Development Center Program. As Eastern Europe struggles to develop market economies, these Development Centers will help support and encourage their entrepreneurs. The change will spread the previous authorization of $8 million in fiscal year 1993 to $2 million in each of fiscal years 1993, 1994, 1995, and 1996. This allows us to offer more consistent support to these emerging economies for the same amount of money.

Finally, this bill will remove the legislative impediment to the issuance of regulations for the SBDC Program. This will allow the SBA to implement its oversight authority and issue clear guidelines on the function of the SBDC Program.

Mr. Speaker, let me reiterate my support for H.R. 2748 and thank Chairman LAFALCE for his efforts in getting it to the floor so swiftly.

□ 1420

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

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

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2748, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on H.R. 2748, as amended, the bill, just passed.

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

There was no objection.

SMALL BUSINESS 7(a) LOAN AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2766) to amend the 7(a) Loan Program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2766

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

SEC. 2. AUTHORITY TO IMPOSE SECONDARY MARKET FEES.

(a) Section 5(g) of the Small Business Act (15 U.S.C. 634) is amended by striking paragraph (4) and by inserting in lieu thereof the following:

"(4) The Administration may collect the following fees for loan guarantees sold into the secondary market pursuant to the provisions of subsection (f): an amount equal to (A) not more than .4 percent per year on the outstanding balance of such loan guaranteed by the Administration, and (B) not more than 50 percent of that*Provided*, That such fees shall not be charged to the borrower whose loan is guaranteed: and, *Provided further*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2).".

(b) Any new fees imposed by the Administration pursuant to the authority conferred by subsection (a) shall be applicable only to loans initially sold in the secondary market pursuant to the provisions of section 5(f) of the Small Business Act after August 31, 1993.

SEC. 3. AUTHORITY TO REDUCE LOAN GUARANTEE PERCENTAGES.

(a) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636) is amended—

(1) by striking from the end of clause (B)(i) the word "and" and by redesignating clause (B)(ii) as (B)(iv) and by inserting the following after clause (B)(i):

"(ii) not less than 75 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is more than 10 years, except that the participation by the Administration may be reduced below 75 percent upon request of the participating lender;

"(iii) not less than 85 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is 10 years or less, except that the participation by the Administration may be reduced below 85 percent upon request of the participating lender; and";

(2) by striking the words "85 percent under subparagraph (B)" and by inserting in lieu thereof the following: "the above specified percentums";

(3) by striking from paragraph (B) the words "not less than 80 percent, except upon" and by inserting in lieu thereof the following: "not less than 70 percent unless a lesser percent is required by clause (B)(ii) or upon the"; and

(4) by inserting after the third sentence the following: "The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, which is made applicable to other loan guarantees under section 7(a).".

(b) The amendments made by subsection (a) shall be effective September 1, 1993, but shall not be applicable to loan guarantee applications received by the Administration prior to August 21, 1993.

SEC. 4. STUDY AND REPORT

The Administration shall study, monitor and evaluate the impact of the amendments made by sections 2 and 3 of this Act on the ability of small business concerns and small business concerns owned and controlled by minorities and women, to obtain financing and the impact of such sections on the effectiveness, viability and growth of the secondary market authorized by section 5(f) of the Small Business Act. Not later than 16 months after the date of enactment, and annually thereafter, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report containing the Administration's findings and recommendations on such impact, specifically including changes in the interest rates on financings provided to small business concerns and small business concerns owned and controlled by minorities and women, through the use of the secondary market. The Administration shall segregate such findings and recommendations in the study according to the ethnic and gender components in these categories. Solely for the purposes of the study authorized herein, the term "small business concerns owned and controlled by minorities", includes businesses owned and controlled by individuals belonging to one of the designated groups listed in section 8(d)(3)(C) of the Small Business Act.

SEC. 5. REPEALER.

Sections 2 and 3 of this Act are hereby repealed on September 30, 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

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

Mr. Speaker, I rise in support of H.R. 2766, the Small Business 7(a) Loan Program amendments.

For the past several years, the demand for loan guarantees under this program has increased annually in the magnitude of 35 to 40 percent per year, largely coinciding with the credit crunch which is affecting the small business community.

In fiscal years 1992 and 1993, supplemental appropriations were needed to continue the program. Members will recall that the program actually closed for 10 weeks this year until such a supplemental could be enacted. This reliance upon supplemental appropriations, and the turning on and off of the small business loan faucet, is not a good way to administer this program, or any program. A better solution must be found.

Under existing law, the maximum SBA exposure on a 7(a) loan guarantee is $750,000 per borrower. SBA and the lender share in any loan loss in a ratio depending upon the percentage of the loan guaranteed.

On small loans, those under $155,000, the maximum guarantee is 90 percent; on larger loans, the maximum guarantee is 85 percent; but either size loan, if made under the Preferred Lenders Program under which SBA authorizes the lender to approve the loan on SBA's behalf and without prior SBA review, receives a maximum guarantee of 80 percent.

Under the Credit Reform Act of 1990, Congress must appropriate in advance amounts calculated to pay the ultimate cost of any losses due to the loan guarantees. This calculation is termed the "subsidy rate" and is annually adjusted by the lending agency, subject to approval by the Office of Management and Budget. Unless program changes are made, the subsidy rate will be 4.7 percent for 1994.

It appears that Congress will appropriate approximately the amount requested by the administration for this program, $155 million, and that will support loan guarantees of $3.3 billion. But, we have received estimates of demand in excess of $7 billion, an amount slightly above this year's appropriated level of $6.8 billion.

The President's budget request proposes program changes which would reduce the subsidy rate to 2.13 percent. This would provide $7.3 billion in loan guarantees. The President's proposal would reduce the subsidy primarily by reducing the guarantee on all loans. For example, the administration's proposal includes reducing the guarantee on small real estate loans to 70 percent, instead of the current level of 90 percent.

I believe some changes can be made, but in ways which will less adversely impact on small business borrowers.

Let me note for the record that I do not advocate any of the proposed changes, including my own proposal, except insofar as they are necessary to enlarge the program size. Nor do I think the President advocates them, except for this same reason. But, I do not believe we can secure a substantial increase in the appropriation, and we must somehow stretch our budget and reduce the Federal deficit.

I believe we can make savings of the magnitude the administration proposes, but in a slightly different manner. This bill would do so in four ways.

First, the Government and the lender would share large premiums on secondary market sales. The Small Business Administration would receive one-half of all premiums above 110 on 7(a) loan guarantees sold in the secondary market. In other words, if the lender sells the guaranteed portion of an SBA loan to an investor, the Government would share equally with the lender in any amount of the sales price above 10 percent of the principal amount of the loan.

Second, the bill would authorize a reduction in the preferred lenders guarantee. This is a program under which certain experienced and proficient lenders receive authority to make guaranteed loans without SBA's prior approval. The guarantee on 7(a) loans made under the preferred lenders program would be reduced to 70 percent whereas it is now 80 percent.

Third, the bill would authorize a reduction in the guarantee on large real estate loans. The guarantee on real estate loans over $155,000 with terms over 10 years would be reduced to 75 percent, whereas it is now 85 percent on amounts over that amount unless the loan is made through the Preferred Lenders Program.

And fourth, the bill would authorize the Small Business Administration to impose a secondary market fee of two-fifths of 1 percent annually on the outstanding principal amount of all 7(a) loans sold in the secondary market. This would be a new fee and would apply to future sales only.

These changes would provide a program level of $7 billion in loan guarantees.

Mr. Speaker, I believe we must reduce the subsidy to make the 7(a) loan guarantee program available to more small businesses.

I believe part of the solution lies in higher fees and part in lower guarantees, but I believe these changes should be made selectively; they should take into consideration those prospective borrowers least likely to be hurt and provide the most assistance to those who need it the most.

To me, this means that the fees should be imposed on the loans sold in the secondary market to investors; the fees should not be imposed on all banks simply because they participate in the 7(a) program as they already pay in the form of guarantee fees imposed up front at the time the loan is approved. Moreover, across the board fees are most likely to be charged to the borrower.

It is the large borrowers with good collateral that should be the ones receiving lower guarantee support. Lenders are still likely to fund these loans even with a lower guarantee as these collateralized loans are much less risky than are small, non-real-estate loans.

Finally, let me point out that smaller loans are less apt to be sold in the secondary market than are larger ones; thus my amendment is less likely to result in a fee being imposed on smaller loans.

I believe this bill represents the best combination of cost saving measures.

The committee, however, is concerned about the possible adverse impact of these changes upon small business borrowers, particularly minority small businesses and women-owned small business. We will monitor the impact very closely and have directed SBA to do likewise and to report to Congress annually with their findings and recommendations.

If we determine that there is a problem, we will move to correct it.

Mr. Speaker, I believe that this bill provides the best use of our very limited loan guarantee dollars. It was ordered reported on a bipartisan basis by a vote of 39–4. I urge its passage.

Attached is a sectional summary of this legislation.

SECTIONAL SUMMARY OF H.R. 2766 (AMENDED), SECTION 7(a) LOAN PROGRAM AMENDMENTS

Section 2(a) authorizes the Small Business Administration to collect two fees on new loans sold into the secondary market: first, SBA could impose a fee not to exceed ⅜ of 1% annually on the outstanding balance of loans sold in such market; and second, SBA could impose a fee of 50% of that portion of the sales price of any loan for a premium in excess of 110 percent of the outstanding principal amount.

Subsection (b) limits the new fees to loans sold in the secondary market for the first time after August 31, 1993.

Section 3(a) authorizes SBA to reduce the maximum loan guarantee on real estate loans above $155,000 to 75% (instead of 85% as provided under existing law). It also authorizes SBA to reduce the maximum loan guarantee on loans made under the Preferred Lenders Program to 70% (instead of 80% as provided under existing law).

Subsection (b) permits the SBA to apply the lower percentages to loans approved after August 31, 1993, but it exempts loan guarantee requests which were pending at the Agency prior to August 21st.

Section 4 requires SBA to study the impact of these changes upon the ability of small businesses to obtain financing, including the interest rate, and upon the viability of the secondary market in SBA guaranteed loans. The study would look at small business impact generally, and also specifically identify the impact on minority-owned and women-owned small business. SBA annually would report thereon to the Small Business Committees beginning 16 months after the date of enactment of this bill.

Section 5 repeals the changes made by sections 2 and 3 at the end of fiscal year 1996, which provides a three-year trial period.

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

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in reluctant support of H.R. 2766.

H.R. 2766 seeks changes in the Small Business Administration's 7(a) general business guaranteed loan program. As Chairman LAFALCE noted, these changes are necessary if we are to meet the current demand for the guarantees with the level of funds the House and Senate are likely to appropriate for fiscal year 1994.

Some of the proposals aren't new. Both the Reagan and Bush administrations sought similar adjustments to promote deficit reduction while maintaining a viable program level to help small businesses secure loans. There were many reasons—both policy considerations and political differences—why Congress rejected the proposals.

Perhaps the greatest concern, however, was whether lenders, faced with lower guarantee levels, and increased fees of some kind or another, would continue to use the program to make loans to small firms.

This risk remains, and it threatens small businesses—enterprises that are already having grave difficulties finding the capital they need to maintain, or expand, operations.

However, I will reluctantly support changes in the 7(a) program as deficit reduction is vital to the economic well-being of our Nation. If we can make more loans for less money, while still protecting the taxpayers against losses, perhaps we should make the attempt.

During testimony before the Small Business Committee, the new SBA Administrator, Erskine Bowles, a former venture capitalist and small businessman himself, expressed his confidence that these changes would work. I'll accept his prediction based on that expertise.

Mr. Speaker, I have some very serious problems with a process that forces us to make program changes at breakneck speeds simply because of what the appropriators have done. The better and saner approach would be to first assess how these changes would affect the small business community and then weigh our options.

Regrettably, that choice is gone to us at this point. So in the interest of giving the SBA a fighting chance of helping small enterprises, I urge our colleagues to support passage of H.R. 2766.

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

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

Mr. Speaker, again I want to extend my very heartfelt thanks to the distinguished ranking minority member for the tremendous spirit of cooperation she and all the Members of her side of the aisle have shown on this difficult task of making a bigger pie with fewer ingredients, but, because of this bipartisan spirit, we were able to accomplish that, and for that I again thank her.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2766, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and also to include extraneous matter, on H.R. 2766, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

REHABILITATION ACT AMENDMENTS OF 1993

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1295) to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the act, and for other purposes.

The Clerk read as follows:

S. 1295

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 "Rehabilitation Act Amendments of 1993".

TITLE I—REHABILITATION ACT OF 1973

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

SEC. 102. REHABILITATION ACT AMENDMENTS OF 1992.

The Rehabilitation Act Amendments of 1992 (Public Law 102-569; 106 Stat. 4344 et seq.) is amended—

(1) in section 102(a)(2) (relating to a section 7(3)), by adding closing quotations after "101(a)(1)(A).";

(2) in section 102(p)(7)(E) (relating to a section 101(a)(13)(B)), by striking "conditions" and inserting "condition";

(3) in section 138(b) (29 U.S.C. 701 note), to read as follows:

"(b) COMPLIANCE.—Each State agency subject to the provisions of title I of the Rehabilitation Act of 1973 shall comply with the amendments made by this subtitle, as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993."; and

(4) in section 203(g)(5) (relating to a section 202(g)), by striking "adding at the end" and inserting "inserting after paragraph (3)".

SEC. 103. DEFINITIONS.

Section 7 (29 U.S.C. 706) is amended—

(1) in paragraph (3)—

(A) by striking "The term 'designated State unit' means" and inserting the following:

"(B) The term 'designated State unit' means"; and

(B) in subparagraph (B) (as designated by subparagraph (A) of this paragraph), in clause (ii), by striking "101(a)(B)(i)" and inserting "101(a)(1)(B)(i)";

(2) in paragraph (8)—

(A) in subparagraph (A), by striking "titles I, II, III, VI, and VIII" and inserting "title I, III, VI, or VIII"; and

(B) in subparagraph (B), by striking "IV and V" and inserting "II, IV, V, and VII";

(3) in paragraph (15)(A), in the matter preceding clause (i), by inserting a comma after "subparagraph (C)";

(4) in paragraph (18)(A)(ii)—

(A) by inserting "for the period, and any extension, described in paragraph (34)(C)" after "employment services";

(B) by striking "or" and inserting "and"; and

(C) by inserting "after the transition described in paragraph (27)(C)" after "extended services"; and

(5) in paragraph (26)(B), by striking "III, IV, V, and VIII" and inserting "IV, V, and VII".

SEC. 104. CARRYOVER.

Section 19(a) (29 U.S.C. 718(a)) is amended to read as follows:

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

"(1) any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509 (except as provided in section 509(b)), part C of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

"(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

SEC. 105. CLIENT ASSISTANCE INFORMATION.

Section 20 (29 U.S.C. 718a) is amended by striking "such individuals, or the parents," and inserting "such individuals who are applicants for or recipients of the services, or the parents,".

SEC. 106. TRADITIONALLY UNDERSERVED POPULATIONS.

Section 21(b) (29 U.S.C. 719b(b)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by redesignating the second paragraph (3) as paragraph (4).

SEC. 107. VOCATIONAL REHABILITATION SERVICES.

(a) STATE PLANS.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in paragraph (10)(A), by striking "described in subparagraph (C)" and inserting "described in subparagraph (D)";

(2) in paragraph (32), by inserting "or independent commission described in paragraph (36)" after "Council";

(3) in paragraph (34)(B) by striking "part B" and inserting "section 110"; and

(4) in paragraph (36)—

(A) by amending subparagraph (B)(i) to read as follows:

"(i) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;"; and

(B) in subparagraph (C)—

(i) by amending clause (i) to read as follows:

"(i) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation programs of both such agencies and meets the requirements of clauses (ii) and (iv) of subparagraph (B);"; and

(ii) by striking clause (ii) and inserting the following:

"(ii)(I) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind, is consumer-controlled by and represents individuals who are blind, and undertakes the function set forth in section 105(c)(3); and

"(II) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for all individuals with disabilities except for individuals who are blind and meets the requirements of clauses (ii) and (iv) of subparagraph (B); or

"(iii)(I) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind, is consumer-controlled by and represents individuals who are blind, and undertakes the function set forth in section 105(c)(3); and

"(II) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105 and carries out the duties of such a Council with respect to functions for, and services provided to, individuals with disabilities except for individuals who are blind.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102 (29 U.S.C. 722) is amended—

(1) in subsection (a)(5)(B), by striking "section 7(22)(A)(iii)" and inserting "section 7(22)(A)(ii)"; and

(2) in subsection (d)—

(A) in paragraph (2)(C)(ii)(I), by striking "who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);" and inserting "who were appointed under one of clauses (v) through (viii) of section 105(b)(1)(A), or under one of clauses (v) through (ix) of section 105(b)(1)(B), as appropriate;"; and

(B) in paragraph (6)(B), by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively.

(c) VOCATIONAL REHABILITATION SERVICES.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (D), by striking "a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select," and inserting "qualified personnel, under State licensure laws, that are selected by the individual,"; and

(B) in subparagraph (F), by striking "a physician or licensed psychologist" and all that follows and inserting "qualified personnel under State licensure laws;"; and

(2) in paragraph (6), by striking "those individuals" and all that follows and inserting "those individuals determined to be blind after an examination by qualified personnel under State licensure laws;".

(d) STATE REHABILITATION ADVISORY COUNCIL.—

(1) AMENDMENTS.—Section 105 (29 U.S.C. 725) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1) and inserting the following:

"(1) COMPOSITION.—

"(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(ii) at least one representative of a parent training and information center established pursuant to section 631(e)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(e)(1));

"(iii) at least one representative of the client assistance program established under section 112;

"(iv) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(v) at least one representative of community rehabilitation program service providers;

"(vi) four representatives of business, industry, and labor;

"(vii) representatives of disability advocacy groups representing a cross section of—

"(I) individuals with physical, cognitive, sensory, and mental disabilities; and

"(II) parents, family members, guardians, advocates, or authorized representatives, of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(viii) current or former applicants for, or recipients of, vocational rehabilitation services.

"(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative described in subparagraph (A)(i);

"(ii) at least one representative described in subparagraph (A)(ii);

"(iii) at least one representative described in subparagraph (A)(iii);

"(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

"(v) at least one representative described in subparagraph (A)(v);

"(vi) four representatives described in subparagraph (A)(vi);

"(vii) at least one representative of a disability advocacy group representing individuals who are blind;

"(viii) at least one parent, family member, guardian, advocate, or authorized representative, of an individual who—

"(I) is an individual who is blind and has multiple disabilities; and

"(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself; and

"(ix) applicants or recipients described in subparagraph (A)(viii).

"(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 13 members shall be deemed to be in compliance with subparagraph (B) if the Council—

"(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

"(ii) includes at least—

"(I) one representative described in subparagraph (B)(vi); and

"(II) one applicant or recipient described in subparagraph (B)(ix).."; and

(ii) in paragraph (3)—

(I) in the first sentence, by striking "or the appropriate entity within the State responsible for making appointments"; and

(II) by inserting after the first sentence the following: "In the case of a State that, under State law, vests appointment authority in an entity in lieu of, or in conjunction with, the Governor, such as one or more houses of the State legislature, or an independent board that has general appointment authority, that entity shall make the appointments."; and

(B) in subsection (g), by inserting "(except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(d) to carry out part D of this title)" before "to reimburse members".

(2) EFFECTIVE DATE.—In the case of a State that demonstrates to the satisfaction of the Secretary of Education that the State has designated a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) of the Rehabilitation Act of 1973, and has established by State law a separate Council to perform the duties of a State Rehabilitation Advisory Council with respect to such State agency, the Secretary may delay the effective date of all or part of section 105(b)(1)(B), as amended by paragraph (1), until October 1, 1994.

(e) STATE ALLOTMENTS.—Section 110(c) (29 U.S.C. 730(c)) is amended—

(1) in paragraph (2)—

(A) by striking "to pay for initial expenditures during"; and

(B) by inserting at the end the following: "The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated."; and

(2) by striking paragraph (4).

(f) PAYMENTS TO STATES.—Section 111(b) (29 U.S.C. 731(b)) is amended by moving paragraphs (1) and (2) 2 ems to the right.

(g) CLIENT ASSISTANCE PROGRAM.—Section 112 (29 U.S.C. 732) is amended—

(1) in the first sentence of subsection (a), by striking "facilities" and inserting "community rehabilitation programs"; and

(2) in subsection (e)(1)(D), by striking clause (ii) and inserting the following:

"(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under clause (i) by such percentage change in the Consumer Price Index For All Urban Consumers.".

(h) INNOVATION AND EXPANSION GRANTS.—Section 124 (29 U.S.C. 744) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (1)(B)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (1)(A)"; and

(B) by striking paragraph (3) and inserting the following:

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(B) by such percentage change in the Consumer Price Index For All Urban Consumers."; and

(2) by striking subsection (b) and inserting the following:

"(b) PROPORTIONAL REDUCTION.—To provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(B), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the minimum allotment for a State (as increased under subsection (a)(3)) under subsection (a)(1)(B), or the minimum allotment for a State under subsection (a)(2)(B), as appropriate.".

SEC. 108. CLIENT INFORMATION.

Title I (29 U.S.C. 721 et seq.) is amended by adding at the end the following:

"PART E—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"SEC. 140. REVIEW OF DATA COLLECTION AND REPORTING SYSTEM.

"(a) REVIEW.—The Commissioner shall conduct a comprehensive review of the current system for collecting and reporting data on clients of programs carried out under this Act, particularly data on clients of the programs carried out under this title.

"(b) CONSIDERATIONS.—

"(1) CURRENT DATA.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently collected and reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

"(2) ADDITIONAL INFORMATION.—In conducting the review, the Commissioner shall examine the feasibility of collecting and reporting under the system information, if such information can be determined, with respect to each client participating in a program under this Act, regarding—

"(A) other programs in which the client participated during the 3 years before the date on which the client applied to participate in a program under this Act;

"(B) the number of jobs held, hours worked, and earnings received by the client during such 3 years;

"(C) the types of major and secondary disabilities of the client;

"(D) the dates of the onset of the disabilities;

"(E) the severity of the disabilities;

"(F) the source from which the client was referred to a program under this Act;

"(G) the hours worked by the client;

"(H) the size and industry code of the place of employment of the client at the time of entry into such a program and at the termination of services under the program;

"(I) the number of services provided to the client under the programs and the cost of each service;

"(J) the types of public support received by the client;

"(K) the primary sources of economic support and amounts of public assistance received by the client before and after receiving the services;

"(L) whether the client is covered by health insurance from any source and whether health insurance is available through the employer of the client;

"(M) the supported employment status of the client; and

"(N) the reasons for terminating the services received by the client.

"(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

"(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

"(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of the Rehabilitation Act Amendments of 1992 (Public Law 102-569), the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

"SEC. 141. EXCHANGE OF DATA.

"(a) EXCHANGE.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

"(1) that concern clients of State vocational rehabilitation agencies; and

"(2) that are data maintained either by—

"(A) the Rehabilitation Services Administration, as required by section 13; or

"(B) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

"(b) TREATMENT OF INFORMATION.—For purposes of the exchange, the data described in subsection (a)(2)(B) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.".

SEC. 109. RESEARCH AND TRAINING.

(a) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION.—Section 202 (29 U.S.C. 761a) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(D), by striking "the individuals" and inserting "such individuals"; and

(B) in paragraph (4)(D), by striking "individuals" and inserting "individuals described in subparagraph (C)";

(2) in the fourth sentence of subsection (c)(2), by striking "In case of any vacancy in the office of the Director, the" and inserting "The"; and

(3) in subsection (g) in paragraph (3), by striking "and" at the end.

(b) RESEARCH.—Section 204 (29 U.S.C. 762) is amended—

(1) in subsection (a)—

(A) in the second sentence, by inserting ", including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies" before the period at the end; and

(B) in the third sentence, by striking ", as described in the State plans submitted by the State agencies,"; and

(2) in subsection (b)—

(A) in paragraph (2)(G)(i), by striking "rehabilitation related" and inserting "rehabilitation-related";

(B) in paragraph (3)—

(i) in subparagraph (B)(iii)(I), by striking "family centered" and inserting "family-centered"; and

(ii) in subparagraph (C)(i)—

(I) by striking "Assistance to Individuals" and inserting "Assistance for Individuals"; and

(II) by striking the comma after "representatives of the individuals"; and

(C) in paragraph (4)(A), by moving clause (iii) 2 ems to the right.

SEC. 110. TRAINING AND DEMONSTRATION PROJECTS.

(a) TRAINING.—Section 302 (29 U.S.C. 771a) is amended—

(1) in subsection (d)—

(A) in the second sentence, by striking "local employees, who are recruited from or reside in" and inserting "local residents, who are recruited from"; and

(B) by inserting after the second sentence a new sentence to read as follows: "Entities receiving grants to carry out projects under this subsection shall coordinate the activities carried out through the projects with the activities of State vocational rehabilitation agencies to promote the employment of the individuals trained to be rehabilitation technicians."; and

(2) in subsection (h), to read as follows:

"(h) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 310 (29 U.S.C. 777) is amended by striking "sections 311(d), 311(e)," and inserting "sections 311(c), 311(d),".

(c) SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a) is amended—

(1) in subsection (a)(1), by striking the comma at the end and inserting a semicolon; and

(2) in subsection (c)(1)(B) by inserting "and" before "(iii)".

(d) SPECIAL RECREATIONAL PROGRAMS.—Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended in the first sentence, by striking "handicapped individuals" and inserting "individuals with disabilities".

SEC. 111. NATIONAL COUNCIL ON DISABILITY.

Section 403(a)(2) (29 U.S.C. 783(a)(2)) is amended by striking "seven" and inserting "eight".

SEC. 112. RIGHTS AND ADVOCACY.

(a) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—Section 501(a) (29 U.S.C. 791(a)) is amended in the first sentence, by inserting a comma after "Veterans Affairs".

(b) ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.—Section 502(a)(5)(A) (29 U.S.C. 792(a)(5)(A)) is amended by striking "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382" and inserting "the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315".

(c) RIGHTS AND ADVOCACY.—Section 509 (29 U.S.C. 794e) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and";

(2) by striking subsection (b) and inserting the following:

"(b) APPROPRIATIONS LESS THAN $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).";

(3) in subsection (c)—

(A) in paragraph (4)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (3)(B)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (3)(A)"; and

(B) by striking paragraph (5) and inserting the following:

"(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraphs (3)(B) and (4)(B) by such percentage change in the Consumer Price Index For All Urban Consumers.";

(4) by striking subsection (d) and inserting the following:

"(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.";

(5) by redesignating subsection (i) as subsection (n);

(6) in subsection (i), to read as follows:

"(i) Notwithstanding subsection (n), a protection and advocacy system that—

"(1) received funds for fiscal year 1992, under section 731 of this Act, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, to carry out a project; and

"(2) receives a continuation award for such project for fiscal year 1993,

shall not be eligible to receive additional funds under this section for fiscal year 1993."; and

(7) by striking subsection (j) and inserting the following:

"(j) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.".

SEC. 113. AVAILABILITY OF SERVICES.

Section 633 (29 U.S.C. 795l) is amended by striking "subsection (c) or (f)" and inserting "subsection (b) or (c)".

SEC. 114. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

(a) PURPOSE.—Section 701(3) (29 U.S.C. 796(3)) is amended by striking "other Federal programs" and inserting "other Federal law".

(b) STATE PLAN.—Section 704(c)(2) (29 U.S.C. 796c(c)(2)) is amended by striking "programs under parts B and C" and inserting "a program under part B, and a program under part C in a case in which the program is administered by the State under section 723".

(c) STATEWIDE INDEPENDENT LIVING COUNCIL.—Section 705 (29 U.S.C. 795d) is amended—

(1) in the second sentence of subsection (a), by striking "another" and inserting "a";

(2) in subsection (b)—

(A) by striking paragraph (4) and inserting the following:

"(4) QUALIFICATIONS.—

"(A) IN GENERAL.—The Council shall be composed of members—

"(i) who provide statewide representation;

"(ii) who represent a broad range of individuals with disabilities;

"(iii) who are knowledgeable about centers for independent living and independent living services; and

"(iv) a majority of whom are persons who are—

"(I) individuals with disabilities described in section 7(8)(B); and

"(II) not employed by any State agency or center for independent living.

"(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living."; and

(B) in paragraph (5)—

(i) in subparagraph (A), by inserting "voting" before "membership"; and

(ii) in subparagraph (B), by inserting "voting" before "member" each place the term appears; and

(3) in subsection (c)(1)—

(A) by striking "submit" and inserting "sign"; and

(B) by striking "designated State agency" and inserting "designated State unit".

(d) RESPONSIBILITIES OF THE COMMISSIONER.—Section 706(c)(1) (29 U.S.C. 796d-1(c)(1)) is amended—

(1) in the first sentence, by striking "part C" and inserting "section 722";

(2) by inserting after the second sentence the following: "The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State."; and

(3) in the last sentence, by inserting "and such State units" after "select such centers".

(e) INDEPENDENT LIVING SERVICES ALLOTMENTS.—Section 711 (29 U.S.C. 796e) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (1)(C)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (1)(A)"; and

(B) by striking paragraph (3) and inserting the following:

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers."; and

(2) by striking subsection (b) and inserting a new subsection (b) to read as follows:

"(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).".

(f) PAYMENTS TO STATES FROM ALLOTMENTS.—Section 712(b) (29 U.S.C. 796e-1(b)) is amended by striking paragraph (3).

(g) AUTHORIZED USES OF FUNDS.—Section 713(3) (29 U.S.C. 796e-2(3)) is amended by inserting "that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725" after "living".

(h) CENTERS FOR INDEPENDENT LIVING.—Section 721 (29 U.S.C. 796f) is amended—

(1) in subsection (b)(1)—

(A) by inserting "to eligible agencies, centers for independent living, and Statewide Independent Living Councils" after "assistance"; and

(B) by striking "of such funds" and inserting "of the funds appropriated to carry out this part for the fiscal year involved";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "Except as provided in subparagraphs (B) and (C) and after" and inserting "After"; and

(ii) by inserting ", and except as provided in subparagraphs (B) and (C)," after "made";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (1)(C)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (1)(A)"; and

(C) by adding a new paragraph (4) to read as follows:

"(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B)."; and

(3) in subsection (e)—

(A) in paragraph (1)(A), by striking ", whichever is greater,"; and

(B) in paragraph (2)(B)—

(i) in the first sentence of clause (i)—

(I) by striking "Private nonprofit agencies" and inserting "Entities";

(II) by striking "if the agencies submit" and inserting "if the entities submit"; and

(III) by striking "agencies will meet the standards described in section 725(b) and" and inserting "entities will be private nonprofit agencies that meet the standards described in section 725(b), and"; and

(ii) by adding a new clause (iii) to read as follows:

"(iii) FUNDING METHOD.—In making awards under this subsection, the Secretary shall distribute funds in accordance with paragraphs (1), (2), and (4) of subsection (c), and subsection (d).".

(i) GRANTS BY COMMISSIONER.—Section 722 (29 U.S.C. 796f-1) is amended—

(1) in subsection (c), by striking "is receiving funds under this part on" and inserting "has been awarded a grant under this part by";

(2) in subsection (d)(1), by inserting "proposing to serve such region" after "qualified applicant";

(3) by redesignating subsection (f) as subsection (g); and

(4) by inserting after subsection (e) the following:

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.".

(j) GRANTS BY DESIGNATED STATE UNIT.—Section 723 (29 U.S.C. 796f-2) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A)(iii), by inserting before the period at the end the following: ", making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year"; and

(B) in paragraph (3), by inserting "eligible agencies in" before "the State in accordance";

(2) in subsection (c), by striking "is receiving funds under this part on" and inserting "has been awarded a grant under this part by";

(3) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively;

(4) by inserting after subsection (e) the following:

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.";

(5) in subsection (g) (as redesignated by paragraph (3) of this subsection), in paragraph (2)(B), by striking "(h)" each place the term appears and inserting "(i)"; and

(6) in subsection (h) (as redesignated by paragraph (3) of this subsection), by striking the first sentence and inserting the following: "The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State.".

(k) CENTERS OPERATED BY STATE AGENCIES.—Section 724(b)(1)(A) (29 U.S.C. 796f-3(b)(1)(A)) is amended by striking "fiscal year 1993" and inserting "the fiscal year".

(l) STANDARDS AND ASSURANCES.—Section 725(b)(2) (29 U.S.C. 796f-4(b)(2)) is amended—

(1) in the second sentence—

(A) by inserting "severe" before "disabilities who are members of"; and

(B) by striking "Act" and inserting "title"; and

(2) in the third sentence, by inserting "shall be determined by the center, and" before "shall not be based".

(m) PROGRAMS OF GRANTS.—Section 752 (29 U.S.C. 796k) is amended—

(1) in subsection (a)(2), by striking "UNIT" and inserting "AGENCY";

(2) in subsection (b), to read as follows:

"(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

"(1) discretionary grants made on a competitive basis to States; or

"(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

"(A) under this chapter; or

"(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992."; and

(3) in subsection (j)—

(A) by striking "and" at the end of paragraph (1)(A) and inserting "or"; and

(B) by striking "and" at the end of paragraph (2)(A)(i) and inserting "or".

SEC. 115. TABLE OF CONTENTS.

The table of contents (Public Law 93-112; 87 Stat. 356) is amended—

(1) by adding after the items relating to title I the following:

"PART E—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"Sec. 140. Review of data collection and reporting system.

"Sec. 141. Exchange of data.";

and

(2) by striking the item relating to part B of title III and inserting the following:

"PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES".

TITLE II—EDUCATION OF THE DEAF ACT OF 1986

SEC. 201. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Education of the Deaf Act Amendments of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.).

SEC. 202. GENERAL AMENDMENT.

The Act (20 U.S.C. 4301 et seq.) is amended by striking "the Institute" each place that such appears and inserting "NTID".

SEC. 203. AMENDMENTS TO TITLE I.

(a) SECTION 101.—Section 101(a) (20 U.S.C. 4301(a)) is amended by inserting a comma after "Hereafter".

(b) SECTION 102.—Section 102(b) (20 U.S.C. 4302(b)) is amended—

(1) in paragraph (1), by striking "of Education"; and

(2) in paragraph (2), by striking "but if invested" and inserting "but, if invested,".

(c) SECTION 103.—Section 103 (20 U.S.C. 4303) is amended—

(1) in subsection (a)—

(A) by striking "members selected as follows:" in paragraph (1) and inserting "members who shall include—";

(B) by inserting a comma after "Association" in paragraph (1)(B);

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by redesignating the second sentence of paragraph (1) as paragraph (2); and

(2) in subsection (b)—

(A) by inserting a comma after "facilities)" in paragraph (1);

(B) in paragraph (4)—

(i) by striking "or individuals who are" and inserting "or"; and

(ii) by striking the period at the end thereof and inserting in lieu thereof a semicolon; and

(C) by striking out "the provisions of" in paragraph (8).

(d) SECTION 104.—Section 104 (20 U.S.C. 4304) is amended—

(1) in the section heading, by striking "**EDUCATIONAL**" and inserting "**EDUCATION**";

(2) in subsection (a)(1)—

(A) by striking "elementary and secondary programs" each place that such appears and inserting "elementary and secondary education programs";

(B) by striking "and individuals who are" in subparagraph (A) and inserting "or";

(C) by striking "non-English speaking" in subparagraph (B) and inserting "non-English-speaking"; and

(D) in subparagraph (C)—

(i) by striking "individuals" each place that such appears and inserting "students";

(ii) in clause (i), by striking "deaf," and inserting "deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent,"; and

(iii) in clause (ii), by striking "deaf," and inserting "deaf from grades nine through twelve, inclusive,";

(3) in subsection (b)(1)—

(A) by striking "infants and children" in subparagraph (A) and inserting "infants, children, and youth"; and

(B) by striking the semicolon at the end of subparagraph (C) and inserting a period; and

(4) in subsection (b)(4)—

(A) by striking "programs" in subparagraph (A) and inserting "program";

(B) by striking "students to and from those programs" in subparagraph (B) and inserting "the child to and from that program"; and

(C) by striking "decisions" in subparagraph (C)(iii) and inserting "a decision".

(e) SECTION 105.—Section 105(b) (20 U.S.C. 4305(b)) is amended—

(1) in paragraph (2), by striking "shall" and inserting "will"; and

(2) in paragraph (4)—

(A) by striking "Elementary School and the Model" and inserting "Elementary School or the Model"; and

(B) by striking "and the Secretary" and inserting "except that the Secretary".

(f) SECTION 111.—Section 111 (20 U.S.C. 4311) is amended by striking "title" and inserting "part".

(g) SECTION 112.—Section 112 (20 U.S.C. 4312) is amended—

(1) in the section heading by striking "**INSTITUTE**" and inserting in lieu thereof "**NATIONAL TECHNICAL INSTITUTE FOR THE DEAF**";

(2) in subsection (a)—

(A) by striking "Act" in paragraph (1) and inserting "part"; and

(B) by striking the first two commas in paragraph (2);

(3) in subsection (b)—

(A) in paragraph (3)—

(i) by striking "Secretary an annual report, including" and inserting "Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing";

(ii) by striking "which report" and inserting "which accounting"; and

(iii) by striking the comma after "Representatives";

(B) by striking "and" at the end of paragraph (4);

(C) in paragraph (5)—

(i) by striking "and the Secretary" and inserting "except that the Secretary"; and

(ii) by striking the period at the end thereof and inserting a semicolon and "and"; and

(D) by striking "or individuals who are" in paragraph (6) and inserting "or"; and

(4) in subsection (c), by inserting a comma after "If".

SEC. 204. AMENDMENTS TO TITLE II.

(a) SECTION 201.—Section 201 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(B), by striking "United States; or" and inserting "United States; and"; and

(2) by striking paragraphs (3) and (5); and

(3) by redesignating paragraphs (4), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), and (7), respectively.".

(b) SECTION 203.—Subsection (b) of section 203 (20 U.S.C. 4353(b)) is amended to read as follows:

"(b) INDEPENDENT AUDIT.—Gallaudet University shall have an annual independent financial audit made of the programs and activities of the University. The institution of higher education with which the Secretary has an agreement under section 112 shall have an annual independent financial audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.".

(c) SECTION 204.—Section 204 (20 U.S.C. 4354) is amended—

(1) in paragraph (1), by striking "first time" and inserting "first-time";

(2) in paragraph (2)(G)—

(A) by striking "Individualized Education Programs" and inserting "individualized education programs"; and

(B) by inserting "or hard of hearing" after "children who are deaf";

(3) in paragraph (3), to read as follows:

"(3)(A) The annual audited financial statements and auditor's report of the University, as required under section 203, and (B) the annual audited financial statements and auditor's report of the institution of higher education with which the Secretary has an agreement under section 112, including specific schedules and analyses for all NTID funds, as required under section 203, and such supplementary schedules presenting financial information for NTID for the end of the Federal fiscal year as determined by the Secretary."; and

(4) in paragraph (6), by striking "Program is" and inserting "Program funds are".

(d) SECTION 205.—Section 205(a) (20 U.S.C. 4355(a)) is amended—

(1) by inserting "or hard of hearing" after "individuals who are deaf"; and

(2) by striking "the provisions of".

(e) SECTION 206.—Section 206(b) (20 U.S.C. 4356(b)) is amended by inserting "or hard of hearing" after "individuals who are deaf".

(f) SECTION 207.—Section 207 (20 U.S.C. 4357) is amended—

(1) in subsection (c)(3), by striking "Advisory Board of NTID" and inserting "advisory group established under section 112";

(2) in subsection (e), by striking "investment limitations and" and inserting "investment limitations or"; and

(3) in subsection (i), by striking "the provisions of the Education of the Deaf Act of 1986" and inserting "this Act as enacted on August 4, 1986".

(g) SECTION 209.—Section 209 (20 U.S.C. 4359) is amended—

(1) in subsection (a), by striking "title II" and inserting "part B of title I"; and

(2) in subsection (b), by striking "the provisions of".

(h) SECTION 210.—Section 210 (20 U.S.C. 4360) is amended—

(1) in subsection (b), by striking "75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995" and inserting "75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995"; and

(2) in subsection (c)—

(A) by striking "Beginning the academic year 1993–1994 and thereafter" and inserting "Beginning with the academic year 1993–1994"; and

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(i) SECTION 211.—Section 211(a) (20 U.S.C. 4361(a)) is amended by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

TITLE III—OTHER ACTS

SEC. 301. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "From People Who Are Blind and Severely Disabled" and inserting "From People Who Are Blind or Severely Disabled".

SEC. 302. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by redesignating the second paragraph (8), as added by section 912(a) of the Rehabilitation Act Amendments of 1992 (Public Law 102–569), as paragraph (9).

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 20 minutes and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

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

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

There was no objection.

□ 1430

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

Mr. Speaker, I rise in support of S. 1295, the rehabilitation act amendments of 1993. This legislation merely makes technical and conforming changes to the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986. These changes will ensure that the intent of Congress—to empower consumers to participate more fully in an improved rehabilitation system—will be clearly translated by the Department of Education into regulations for the States.

I commend my staff, the staff of the Committee on Education and Labor, and the Senate staff for a fully bipartisan, bicameral effort which resulted in this comprehensive technical bill.

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

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

Today, I rise in support of S. 1295, a bill making technical corrections to the Rehabilitation Act Amendments of 1992 and the Education of the Deaf Act Amendments of 1992. Last year, this Congress passed both of these laws and since that time several technical changes have come to our attention that need to be made. S. 1295 is identical to H.R. 2723, introduced by Congressman OWENS on July 23, and cosponsored by Congressman GOODLING and myself. This is a bipartisan bill and I urge my colleagues to support its passage.

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

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

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the Senate bill, S. 1295.

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

A motion to reconsider was laid on the table.

TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2339) to amend the Technology-Related Assistance for Individuals With Disabilities Act of 1988 to authorize appropriations for each of the fiscal years 1994 through 1998, as amended.

The Clerk read as follows:

H.R. 2339

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Amendments of 1993".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—GRANTS TO STATES

Sec. 101. Program authorized.
Sec. 102. Development grants.
Sec. 103. Extension grants.
Sec. 104. Second extension grants.
Sec. 105. Progress reports.
Sec. 106. Administrative provisions.
Sec. 107. Information and technical assistance.
Sec. 108. Funding.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

Sec. 201. Programs authorized.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

Sec. 301. Alternative financing mechanisms authorized.

TITLE IV—AMENDMENTS TO OTHER ACTS

Sec. 401. Individuals With Disabilities Education Act.

Sec. 402. Rehabilitation Act of 1973.
Sec. 403. Technical and conforming amendments.
TITLE V—EFFECTIVE DATE
Sec. 501. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201(a)) is amended to read as follows:

"(a) FINDINGS.—The Congress finds as follows:

"(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals—

"(A) to live independently;

"(B) to enjoy self-determination;

"(C) to make choices;

"(D) to contribute to society;

"(E) to pursue meaningful careers; and

"(F) to enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.

"(2) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of all residents of the United States. Technology can provide important tools for making the performance of tasks quicker and easier. For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks.

"(3) The provision of assistive technology devices and services enables some individuals with disabilities—

"(A) to have greater control over their own lives;

"(B) to participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

"(C) to interact to a greater extent with nondisabled individuals; and

"(D) to otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

"(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing equipment, which significantly benefit individuals of all ages with disabilities. Such devices have increased the involvement of individuals with disabilities in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living. Dual-use technology is critical to the further development of assistive technology devices.

"(5) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The inadvertent failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities not only results in the exclusion of such individuals from the use of telecommunications and information technologies, but also results in unnecessary costs associated with the retrofitting of devices and product systems.

"(6) The use of assistive technology devices and services by individuals with disabilities increases such individuals' ability to be independent, which reduces expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by such individuals.

"(7) A majority of States have technology-related assistance programs. In spite of the efforts made by such programs to provide comprehensive, statewide services, there remains a need for—

"(A) resources to pay for assistive technology devices and services;

"(B) trained personnel to assist individuals with disabilities to use such devices and services;

"(C) information about the availability and potential of technology for individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals;

"(D) aggressive outreach to underrepresented populations and rural populations;

"(E) coordination among State human services programs, and among such programs and private entities, particularly with respect to transitions between such programs and entities; and

"(F) capacity of such programs to provide the necessary technology-related assistance.

"(8) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

"(9) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and services. In addition, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and services to individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.".

(b) PURPOSES.—Section 2(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201(b)) is amended to read as follows:

"(b) PURPOSES.—The purposes of this Act are as follows:

"(1) To provide financial assistance to the States to develop and implement a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to create systemic change and foster advocacy by—

"(A) increasing the availability of, funding for, and access to, assistive technology devices and services for individuals with disabilities;

"(B) increasing the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives in the planning, development, implementation, and evaluation of technology-related assistance programs;

"(C) increasing the involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives in specific agency decisions related to the provision of assistive technology devices and services to individuals with disabilities;

"(D) increasing and promoting coordination among State agencies and between State agencies and private entities that provide technology-related assistance, particularly assistive technology devices and services;

"(E) increasing the awareness of laws, regulations, policies, procedures, and practices that facilitate the availability or provision of assistive technology devices and services and by promoting the change of laws, regulations, policies, procedures, and practices that impede the availability or provision of assistive technology devices and services;

"(F) increasing the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living;

"(G) increasing the competence of personnel who provide technology-related assistance, including assistive technology devices and services;

"(H) increasing awareness and knowledge of the efficacy of assistive technology devices and services among individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals;

"(I) increasing the capacity of public agencies and private entities to provide and pay for technology-related assistance on a statewide basis, particularly assistive technology devices and services, for individuals of all ages with disabilities; and

"(J) increasing the awareness of the needs of individuals with disabilities for assistive technology devices and services.

"(2) To identify Federal policies that facilitate payment for assistive technology devices and services for individuals with disabilities, to identify Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment.

"(3) To enhance the ability of the Federal Government to provide States with—

"(A) technical assistance, information, training, and public awareness programs relating to the provision of assistive technology devices and services; and

"(B) funding for model demonstration and innovation projects.

"(4) To ensure that all programs, projects, and activities receiving assistance under this Act are carried out in a manner consistent with the principles of—

"(A) respect for individual dignity, personal responsibility, and self-determination in the pursuit of meaningful careers, based on informed choice, by individuals with disabilities;

"(B) respect for the privacy, rights, and equal access (including the use of accessible formats), of such individuals;

"(C) inclusion, integration, and full participation of such individuals;

"(D) support for the involvement of family members, guardians, advocates, or authorized representatives if an individual with a disability requests, desires, or needs such support; and

"(E) support for individual and systemic advocacy and community involvement.".

SEC. 3. DEFINITIONS.

Section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (3), (7), (9), (11), (12), (14), and (15), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) ADVOCACY SERVICES.—The term 'advocacy services' means assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and services to which individuals with disabilities are entitled under law. Such term includes—

"(A) dissemination of information;

"(B) individual case management;

"(C) training individuals to locate funding sources; and

"(D) pursuit of legal and other appropriate remedies.";

(3) in paragraph (3)(E) (as redesignated by paragraph (1)), by striking "family" and all that follows and inserting "the family members, guardians, advocates, or authorized representatives of such an individual; and";

(4) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

"(4) COMPREHENSIVE.—The term 'comprehensive', when used with reference to a program, means a statewide program that addresses the needs of all individuals with disabilities, including underrepresented populations and rural populations, who can benefit from the use of assistive technology devices and services regardless of age, type of disability, gender, race, or ethnicity.

"(5) CONSUMER-DRIVEN.—The term 'consumer-driven', when used with reference to a program, means a statewide program that includes individuals with disabilities and their family members, guardians, advocates, and authorized representatives, including underrepresented populations and rural populations, in the development, implementation, and evaluation of the program.

"(6) CONSUMER-RESPONSIVE.—The term 'consumer-responsive', when used with reference to a program, means a statewide program that provides information, training, technical assistance, and transportation and related services to enable individuals of all ages with disabilities to access assistive technology devices and services.";

(5) in paragraph (7) (as redesignated by paragraph (1))—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

"(7) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual—"; and

(B) in subparagraph (A), by striking "or handicap";

(6) by inserting after paragraph (7) (as redesignated by paragraph (1)) the following:

"(8) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.";

(7) in paragraph (9) (as redesignated by paragraph (1)), by striking "section 435(b)" and inserting "section 481(a)";

(8) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

"(10) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

"(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

"(B) assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives with respect to assistive technology devices and services.";

(9) in paragraph (12) (as redesignated by paragraph (1)), by striking "Trust" and all that follows and inserting "Republic of Palau (until the Compact of Free Association with Palau takes effect).";

(10) by inserting after paragraph (12) (as redesignated by paragraph (1)) the following:

"(13) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means activities—

"(A) to identify laws, regulations, policies, procedures, and practices that are legal or service delivery barriers impeding access to assistive technology devices and services;

"(B) to develop, modify, revise, correct, or adjust State or local laws, regulations, policies, procedures, and practices to allow individuals with disabilities to access assistive technology devices and services; and

"(C) to increase funding for, and access to, assistive technology devices and services on a permanent basis."; and

(11) by amending paragraph (15) (as redesignated by paragraph (1)) to read as follows:

"(15) UNDERREPRESENTED POPULATIONS.—The term 'underrepresented populations' includes populations such as minorities, the poor, and the limited English proficient.".

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES.—Section 101(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(a)) is amended by striking "to develop and implement consumer-responsive" and inserting "in developing and implementing consumer-responsive, consumer-driven".

(b) REQUIRED ACTIVITIES.—Section 101(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(b)) is amended to read as follows:

"(b) REQUIRED ACTIVITIES.—Any State that receives a grant under this title shall accomplish the purposes described in section 2(b)(1) by carrying out the following activities:

"(1) SYSTEMS CHANGE ACTIVITIES.—Systems change activities shall include—

"(A) developing and implementing strategies to obtain funds with which individuals with disabilities may obtain assistive technology devices and services in State special education, vocational rehabilitation, and medical assistance programs or, as appropriate, other education, health, or human service agencies, with particular emphasis on addressing the needs of underrepresented populations and rural populations, coordinating such funds, and monitoring State and local policies, procedures, and practices that relate to such funds;

"(B) establishing an interagency coordinating committee to enhance public funding options and coordinate access to funding for assistive technology devices and services for individuals of all ages with disabilities, with special attention to the issues of transition from school to work, home use, and individual involvement in the identification, planning, use, delivery, and evaluation of such devices and services; and

"(C) developing written materials, training, and technical assistance to ensure that the needs of an individual for assistive technology devices and services are considered and included as part of an individualized education program required under section 614(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(a)(5)), an individualized family service plan developed pursuant to section 677(d) of such Act (20 U.S.C. 1477(d)), an individualized written rehabilitation program required under section 102(b) of the Rehabilitation Act of 1973 (29 U.S.C. 722(b)), and other individualized plans that may have been developed for the individual.

"(2) CONSUMER-RESPONSIVE, CONSUMER-DRIVEN ACTIVITIES.—(A) Consumer-responsive, consumer-driven activities shall include—

"(i) providing outreach to underrepresented populations and rural populations, including—

"(I) identification and needs assessment of such populations;

"(II) activities to increase the accessibility of services to such populations;

"(III) training representatives of such populations to become service providers; and

"(IV) training staff of the comprehensive statewide program of technology-related assistance to work with such populations; and

"(ii) establishing consumer advisory councils to advise such program, a majority of whose members are—

"(I) individuals with disabilities; and

"(II) the family members, guardians, or authorized representatives of individuals with disabilities.

"(B) Consumer-responsive, consumer-driven activities may include—

"(i) increasing consumer participation, choice, and control in the selection and procurement of assistive technology;

"(ii) outreach to consumer organizations and groups in the State to coordinate with efforts of such organizations and groups to implement self-help, peer mentoring, and support group programs to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in obtaining funding for, and access to, assistive technology devices and services;

"(iii) developing mechanisms for determining consumer satisfaction and participation in the comprehensive statewide program of technology-related assistance for individuals of all ages with disabilities and documenting the results;

"(iv) taking actions to develop standards or, where appropriate, apply existing standards to ensure the availability of qualified personnel; and

"(v) paying for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need.

"(3) ADVOCACY SERVICES.—Advocacy services—

"(A) shall include training individuals with disabilities and their family members, guardians, advocates, and authorized representatives to successfully advocate for access to assistive technology devices and services, with special emphasis placed on underrepresented populations and rural populations; and

"(B) shall supplement, not supplant, similar advocacy services that have been provided pursuant to other Federal or State laws.

"(4) PROTECTION AND ADVOCACY SERVICES.—A State shall provide protection and advocacy services by awarding a contract to provide such services to an organization established for protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.). Any State that provided protection and advocacy services prior to January 1, 1993, through an organization other than that established for protection and advocacy services under such Act may continue to provide such services through such organization. Protection and advocacy services shall supplement, not supplant, similar protection and advocacy services that have been provided pursuant to other Federal or State laws.".

(c) AUTHORIZED ACTIVITIES.—Section 101(c) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(c)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(c) AUTHORIZED ACTIVITIES.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out the following activities:";

(2) in paragraph (1), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(3) in paragraph (2), in each of subparagraphs (B), (C), and (G)(i), by striking "assistive technology" each place such term appears after "devices and";

(4) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively;

(5) by redesignating paragraph (8) as paragraph (12);

(6) by inserting after paragraph (2) the following:

"(3) ELECTRONIC COMMUNICATION.—The State may operate or participate in a computer system

through which it can electronically communicate with other States to gain technical assistance in a timely fashion to avoid the duplication of efforts already undertaken in other States.

"(4) DEMONSTRATION OF DEVICES.—The State may support the demonstration of assistive technology devices. Activities may include—

"(A) provision of a location or locations within the State where individuals with disabilities and their family members, guardians, advocates, and authorized representatives, special education, rehabilitation, health care, and other service providers, representatives of Federal, State, and local government entities, and employers can see, touch, and learn about assistive technology devices from personnel who are familiar with such devices and their applications;

"(B) counseling and assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives to determine individual needs for assistive technology devices and services; and

"(C) demonstration or short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).";

(7) in paragraph (5) (as redesignated by paragraph (4)), by striking "assistive technology" after "devices or";

(8) in paragraph (6) (as redesignated by paragraph (4))—

(A) by amending the matter preceding subparagraph (A) to read as follows:

"(6) PUBLIC AWARENESS PROGRAM.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and services for individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—";

(B) in subparagraph (A), in each of clauses (i), (ii), and (iii), by striking "assistive technology" after "devices and";

(C) in subparagraph (B), by striking "assistive technology" after "devices and"; and

(D) in subparagraph (C)(i), by striking "families or representatives of individuals with disabilities," and inserting "and their family members, guardians, advocates, or authorized representatives,";

(9) in paragraph (7) (as redesignated by paragraph (4)), by striking "devices" and all that follows and inserting the following: "devices and services to individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.";

(10) in paragraph (8) (as redesignated by paragraph (4))—

(A) in the matter preceding subparagraph (A)—

(i) in the first sentence, by striking "assistive technology" after "devices and";

(ii) by inserting after the first sentence the following: "Access to the system may be provided through community-based entities, including public libraries, centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)), and community rehabilitation programs (as defined in section 7(25) of such Act (29 U.S.C. 706(25))."; and

(iii) by striking "a system described in the preceding sentence," and inserting "the system,";

(B) in subparagraph (A)—

(i) by inserting "large print," after "print,"; and

(ii) by striking "materials" and all that follows and inserting the following: "materials, computer disks, compact discs (including compact discs formatted with read-only memory), information capable of being used in telephone-based information systems, and such other media as technological innovation may make appropriate;"; and

(C) by adding at the end the following:

"The information system may be organized on an interstate basis or as part of a regional consortium of States in order to facilitate the establishment of compatible, linked information systems."; and

(11) by inserting after paragraph (9) (as redesignated by paragraph (4)) the following:

"(10) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

"(A) the development, demonstration, and dissemination of assistive technology devices; and

"(B) the ongoing provision of information about new products to assist individuals with disabilities.

"(11) DEVICE AND EQUIPMENT REDISTRIBUTION INFORMATION SYSTEMS AND RECYCLING CENTERS.—The State may support activities, including the establishment of information systems and recycling centers, for the redistribution of assistive technology devices and equipment that may include device and equipment loans, rentals, or gifts.".

SEC. 102. DEVELOPMENT GRANTS.

(a) NUMBER OF GRANTS TO BE AWARDED.—Section 102 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(b) AMOUNTS OF GRANTS.—Section 102(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(c)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (1), by striking "section 106," and inserting "section 108(a)(1),";

(2) in paragraph (2), by striking "section 106" and inserting "section 108(a)(1)"; and

(3) in paragraph (5)—

(A) in subparagraph (A), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau."; and

(B) in subparagraph (B), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau (until the Compact of Free Association with Palau takes effect).".

(c) APPLICATIONS.—Section 102(d) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(e)) (as redesignated by subsection (a)) is amended—

(1) by redesignating paragraph (17) as paragraph (25);

(2) by redesignating paragraphs (4) through (16) as paragraphs (5) through (17), respectively;

(3) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) DESIGNATION OF LEAD AGENCY.—The designation by the Governor of the office, agency, entity, or individual responsible for—

"(A) submitting the application on behalf of the State;

"(B) administering and supervising the use of amounts made available under the grant;

"(C) coordinating and supervising—

"(i) preparation of the application;

"(ii) planning, development, implementation, and evaluation of the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance;

"(iii) coordination among public agencies and between public agencies and private entities, including the entering into of interagency and interstate agreements; and

"(iv) the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, and authorized representatives, or other appropriate individuals with respect to carrying out activities under the grant; and

"(D) delegating any responsibilities described in this paragraph, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

"(2) ABILITIES OF LEAD AGENCY.—Evidence that the lead agency described in paragraph (1) has the ability—

"(A) to respond to assistive technology needs across disability and age;

"(B) to promote the availability throughout the State of assistive technology devices and services;

"(C) to promote and implement systems change activities;

"(D) to promote and implement public-private partnerships;

"(E) to exercise leadership in identifying and responding to the technology needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives;

"(F) to promote and document the consumer-responsive, consumer-driven nature of the comprehensive statewide program of technology-related assistance; and

"(G) to exercise leadership in implementing effective strategies for capacity building, staff and consumer training, and enhancement of access to funding for assistive technology devices and services across agencies.

"(3) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of each agency in the development and implementation of the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, including the identification of the available resources and financial responsibility of each agency for paying for assistive technology devices and services.

"(4) PUBLIC INVOLVEMENT.—A description of the nature and extent of the involvement in the development of the application, and the continuing role in the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance of—

"(A) individuals with disabilities;

"(B) the family members, guardians, advocates, and authorized representatives of such individuals;

"(C) other appropriate individuals who are not employed by a State agency; and

"(D) organizations, providers, employers, and other interested parties from the private sector.";

(4) in paragraph (5) (as redesignated by paragraph (2)), by striking "underserved groups" and inserting "underrepresented populations and rural populations";

(5) in paragraph (7) (as redesignated by paragraph (2)), by striking "consumer-responsive" and inserting "consumer-responsive, consumer-driven, comprehensive";

(6) by striking paragraph (8) (as redesignated by paragraph (2)) and inserting the following:

"(8) DATA COLLECTION.—A description of—

"(A) the data collection system used for compiling information as required by the Secretary and, when a national classification system is developed pursuant to section 201, consistent with such classification system; and

"(B) procedures that will be used to conduct evaluations.";

(7) in paragraph (9) (as redesignated by paragraph (2)), by striking "devices and assistive technology" and inserting "devices and";

(8) in paragraph (12) (as redesignated by paragraph (2))—

(A) in subparagraph (A), by striking "devices and assistive technology" and inserting "devices and"; and

(B) in subparagraph (B), by striking "devices or assistive technology" each place it appears and inserting "devices or";

(9) by amending paragraph (16) (as redesignated by paragraph (2)) to read as follows:

"(16) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that—

"(A) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant; and

"(B) the lead agency will have the authority to use funds under this title to comply with the State grant requirements, including the ability to hire qualified staff necessary to carry out project activities."; and

(10) by inserting after paragraph (17) (as redesignated by paragraph (2)) the following:

"(18) PROTECTION AND ADVOCACY SERVICES.—An assurance that the State will allocate a specific amount of funds, from Federal or State sources, for protection and advocacy services provided pursuant to section 101(b)(4). In reviewing an application by the State, the Secretary shall review such specific amount to determine if it is reasonable in relation to the size of the grant and the needs of individuals with disabilities within the State. In making such determination, the Secretary shall consider the population of the State and the geographic size of the State.

"(19) TRAINING ACTIVITIES.—An assurance that the State—

"(A) will develop and implement strategies for including personnel training in assistive technology within existing Federal- and State-funded training initiatives to enhance assistive technology skills and competencies; and

"(B) will document such training activities.

"(20) LIMIT ON INDIRECT COSTS.—An assurance that the percentage of funds used for indirect costs shall not exceed 15 percent.

"(21) COORDINATION WITH STATE COUNCILS.—An assurance that there will be coordination between the project funded under this Act and other councils within the State, including the State Rehabilitation Advisory Council (or Councils) established under section 105 of the Rehabilitation Act of 1973 (29 U.S.C. 725), the Statewide Independent Living Council established under section 705 of such Act (29 U.S.C. 796d), the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Interagency Coordinating Council established under section 682 of such Act (20 U.S.C. 1482), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e)).

"(22) COORDINATION WITH OTHER SYSTEMS CHANGE PROJECTS.—An assurance that there will be coordination between the project funded under this Act and other related systems change projects funded by either Federal or State funds.

"(23) AVAILABILITY OF INFORMATION.—An assurance that the State will—

"(A) make available to individuals with disabilities and their family members, guardians, advocates, and authorized representatives information concerning technology-related assistance in a form that will allow such individuals with disabilities to effectively use such information; and

"(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

"(24) TIMELINESS OF SERVICE PROVISION.—An assurance that the State—

"(A) will review all State laws, regulations, policies, procedures, and practices that have an impact on—

"(i) the decisions related to the need for and the provision of assistive technology devices and services;

"(ii) the specific entity within the State that will provide such service or device;

"(iii) the procurement policies, procedures, and practices that affect the acquisition or usage of such service or device; or

"(iv) the timelines involved in such procurement;

"(B) will review the information required under subparagraph (A) to determine areas that inhibit or delay the acquisition or delivery of a needed assistive technology service or device, particularly as such service or device relates to minors; and

"(C) will determine ways in which the timelines for acquisition and delivery may be decreased.".

SEC. 103. EXTENSION GRANTS.

(a) GENERAL AUTHORITY.—Section 103(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213(a)) is amended to read as follows:

"(a) GENERAL AUTHORITY.—The Secretary may award a 2-year extension grant to any State that—

"(1) has been awarded one development grant under section 102;

"(2) has successfully satisfied the requirements in such section; and

"(3) has demonstrated to the Secretary that the State made significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(d).".

(b) ASSESSMENT OF PROGRESS.—Section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) ASSESSMENT OF PROGRESS.—The Secretary shall develop guidelines to be used in assessing the extent to which the State is making significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance consistent with section 2(b)(1).".

(c) AMOUNTS OF GRANTS.—Section 103(c) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213(c)) (as redesignated by subsection (b)) is amended—

(1) in paragraph (1)(A), by striking "section 106" and inserting "section 108(a)(1)";

(2) in paragraph (1)(B), by striking "section 106" and inserting "section 108(a)(1)";

(3) in paragraph (1)(C)—

(A) in clause (i), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau."; and

(B) in clause (ii), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau (until the Compact of Free Association with Palau takes effect)."; and

(4) in paragraph (2), by adding at the end the following:

"In providing any increases in State grants above the amounts provided to States in fiscal year 1993, the Secretary shall give priority to the 10 States that have the largest populations, as determined by the 1990 decennial census of the population, and States that are sparsely populated, with a wide geographic spread, where such characteristics have impeded the development of a statewide program.".

(d) APPLICATION.—Section 103(d) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213(d)) (as redesignated by subsection (b)) is amended—

(1) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) INFORMATION AND ASSURANCES.—The information and assurances described in section 102(d), except the preliminary needs assessment described in section 102(d)(5).

"(2) NEEDS.—A description of—

"(A) needs relating to technology-related assistance for individuals with disabilities (including individuals from underrepresented populations and rural populations), their family members, guardians, advocates, and authorized representatives, and other appropriate individuals within the State;

"(B) gaps that remain in the development and implementation of a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance;

"(C) strategies that the State will pursue during the grant period to remedy such gaps; and

"(D) outreach activities, with special attention to underrepresented populations and rural populations.

"(3) ACTIVITIES AND PROGRESS UNDER PREVIOUS GRANT.—A description of the specific activities carried out under the development grant received under section 102, the relationship of such activities to the development and implementation of a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, and the progress made toward the development and implementation of such a program. Such description shall include, at a minimum—

"(A) a description of State actions that were undertaken to produce systems change on a permanent basis for individuals of all ages with disabilities;

"(B) a description of training and technical assistance efforts to improve individual access to assistive technology devices and services; and

"(C) an evaluation of the impact and results of the activities described in subparagraphs (A) and (B).";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "families or representatives of individuals with disabilities," and inserting "their family members, guardians, advocates, and authorized representatives,"; and

(B) in subparagraph (C), by striking "consumer-responsive" and inserting "consumer-responsive, consumer-driven, comprehensive";

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6);

(4) in paragraph (6) (as redesignated by paragraph (3)), by inserting ", or any recipient of its funds," after "State"; and

(5) by adding at the end the following:

"(7) CONTINUATION OF PROGRAM.—A description of the steps the State has taken or will take to continue on a permanent basis a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, including an identification of potential

funding sources and funding commitments for the program from the public and private sectors and from the agencies and entities who will be involved with and direct future efforts.".

SEC. 104. SECOND EXTENSION GRANTS.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended—

(1) by redesignating sections 104 and 105 as sections 105 and 106, respectively;

(2) by redesignating section 106 as section 108; and

(3) by inserting after section 103 the following:

"SEC. 104. SECOND EXTENSION GRANTS.

"(a) GENERAL AUTHORITY.—The Secretary may award a 5-year second extension grant to any State that—

"(1) has been awarded one extension grant under section 103;

"(2) has successfully satisfied the requirements in such section; and

"(3) has demonstrated to the Secretary that the State made significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(d).

"(b) AMOUNTS OF GRANTS.—The amounts and the priority of the extension grants under this section shall be the same as the amounts and priority of extension grants under section 103(c), except that—

"(1) the amount paid to a State for the fourth year of the grant period shall be 75 percent of the amount paid to the State for the third year of the grant period;

"(2) the amount paid to a State for the fifth year of the grant period shall be 50 percent of the amount paid to the State for the third year of the grant period; and

"(3) after the fifth year of the grant period, no Federal funds shall be made available to the State under this Act.

In providing any increases in State grants above the amounts provided to States in fiscal year 1993, the Secretary shall give priority to the 10 States that have the largest populations, as determined by the 1990 decennial census of the population, and States that are sparsely populated, with a wide geographic spread, where such characteristics have impeded the development of a statewide program.

"(c) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the information and assurances required under section 103(d), except that the descriptions of the activities carried out and the progress made under a development grant that are referred to in such section shall relate, in an application under this section, to an extension grant under section 103.".

SEC. 105. PROGRESS REPORTS.

Section 105 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2214) (as redesignated by section 104) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—Each State that receives a grant under this title shall submit to the Secretary annually a report that documents significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(d). The report shall document the following:

"(1) Successful systems change activities to increase funding for, and access to, assistive technology devices and services, including—

"(A) an analysis of laws, regulations, policies, procedures, and practices that have changed, the program has attempted to change, or that need to be changed to facilitate the acquisition of assistive technology;

"(B) a report on protection and advocacy services provided; and

"(C) other relevant processes or activities.

"(2) The degree of consumer satisfaction and participation, and particularly the satisfaction and participation of underrepresented populations and rural populations, with the statewide program, based upon mechanisms that have been developed pursuant to section 101(b)(2)(B)(iii).

"(3) The degree of involvement of various State agencies in the preparation of the application and the continuing role of each agency in the development and implementation of the statewide program, including the identification of the available resources and financial responsibility of each agency for paying for assistive technology devices and services.

"(4) Efforts to train personnel as well as consumers.

"(5) Information collection and dissemination activities relating to systems change activities identified in paragraph (1).

"(6) Written notices by State and local agencies of policies, procedures, and practices that have been developed or amended in order to inform individuals with disabilities and their family members, guardians, advocates, and authorized representatives of Federal requirements pertaining to assistive technology devices and services, particularly under parts B and H of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(7) Efforts to disseminate information on all major program initiatives to other States by means of electronic communication.

"(8) Efforts to comply with the assurance provided pursuant to section 102(d)(24).

"(9) Efforts to reduce the service delivery time for receiving assistive technology devices and services.

"(10) Efforts to disseminate information about interagency activities that promote coordination of assistive technology services, including evidence of increased participation of State and local special education, vocational rehabilitation, and medical assistance agencies and departments.";

(2) in subsection (b), by striking "section 103" and inserting "sections 103 and 104"; and

(3) by adding at the end the following:

"(c) REPORTS ON PROTECTION AND ADVOCACY SERVICES.—An organization that is awarded a contract to provide protection and advocacy services pursuant to section 101(b)(4) shall make significant progress in providing such services. One year after the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Amendments of 1993, and each year thereafter, the organization shall document such progress for the Secretary in each of the following areas:

"(1) Conducting activities that are consumer-responsive and consumer-driven, including activities that will lead to increased access to funding for assistive technology devices and services.

"(2) Executing legal, administrative, and other appropriate means of representation to implement systems change.

"(3) Developing and implementing strategies designed to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to successfully advocate for assistive technology to which the individuals with disabilities are entitled under law.

"(4) Coordination with protection and advocacy services funded through sources other than this Act.

"(d) PUBLIC COMMENT.—

"(1) HEARING.—An organization that is awarded a contract to provide protection and advocacy services pursuant to section 101(b)(4) shall, during the period described in paragraph (2), conduct a hearing for public comment from interested persons to ascertain the extent to which the State that awarded the contract to the organization is making significant progress, under the grant that is effective at the time of the hearing, in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance.

"(2) DATE OF HEARING.—The hearing required under paragraph (1) shall be conducted within the 6-month period ending on the date of the termination of a grant received under section 103, or within the 6-month period ending on the date that is 24 months after the date on which a grant under section 104 commenced, whichever is applicable to the State that awarded the contract to the organization.

"(3) REPORT.—An organization referred to in paragraph (1) shall submit to the Secretary a report summarizing the public comments received at a hearing conducted under the paragraph within the 6-month period beginning on the date the hearing is concluded.".

SEC. 106. ADMINISTRATIVE PROVISIONS.

Section 106 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2215) (as redesignated by section 104) is amended—

(1) in clause (ii) of subsection (a)(2)(B), by striking "GS-18 of the General Schedule under section 5332 of title 5," and inserting "level IV of the Executive Schedule under section 5315 of title 5,";

(2) by redesignating subsection (c) as subsection (g);

(3) by inserting after subsection (b) the following:

"(c) REDESIGNATION OF LEAD AGENCY.—

"(1) MONITORING PANEL.—Once a State becomes subject to a corrective action plan pursuant to subsection (b), the Governor of the State, subject to approval by the Secretary, shall appoint within 30 days a monitoring panel consisting of the following representatives:

"(A) The head of the lead agency designated by the Governor.

"(B) 2 representatives from different public or private nonprofit organizations that represent the interests of individuals with disabilities.

"(C) 2 consumers who are users of assistive technology devices and services and who are not—

"(i) members of the advisory council of the program; or

"(ii) employees of the State lead agency.

"(D) 2 service providers with knowledge and expertise in assistive technology devices and services.

The monitoring panel shall be ethnically diverse and shall choose its own chairperson. The panel shall receive periodic reports from the State regarding progress in implementing the corrective action plan and shall have the authority to request additional information necessary to determine compliance. The meetings of the panel to determine compliance shall be open to the public (subject to confidentiality concerns) and held at locations that are accessible to individuals with disabilities. The panel shall remain active for the entire period of the corrective action plan, as determined by the Secretary. The panel shall be funded by a portion of the funds received by the State under this title, as directed by the Secretary.

"(2) FAILURE TO APPOINT MONITORING PANEL.—A failure by a Governor of a State to comply with the requirements of paragraph (1) shall result in the complete loss of funding

under this title, until redesignation pursuant to the process established in paragraph (4).

"(3) DETERMINATION.—Based on its findings, a monitoring panel may determine that a lead agency designated by a Governor has not met the purposes established in section 2(b)(1) and that there is good cause for redesignation and the temporary loss of funds under this title. In this paragraph, the term 'good cause' includes—

"(A) lack of progress with employment of qualified staff;

"(B) lack of consumer-responsive, consumer-driven activities;

"(C) lack of resource allocation to systems change activities;

"(D) lack of progress with meeting the assurances in section 102(d); or

"(E) inadequate fiscal management.

If a monitoring panel makes such a determination, it shall recommend to the Secretary that further remedial action be taken or that the Secretary order the Governor to hold an open competition pursuant to paragraph (4). The Secretary, based on the findings and recommendations of the monitoring panel, shall make a final determination with respect to the lead agency designation under this title.

"(4) NEW STATE COMPETITION.—In the event that a State loses funding under this title pursuant to paragraph (2) or (3), the Governor of the State shall hold an open competition within the State and issue a request for proposals within 30 days for agency redesignation. Such competition shall be open to State agencies, public and private nonprofit organizations, consortia of such organizations, or institutions of higher education. The competition shall ensure public involvement, including a public hearing and adequate opportunity for public comment. The Secretary shall have final approval of the agency or organization designated after such competition.

"(d) REDESIGNATION OF PROTECTION AND ADVOCACY SERVICES.—If the Secretary determines that significant progress has not been achieved by an organization that is awarded a contract to provide protection and advocacy services for a State pursuant to section 101(b)(4), the Secretary shall consult with the Governor of such State in a timely manner. After such consultation, if it is determined that remedial action is not appropriate, the Governor shall hold an open competition within the State and issue a request for proposals within 30 days for agency redesignation. Such competition shall be open to entities with the same expertise and ability to provide legal services as an organization referred to in section 101(b)(4). The competition shall ensure public involvement, including a public hearing and adequate opportunity for public comment.

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—The Secretary shall publish, by December 31 of each year, an annual report to the President and to the Congress on the activities funded under this Act and other Federal initiatives to improve the access of individuals with disabilities to assistive technology devices and services. The report shall address the following:

"(A) Demonstrated successes at the Federal and State levels in improving interagency coordination, streamlining access to funding, and producing beneficial outcomes for users of assistive technology.

"(B) Demonstrated successes in promoting funding access in existing public programs and establishing new funding options.

"(C) Activities targeted to reach underrepresented populations and rural populations.

"(D) Consumer involvement activities in the State programs.

"(E) Education and training activities to promote awareness of available funding in public programs.

"(F) Efforts made to educate and train individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals about technology-related assistance.

"(G) Research activities undertaken to improve the understanding of the cost-benefit ratio resulting from the use of assistive technology for individuals of all ages and with varying disabilities.

"(2) REPORT ON AVAILABILITY.—As soon as practicable, but not later than January 1, 1996, the Secretary shall include in the annual report required by this section a report on the availability of assistive technology devices and services for individuals with disabilities based on the national classification system developed under section 201.

"(f) INTERAGENCY DISABILITY COORDINATING COUNCIL.—On or before October 1, 1995, the Interagency Disability Coordinating Council established under section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) shall prepare and submit to the President and to the Congress a report of—

"(1) the response of the Interagency Disability Coordinating Council to the findings and recommendations of the National Council on Disability (established under section 400 of the Rehabilitation Act of 1973 (29 U.S.C. 780)) that were included in the Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities of the National Council on Disability; and

"(2) activities of the Interagency Disability Coordinating Council that facilitate the accomplishment of section 2(b)(2) with respect to the Federal Government.

The report shall include any comments submitted by the National Council on Disability to the Interagency Disability Coordinating Council that pertain to paragraph (1) or (2)."; and

(4) by amending subsection (g) (as redesignated by paragraph (2)) to read as follows:

"(g) EFFECT ON OTHER ASSISTANCE.—This title may not be construed as authorizing a State or a Federal agency to reduce medical or other assistance available or to alter eligibility under any Federal statute.".

SEC. 107. INFORMATION AND TECHNICAL ASSISTANCE.

The Technology Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended by inserting after section 106 (as redesignated by section 104) the following:

"SEC. 107. INFORMATION AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall provide to States and individuals with disabilities and their family members, guardians, advocates, and authorized representatives information and technical assistance.

"(b) INFORMATION AND TECHNICAL ASSISTANCE TO STATES.—Information and technical assistance provided to the States under subsection (a) shall include—

"(1) providing a clearinghouse for activities that have been developed and implemented by projects funded pursuant to this Act;

"(2) facilitating service delivery capacity building, training of personnel across disciplines, evaluation strategies, and research and data collection;

"(3) providing information and technical assistance on effective approaches to information referral, interagency coordination on training and service delivery, outreach to underrepresented populations and rural populations, and public awareness activities;

"(4) assisting in planning, developing, implementing and evaluating appropriate activities to further extend consumer-responsive, consumer-driven, comprehensive statewide programs of technology-related assistance for individuals with disabilities;

"(5) providing technical assistance and training to the projects funded pursuant to this title for activities conducted pursuant to section 101(c)(3); and

"(6) providing any other appropriate information and technical assistance to assist the States in accomplishing the purposes of this Act.

"(c) INFORMATION AND TECHNICAL ASSISTANCE TO INDIVIDUALS.—Information and technical assistance provided to individuals with disabilities and their family members, guardians, advocates, and authorized representatives under subsection (a) shall include—

"(1) disseminating information and providing technical assistance on Federal, State and local laws, regulations, policies, procedures, and practices that facilitate funding for and access to assistive technology devices and services, to promote independence, productivity, and inclusion in the economic, political, social, cultural, and educational mainstream of American society for individuals of all ages with disabilities;

"(2) identifying, collecting, and disseminating information, and providing technical assistance on effective systems change activities, advocacy services, and protection and advocacy services;

"(3) collecting, analyzing, and disseminating on a national basis assistive technology funding decisions made as a result of policies, procedures, and practices, or through regulations, administrative hearings, or legal action that enhance access to funding of assistive technology devices and services for individuals with disabilities;

"(4) promoting State-Federal coordination through information dissemination and technical assistance activities in response to funding policy improvements identified by the States that enhance funding for, or access to, assistive technology devices and services for individuals of all ages with disabilities; and

"(5) providing any other appropriate information and technical assistance to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accomplishing the purposes of this Act.

"(d) GRANTS, CONTRACTS, AND AGREEMENTS.—

"(1) PUBLIC OR PRIVATE AGENCIES.—The Secretary shall provide the information and technical assistance described in this section through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to accomplish identified activities.

"(2) NUMBER.—The Secretary shall provide the information and technical assistance described in this section through one or two grants, contracts, or cooperative agreements. An agency or organization that is a party to such a grant, contract, or agreement may contract with other public or private agencies or organizations for the purposes of providing the information and technical assistance described in this section.".

SEC. 108. FUNDING.

Section 108 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2216) (as redesignated by section 104) is amended to read as follows:

"SEC. 108. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this title $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

"(2) RESERVATION.—The Secretary shall reserve 2 percent of funds appropriated in any fiscal year under paragraph (1), or $1,500,000,

whichever is greater, for the purpose of providing to States and individuals with disabilities and their family members, guardians, advocates, and authorized representatives information and technical assistance under section 107.

"(b) ADMINISTRATION.—From funds appropriated for salaries and expenses with respect to the Department of Education for each fiscal year beginning after October 1, 1993, the Secretary—

"(1) shall expend such amounts as may be necessary to ensure that 4 full-time employees are added to the number of employees serving on September 30, 1993, in the Office of Special Education and Rehabilitative Services of the Department of Education; and

"(2) shall assign such additional employees to the National Institute on Disability and Rehabilitation Research to be engaged in the full-time administration of this Act.".

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 201. PROGRAMS AUTHORIZED.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended by striking title II and inserting the following:

"TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

"PART A—NATIONAL CLASSIFICATION SYSTEM

"SEC. 201. NATIONAL CLASSIFICATION SYSTEM.

"(a) IN GENERAL.—The Secretary—

"(1) shall collect the uniform data described in subsection (c) across the publicly funded programs described in subsection (d) through the use of a single taxonomy and a uniform data collection instrument; and

"(2) shall develop, in consultation with the Internal Revenue Service, procedures for determining whether devices and services are assistive technology devices or services within the meaning of paragraph (2) or (3) of section 3.

"(b) SINGLE TAXONOMY.—

"(1) IN GENERAL.—The Secretary, in consultation with the technical assistance contractees described in section 107(d), the States receiving funds under title I, organizations that have worked in the information and referral field in the past, and assistive technology reimbursement specialists, shall adopt a single taxonomy for assistive technology devices and services.

"(2) DEADLINES.—(A) The Secretary may carry out this subsection through a contract or grant if the contract or grant is made within the 6-month period beginning on the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Amendments of 1993. If the Secretary carries out this subsection through contract or grant, the contract or grant shall be for a period of not more than 2 years.

"(B) If the Secretary does not carry out this subsection through contract or grant, the Secretary shall adopt the taxonomy described in paragraph (1) within the 2-year period beginning on the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Amendments of 1993.

"(c) UNIFORM DATA.—The uniform data referred to in subsection (a) shall include the following:

"(1) Expenditures for the different types of assistive technology devices and services.

"(2) Type of disability of the individual.

"(3) Type of functional needs of the individual with a disability.

"(4) Type of device.

"(5) Type of service.

"(6) Type of provider.

"(7) Age of the individual.

"(8) Gender of the individual.

"(9) Ethnicity of the individual.

"(10) Geographic residence of the individual.

"(11) Funding source.

"(d) PUBLICLY FUNDED PROGRAMS.—The publicly funded programs referred to in subsection (a) shall include—

"(1) titles I, VI, and VII of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(2) parts H and B of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(3) titles V and XIX of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) programs funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

"(5) programs funded under the Developmental Disabilities and Bill of Rights Act (42 U.S.C. 6000 et seq.).

"PART B—TRAINING AND DEMONSTRATION PROJECTS

"SEC. 211. TRAINING GRANTS.

"(a) TECHNOLOGY TRAINING.—

"(1) GENERAL AUTHORITY.—The Secretary shall enter into contracts or cooperative agreements with appropriate public or private agencies and organizations, including institutions of higher education, for the purposes of—

"(A) conducting training sessions; and

"(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

"(2) ELIGIBLE ACTIVITIES.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.

"(b) TECHNOLOGY CAREERS.—

"(1) IN GENERAL.—The Secretary shall make grants to assist institutions of higher education to prepare students and faculty working in specific fields for careers relating to the provision of assistive technology devices and services. The specific fields include—

"(A) engineering;

"(B) industrial technology;

"(C) computer science;

"(D) communication disorders;

"(E) special education;

"(F) rehabilitation; and

"(G) social work.

"(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and implementation of consumer-responsive, consumer-driven, comprehensive statewide programs of technology-related assistance for individuals with disabilities.

"(3) USES OF FUNDS.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

"(c) GRANTS TO HISTORICALLY BLACK COLLEGES.—In exercising the authority granted in subsections (a) and (b), the Secretary shall reserve an adequate amount for grants to historically black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

"SEC. 212. TECHNOLOGY TRANSFER.

"The Secretary shall provide funds to an organization whose primary function is to promote technology transfer from, and cooperation among, Federal laboratories (as defined in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.)). Such funds shall be used to promote technology transfer that will spur the development of assistive technology devices.

"SEC. 213. DEVICE AND EQUIPMENT REDISTRIBUTION INFORMATION SYSTEMS AND RECYCLING CENTERS.

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, public agencies, private entities, or institutions of higher education for the purpose of developing and establishing recycling projects.

"(b) ELIGIBLE ACTIVITIES.—Eligible recycling activities may include—

"(1) a system for accepting, on an unconditional gift basis, assistive technology devices, including a process for valuing the devices and evaluating their use and potential;

"(2) a system for storing and caring for such devices;

"(3) an information system (including computer databases) by which local educational agencies, rehabilitation entities, local community-based organizations, independent living centers and other entities, would be informed, on a periodic and timely basis, about the availability and nature of the devices currently held; and

"(4) a system for making such devices available to consumers and those entities listed in paragraph (3), provided that such system include provision for tracking each device throughout its useful life.

"(c) MULTIPLE PROVIDERS.—With respect to activities funded under this section, an agency, entity, or institution may utilize a single authority or may establish a system of service providers. If an agency, entity, or institution uses multiple providers, the agency, entity, or institution shall assure that—

"(1) all consumers within a State receive equal access to services, regardless of the geographic location or socioeconomic status of the consumers; and

"(2) all activities of the providers are coordinated and monitored by the agency, entity, or institution.

"(d) OTHER LAWS.—Nothing in this section shall affect the provision of services or devices pursuant to title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or part B of the Individuals With Disabilities Education Act (20 U.S.C 1411 et seq.).

"(e) EXISTING PROGRAMS.—Public agencies, private entities, or institutions of higher education that have already established recycling programs may extend and strengthen such programs through grants, contracts, or agreements under this section.

"SEC. 214. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

"The Secretary may make grants to individuals with disabilities to enable them to establish or operate commercial or other enterprises which develop or market assistive technology devices or services.

"SEC. 215. PRODUCTS OF UNIVERSAL DESIGN.

"The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of products of universal design. Preference shall be given to those enterprises which are owned or operated by individuals with disabilities.

"SEC. 216. GOVERNING STANDARDS FOR PART B PROJECTS.

"Projects operated pursuant to this part shall—

"(1) be held to the same consumer-responsive, consumer-driven standards as the program under title I;

"(2) make available to individuals with disabilities and their family members, guardians, advocates, and authorized representatives information concerning technology-related assistance in a form that will allow such individuals with disabilities to effectively use such information;

"(3) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials; and

"(4) coordinate their efforts with the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance for individuals with disabilities in the State or States in which the projects operate.

"PART C—AUTHORIZATION OF APPROPRIATIONS

"SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(b) RESERVATION.—Of the amounts appropriated under subsection (a), the Secretary shall reserve $200,000 in each of the fiscal years 1994 and 1995 for the purpose of adopting the taxonomy under section 201.".

TITLE III—ALTERNATIVE FINANCING MECHANISMS

SEC. 301. ALTERNATIVE FINANCING MECHANISMS AUTHORIZED.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"TITLE III—ALTERNATIVE FINANCING MECHANISMS

"SEC. 301. GENERAL AUTHORITY TO PROVIDE ALTERNATIVE FINANCING MECHANISMS.

"(a) IN GENERAL.—The Secretary shall award grants to States to provide a Federal share for the establishment of, or the expansion of, alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, and authorized representatives to purchase assistive technology devices and services. Grants under this section may be used to provide up to one half of the costs of providing and administering such alternative financing mechanisms. The mechanisms may include—

"(1) a low-interest loan fund;

"(2) a revolving fund;

"(3) a loan insurance program;

"(4) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

"(5) other alternative financing mechanisms that meet the requirements of this Act and are approved by the Secretary.

"(b) CONSTRUCTION OF TITLE I.—Nothing in this section shall be construed as affecting the authority of a State to establish alternative financing mechanisms under title I.

"SEC. 302. APPLICATIONS AND PROCEDURES.

"States that receive or have received grants under section 102, 103, or 104 shall be eligible to compete for grants under this title. The Secretary shall make grants under this title under such conditions as the Secretary shall, by regulation, determine, except that—

"(1) a State may receive only one grant under this title;

"(2) a State that desires to receive a grant under this title shall submit an application that contains—

"(A) an assurance that the State will provide an amount not less than the amount paid to the State by the Secretary under this title, as set forth under section 304, for the purpose of supporting the alternative financing mechanisms that are covered by the grant;

"(B) an assurance that an alternative financing mechanism shall continue on a permanent basis; and

"(C) a description of the degree to which the alternative financing mechanisms to be funded under this title will expand and emphasize consumer choice and control;

"(3) a State that receives a grant under this title—

"(A) shall contract with a community-based organization (or a consortia of such organizations) that has individuals with disabilities involved at all organizational levels for the administration of the alternative financing mechanisms that are supported by this title; and

"(B) shall require that such community-based organization contract, for the purpose of expanding opportunities under this title and facilitating the administration of the alternative financing mechanisms, with—

"(i) commercial lending institutions or organizations; or

"(ii) State financing agencies; and

"(4) a contract between a State that receives a grant under this title and a community-based organization described in paragraph (3)—

"(A) shall include the administration of both the Federal and non-Federal matching share in a manner consistent with the provisions of this title; and

"(B) shall include any provision required by the Secretary dealing with oversight and evaluation as may be necessary to protect the financial interests of the United States.

"SEC. 303. GRANT ADMINISTRATION REQUIREMENTS.

"A State that receives a grant under this title, together with any community-based organization that contracts to administer an alternative financing mechanism that is supported by this title, shall develop and submit to the Secretary, pursuant to a timeline that the Secretary may establish or, if the Secretary does not establish a timeline, within the 12-month period beginning on the date that the State receives the grant, the following policies or procedures for administration of the mechanism:

"(1) A procedure to review and process in a timely fashion requests for financial assistance for both immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility and determination of the specific device or service to be provided.

"(2) A policy and procedure to assure that access to the alternative funding mechanism shall be given to consumers regardless of type of disability, age, location of residence in the State, or type of assitive technology device or service requested and shall be made available to applicants of all income levels.

"(3) A procedure to assure consumer-controlled oversight.

"SEC. 304. FINANCIAL REQUIREMENTS.

"A State that desires to receive a grant under this title shall submit an application that contains assurances that funds supporting an alternative financing mechanism under this title shall meet the following requirements:

"(1) Funds provided by the State to match the Federal share for the mechanism—

"(A) shall be from either State, local, or private sources;

"(B) shall be of an amount at least equal to the Federal funds provided under a grant under this title; and

"(C) shall not be taken from, or obtained by the reduction of any services in, any program providing similar services to individuals with disabilities which is in operation on the date of the submission of the application.

"(2) Funds that support an alternative financing mechanism under this title—

"(A) shall be used to supplement and not supplant existing public funding options; and

"(B) may only be distributed as a payer of last resort for assistance that is not available in a reasonable or timely fashion from any other Federal, State, or local source.

"(3) All funds that support an alternative financing mechanism funded under this title, including funds repaid during the life of the mechanism, shall be placed in a permanent separate account and identified and accounted for separately from any other fund. Funds within this account may be invested in low-risk securities in which a regulated insurance company may invest under the law of the State for which the grant is provided and shall be administered with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person.

"(4) The principal and interest from an account described in paragraph (3) shall be available to support an alternative financing mechanism supported under this title. Any interest or investment income that accrues on any funds covered under this paragraph after such funds have been placed under the control of the entity administering the mechanism, but before such funds are distributed for purposes of supporting the mechanism, shall be the property of the entity administering the mechanism and shall not be taken into account by any officer or employee of the Federal Government for any purpose.

"SEC. 305. AMOUNT OF GRANTS.

"(a) IN GENERAL.—A grant under this title shall be for an amount that is not more than $500,000 increased by any amount made available under subsection (b).

"(b) EXCESS FUNDS.—If funds appropriated under section 308 for a fiscal year are in excess of the amount necessary to fund acceptable applications for such year, the Secretary shall make such excess amount available to States receiving grants under this title in such year on a competitive basis. A State that desires to receive additional funds under this subsection shall amend and resubmit to the Secretary the application submitted under section 302. Such amended application shall contain an assurance that the State will provide an additional amount for the purpose of supporting the alternative financing mechanisms covered by the grant that is not less than any additional amount paid to the State by the Secretary under this subsection.

"(c) INSUFFICIENT FUNDS.—If funds appropriated under section 308 for a fiscal year are not sufficient to fund each of the acceptable applications for such year, a State whose application was approved as acceptable for such year but that did not receive a grant under this title may update such application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

"SEC. 306. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title. The information and technical assistance shall include—

"(1) assisting States in the preparation of applications for grants under this title;

"(2) assisting States that receive such grants in developing and implementing alternative financing mechanisms; and

"(3) providing any other information and technical assistance to assist States in accomplishing the purposes of this title.

"(b) GRANTS, CONTRACTS, AND AGREEMENTS.—The Secretary shall provide the information and

technical assistance described in subsection (a) through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to assist States in the development and implementation of the alternative financing mechanisms described in section 301.

"SEC. 307. ANNUAL REPORT.

"Not later than December 31 of each year, the Secretary shall submit a report to the Congress stating whether each State program to provide alternative financing mechanisms that was supported by this title during the year is making significant progress in achieving the objectives of this title. The report shall include—

"(1) the number of applications for a grant under this title that were received by the Secretary;

"(2) the number of grants made and the amounts of such grants;

"(3) the ratio of the amount of funds provided by each State for a State program to provide alternative financing mechanisms to the amount of Federal funds provided for such program;

"(4) the type of program to provide alternative financing mechanisms that was adopted in each State and the community-based organization (or consortia of such organizations) with whom each State has contracted; and

"(5) the amount of assistance given to consumers (who shall be classified by age, type of disability, type of assistive technology device or service received, geographic distribution within the State, gender, and whether they are part of an underrepresented population or a rural population).

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $8,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

"(b) AVAILABILITY IN SUCCEEDING FISCAL YEAR.—Amounts appropriated under subsection (a) shall remain available for expenditure in the fiscal year immediately following the fiscal year for which such amounts were appropriated.

"(c) RESERVATION.—Of the amounts appropriated under subsection (a), the Secretary shall reserve $250,000 for the purpose of providing information and technical assistance to States under section 306.".

TITLE IV—AMENDMENTS TO OTHER ACTS

SEC. 401. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 631(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)(1)) is amended—

(1) by striking ", and" at the end of subparagraph (D) and inserting a comma;

(2) by striking the period at the end of subparagraph (E) and inserting ", and"; and

(3) by adding at the end the following:

"(F) training in the use, applications, and benefits of assistive technology devices and services (as defined in paragraphs (2) and (3) of section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)).".

SEC. 402. REHABILITATION ACT OF 1973.

(a) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.—Section 202(b)(8) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(b)(8)) is amended by striking "characteristics of individuals with disabilities" and inserting "characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations,".

(b) TRAINING.—Section 302(b)(1)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 771a(b)(1)(B)), as added by section 302(b) of Public Law 102-569 (106 Stat. 4412), is amended—

(1) by striking "; and" at the end of clause (ii) and inserting a semicolon;

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following:

"(iv) projects to train personnel in the use, applications, and benefits of assistive technology devices and services (as defined in sections 3(2) and 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)).".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ASSISTIVE TECHNOLOGY DEVICE.—Section 7(23) of the Rehabilitation Act of 1973 (29 U.S.C. 706(23)), as added by section 102(n) of Public Law 102-569 (106 Stat. 4350), is amended by striking "3(1)" and inserting "3(2)".

(b) ASSISTIVE TECHNOLOGY SERVICE.—Section 7(24) of the Rehabilitation Act of 1973 (29 U.S.C. 706(24)), as added by section 102(n) of Public Law 102-569 (106 Stat. 4350), is amended by striking "3(2)" and inserting "3(3)".

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1993, or on the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] is recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] is recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2339.

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

There was no objection,

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

Mr. Speaker, I rise in strong support of H.R. 2339, the Technology-Related Assistance For Individuals With Disabilities Amendment of 1993. The Subcommittee on Select Education and Civil Rights understands the urgency and importance of this legislation to the disability community and has moved to incorporate many of their recommendations in this reauthorization. This bill is the culmination of a strong bipartisan effort.

The original law, introduced by Mr. JEFFORDS of Vermont, was passed in 1988 to provide Federal support to States in developing and implementing programs of technology-related assistance. The law also established Federal grants for training, public awareness, demonstration, and innovation projects related to the provision of assistance technology devices and services. Since 1988, this national program has grown from $5 million to $34 million in appropriations. The increase in funding is a testament to the program's tremendous success, proving that much can be accomplished with limited Federal resources in a short period of time.

This bill provides a 9-year reauthorization and sunset for title I, coupled with clearer standards of accountability for the States to ensure that the bill's goals are accomplished within this time frame. The bill is designed to focus the States on promoting systems change which is more responsive to the needs of consumers. It also requires States to contract with protection and advocacy agencies so that individuals with disabilities will have access to legal representation when they are denied assistive technology to which they are entitled under existing law.

Several States have demonstrated the need for low-interest loan programs to enable individuals with disabilities to secure assistive technology in an expeditious manner. Therefore, the bill introduces a program of one-time, Federal matching grants to States for establishing alternative low-interest financing mechanisms.

Assistive technology enables individuals with disabilities to live independently, pursue meaningful careers, and enjoy full inclusion and integration in the mainstream of society. Therefore, the civil rights goals of the Americans With Disabilities Act of 1990 cannot be fully achieved unless individuals with disabilities have access to assistive technology.

As sponsor of this legislation, I recognize that for individuals with disabilities, the stakes could not be higher than in the current environment of high-technology initiatives by the Federal Government and the private sector, particularly with respect to the effort to commercialize defense-related technology. The subcommittee addressed this issue by providing a small amount of money to promote technology transfer to benefit individuals with disabilities. Congress appropriated $471.6 million for fiscal year 1993 for the technology reinvestment project to stimulate applications of defense-related technology for alternate commercial uses. With so much money being spent on technology transfer, it would be a great tragedy if Congress were to overlook the needs of individuals with disabilities when deciding how the money should be allocated.

H.R. 2339 will ensure that individuals with disabilities have the assistive technology they need to pursue the American dream.

I wish to thank Mr. GOODLING, Mr. BALLENGER, and other subcommittee members and their respective staffs for their support in this bipartisan effort.

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

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

Today we are considering H.R. 2339, the Technology Related Assistance for

Individuals With Disabilities Act Amendments of 1993. This is a bipartisan bill which we bring to the floor today and I commend Congressman OWENS and his staff for their consistent efforts to work out our differences so that we can all support this bill.

H.R. 2339 makes several changes in the current law to strengthen activities States are doing in order to make assistive technology devices and services available to individuals with disabilities. Assistive technology does make a difference in the lives of individuals with disabilities by providing them the opportunity to live independent and productive lives, and this legislation will continue to help make such assistive technology more accessible and available to them.

I am particularly pleased that this bill has a sunset provision repealing this program in fiscal year 2002. This will allow all States to participate in this program for a total of 10 years with a phaseout of Federal dollars in years 9 and 10. When Congress enacted this act in 1988, it was intended to provide Federal seed money to States to develop and implement a statewide system to eliminate barriers and make assistive technology accessible and available. The goal being that once that was accomplished, this Federal program would no longer be needed. I am glad to see that this House is acting responsibly to end a Federal program once it accomplishes its intended goals.

I also support the new provision creating a one-time Federal matching grant to States to develop alternative financing systems so that individuals with disabilities can access financial assistance in order to purchase assistive technology devices. This Federal investment will be no more than $500,000 per State and will be matched dollar-for-dollar by the State. The State will have the authority to decide what type of alternative financing system to develop, such as a low interest loan or a revolving loan program, and will be required to have commercial lending institutions or State financing agencies jointly administer the program with a community-based organization. The Federal dollars will only provide seed money to help assist States develop their own alternative financing system, and such a system must be the payor of last resort. I believe this provision is essential if we expect individuals with disabilities to purchase assistive technology in order to become more independent.

I support this legislation and believe it will truly change the lives of individuals with disabilities. I urge my colleagues to support the passage of H.R. 2339.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 2339, the Technology Related Assistance for Individuals With Disabilities Act Amendments of 1993. This legislation was enacted in 1988, as a Republican initiative, to improve occupational and educational opportunities for individuals with disabilities through assistive technology devices and services. The intent of the original act was to provide Federal seed money to States to assist them in developing and implementing statewide programs that increase access to, and availability of, assistive technology devices and services.

During the reauthorization process, it came to the committee's attention that the States still need time to change their current systems in order to make assistive technology accessible and available to individuals with disabilities. H.R. 2339 provides for a second 5-year extension grant to States who have demonstrated significant progress in developing and implementing these statewide programs. However, once a State has participated in this program for a total of 10 years, Federal assistance under this program will terminate. I support this sunset provision, and believe it sends a message to States to remove barriers to assistive technology throughout the State.

I also support the new provision which will encourage States to develop alternative financing mechanisms, such as a low interest loan program, to enable individuals with disabilities to purchase assistive technology devices. This one-time Federal matching grant will be for no more than $500,000 per State. One of the biggest criticisms the committee has heard has been the lack of financial assistance available with disabilities to purchase assistive technology. If States decide to create alternative financing mechanisms, such financial assistance will be available as the payor of last resort once all other public assistance has been denied. I believe these financing systems will be the legacy of the Technology-Related Assistance Act for Individuals With Disabilities by providing the much-needed financial assistance necessary to purchase assistive technology.

I support H.R. 2339 because I have seen the benefits that assistive technology has made in the lives of individuals with disabilities. Assistive technology can be the difference in whether an individual has the opportunity to be independent or is confined to a life of dependency on others. This legislation can make that difference and I urge my colleagues to support it.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 2339, as amended.

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

The title of the bill was amended so as to read: "A bill to revise and extend the programs of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, and for other purposes.".

A motion to reconsider was laid on the table.

□ 1440

EDUCATIONAL RESEARCH, DEVELOPMENT, AND DISSEMINATION EXCELLENCE ACT

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 856) to improve education in the United States by promoting excellence in research, development, and the dissemination of information, as amended.

The Clerk read as follows:

H.R. 856

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Educational Research, Development, and Dissemination Excellence Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT
Sec. 101. General provisions.
Sec. 102. Assistant Secretary for Educational Research and Improvement.
Sec. 103. Savings provision.
Sec. 104. Existing grants and contracts.
TITLE II—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD
Sec. 201. Establishment within Office of Educational Research and Improvement.
TITLE III—NATIONAL RESEARCH INSTITUTES
Sec. 301. Establishment within Office of Educational Research and Improvement.
TITLE IV—NATIONAL EDUCATION DISSEMINATION SYSTEM
Sec. 401. Establishment within Office of Educational Research and Improvement.
TITLE V—NATIONAL LIBRARY OF EDUCATION
Sec. 501. Establishment within Office of Educational Research and Improvement.

SEC. 2. FINDINGS.

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to adequately prepare their students. To achieve the national education goals set forth by the President and the governors of the States, an overwhelming campaign for educational improvement must be mounted in order to set in motion many strategies and models designed to encourage and support school restructuring. The Federal Government must support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every school and student in the United States. The Office of Educational Research and Improvement of the Department of

Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, belong to a language minority, or are disabled. However, in 1988, the Federal commitment to education was sufficient to serve not more than—

(A) 1 out of every 5 low-income children in need of preschool education;

(B) 2 out of every 5 children in need of remediation;

(C) 1 out of every 4 children in need of bilingual education; and

(D) 1 out of every 20 youths in need of job training.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the Nation a sound foundation on which to design school improvements, leading to a history of faddism and failed experimentation resulting in a dearth of research in the area of educationally at-risk students. This situation is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on education nationally.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office of Educational Research and Improvement must develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the Nation's education decisionmakers.

(7) A National Educational Research Policy and Priorities Board should be established to ensure that an educational research and dissemination agenda is developed and implemented without partisan political interference.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions must be created to promote knowledge development necessary to accelerate the application of research knowledge to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the Nation's educational system, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office of Educational Research and Improvement. The Office therefore must assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office of Educational Research and Improvement with that of other components of the Department of Education is critical. It must improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

TITLE I—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 101. GENERAL PROVISIONS.

Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a) DECLARATION OF POLICY REGARDING EDUCATIONAL OPPORTUNITY.—

"(1) IN GENERAL.—The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, disability, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, development, improvement activities, data collection, synthesis, technical assistance, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) MISSION OF OFFICE.—

"(A) The mission of the Office of Educational Research and Improvement shall be to provide national leadership in—

"(i) expanding fundamental knowledge and understanding of education;

"(ii) promoting excellence and equity in education; and

"(iii) monitoring the state of education.

"(B) The mission of the Office shall be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers.

"(b) PURPOSE AND STRUCTURE OF OFFICE.—

"(1) IN GENERAL.—The Secretary, acting through the Office of Educational Research and Improvement, shall carry out the policies set forth in subsection (a). In carrying out such policies, the Secretary shall be guided by the priorities established by the Board of Governors established in section 405A.

"(2) ADMINISTRATIVE STRUCTURE.—The Office shall be administered by the Assistant Secretary and shall include—

"(A) the National Educational Research Policy and Priorities Board established by section 405A;

"(B) the national research institutes established by section 405B;

"(C) the national education dissemination system established by section 405C;

"(D) the National Library of Education established by section 405D;

"(E) the National Center for Education Statistics established by section 406; and

"(F) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

"(3) PRIORITIES IN RESEARCH AND DEVELOPMENT.—The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the following priority research and development needs:

"(A) The education of at-risk students.

"(B) The education and development of young children.

"(C) Student achievement in elementary and secondary school.

"(D) Postsecondary education, libraries, and lifelong learning for adults.

"(E) The improvement of schools through the restructuring and reform of school governance, policymaking, finance and management at the State, local, school building, and classroom level.

"(c) APPOINTMENT OF EMPLOYEES.—

"(1) IN GENERAL.—The Assistant Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees of the Office as the Assistant Secretary considers necessary to accomplish its functions, provided that—

"(A) at least 60 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

"(B) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS–15, as determined in accordance with section 5376 of title 5, United States Code;

"(C) the appointment of such employee is necessary to provide the Office with scientific or technical expertise which could not otherwise be obtained by the Office through the competitive service; and

"(D) the total number of such employees does not exceed one-fifth of the number of full-time, regular scientific or professional employees of the Office.

"(2) REAPPOINTMENT OF EMPLOYEES.—The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a clear and convincing justification of need, for one additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

"(d) AUTHORITY TO PUBLISH.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to prepare and publish such information, reports, and documents as may be of value in carrying out the purposes of sections 405 through 405D without further clearance or approval by the Secretary or any other office of the Department.

"(2) QUALITY ASSURANCE.—In carrying out such authority, the Assistant Secretary shall—

"(A) establish such procedures as may be necessary to assure that all reports and publications issued by the Office are of the highest quality; and

"(B) provide other offices of the Department with an opportunity to comment upon any report or publication prior to its publication when its contents relate to matters for which such office has responsibility.

"(e) BIENNIAL REPORT ON ACTIVITIES OF OFFICE.—The Assistant Secretary shall transmit to the President and the Congress by not later than December 30 of every other year a biennial report which shall consist of—

"(1) a description of the activities carried out by and through each research institute during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

"(2) a description of the activities carried out by and through the national education dissemination system established by section 405C during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

"(3) such written comments and recommendations as may be submitted by the Board concerning the activities carried out by and through each of the institutes and the national education dissemination system during the fiscal years for which such report is prepared and how such activities relate to the Research Policies and Priorities Plan developed by the Board;

"(4) a description of the coordination activites undertaken pursuant to section 405(f) during

the fiscal years for which such report is prepared;

"(5) recommendations for legislative and administrative changes necessary to improve the coordination of all educational research, development, and dissemination activities carried out within the Federal Government, particularly within the priority research and development needs identified in section 405(b)(3); and

"(6) such additional comments, recommendations, and materials as the Assistant Secretary considers appropriate.

"(f) COORDINATION.—With the advice and assistance of the Board, the Assistant Secretary shall establish and maintain an ongoing program of activities designed to improve the coordination of education research, development, and dissemination and activities within the Department and within the Federal Government, particularly within the priority research and development needs identified in section 405(b)(3), in order to—

"(1) minimize duplication in education research, development, and dissemination carried out by the Federal Government;

"(2) maximize the value of the total Federal investment in education research, development, and dissemination; and

"(3) enable all entities engaged in education research, development, and dissemination within the Federal Government to interact effectively as partners and take full advantage of the diverse resources and proficiencies which each entity has available.

"(g) ACTIVITIES REQUIRED WITH RESPECT TO COORDINATION.—In carrying out such program of coordination, the Assistant Secretary shall compile (and thereafter regularly maintain) and make available a comprehensive inventory of all education research, development, dissemination activities, and expenditures being carried out by the Federal Government within the priority research and development needs identified in section 405(b)(3).

"(h) STANDARDS FOR CONDUCT AND EVALUATION OF RESEARCH.—

"(1) IN GENERAL.—In consultation with the Board, the Assistant Secretary shall develop such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to assure that such activities meet the highest standards of professional excellence. In developing such standards, the Assistant Secetary shall review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal agencies engaged in research and development and shall also actively solicit recommendations from the the National Academy of Sciences, the American Educational Research Association and members of the general public.

"(2) CONTENTS OF STANDARDS.—Such standards shall at a minimum—

"(A) require that a system of peer review be utilized by the Office—

"(i) in reviewing and evaluating all applications for grants and cooperative agreements and bids for those contracts which exceed $100,000;

"(ii) in evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office; and

"(iii) in reviewing and designating exemplary and promising programs in accordance with section 405C(d);

"(B)(i) specify the composition of peer review panels, the criteria for the selection of members of such panels, and describe the means by which potential members shall be identified so as to assure that such panels are broadly representative of individuals with expertise in matters relevant to the purposes of each such panel;

"(ii) prohibit the consideration of partisan affiliation in the selection of any member of a peer review panel;

"(iii) describe the general procedures which shall be used by each peer review panel in its operations;

"(iv) prohibit the participation by a member of a peer review panel in the review of any application in which such member has any financial interest; and

"(v) require that transcripts, minutes, and other documents made available to or prepared for or by a peer review panel will be available for public inspection to the extent consistent with the Freedom of Information Act, the Federal Advisory Committee Act, the Privacy Act, and other laws;

"(C)(i) describe the procedures which shall be utilized in evaluating applications for grants, proposed cooperative agreements, and contract bids;

"(ii) specify the criteria and factors which shall be considered in making such evaluations; and

"(iii) provide that any decision to fund a grant, contract, or cooperative agreement out of its order of ranking by a peer review panel shall be first fully justified in writing and that copies of such justification shall be transmitted to the Board, unless such action is required by some other provision of law;

"(D)(i) describe the procedures which shall be utilized in reviewing educational programs which have been identified by or submitted to the Secretary for evaluation in accordance with section 405C(d); and

"(ii) specify the criteria which shall be used in recommending programs as exemplary and promising; and

"(E)(i) require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance;

"(ii) describe the procedures and means by which such evaluations shall be undertaken, including—

"(I) the frequency of such evaluations;

"(II) the criteria, outcome measures, and other factors which shall be taken into account; and

"(III) measures to assure that on-site evaluations of performance shall be utilized to the extent appropriate and whenever practicable; and

"(iii) provide that the results of such evaluations shall be taken into account prior to any decision to continue, renew, or provide new funding to the entity being reviewed.

"(3) PUBLICATION AND PROMULGATION OF STANDARDS.—

"(A) The Assistant Secretary shall publish proposed standards—

"(i) which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (2) not later than 1 year after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act;

"(ii) which meet the requirements of paragraph (2)(D) not later than 2 years after such date; and

"(iii) which meet the requirements of subparagraph (E) of paragraph (2) not later than 3 years after such date;

"(B) Following the publication of such proposed standards, the Assistant Secretary shall solicit comments from interested members of the public with respect to such proposed standards for a period of not more than 120 days. After giving due consideration to any comments which may have been received, the Assistant Secretary shall transmit such standards to the Board for its review and approval.

"(C) Upon the approval of the Board, the Assistant Secretary shall transmit final standards to the Secretary which meet the requirements of the particular subparagraphs of paragraph (2) for which they were developed. Such standards shall be binding upon all activities carried out with funds appropriated under section 405.

"(i) ADDITIONAL RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—In carrying out the activities and programs of the Office, the Assistant Secretary shall—

"(1) be guided by the Research Priorities Plan developed by the Board;

"(2) ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary;

"(3) ensure that the selection of research topics and the administration of the program are free from undue partisan political influence; and

"(4) ensure that all statistics and other data collected and reported by the Office shall be collected, cross-tabulated, analyzed, and reported by sex within race or ethnicity and socioeconomic status whenever feasible (and when such data collection or analysis is not feasible, ensure that the relevant report or document includes an explanation as to why such data collection or analysis is not feasible).

"(j) DEFINITIONS.—For purposes of this section and sections 405A through 405D:

"(1) The term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act.

"(2) The term 'at-risk student' means a student who, because of limited English proficiency, poverty, geographic location, or educational or economic disadvantage, faces a greater risk of low educational achievement and has greater potential for dropping out of school.

"(3) The term 'Board' means the National Educational Research Policy and Priorities Board.

"(4) The term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education.

"(5) The term 'development'—

"(A) means the systematic use, adaptation, and transformation of knowledge and understanding gained from research to create alternatives, policies, products, methods, practices, or materials which can contribute to the improvement of educational practice; and

"(B) includes the design and development of prototypes and the testing of such prototypes for the purposes of establishing their feasibility, reliability, and cost-effectiveness.

"(6) The term 'technical assistance' means the provision of external assistance to facilitate the adoption or application of the knowledge gained from educational research and development and includes—

"(A) problem analysis and diagnosis;

"(B) assistance in finding, selecting, or designing suitable solutions and approaches to problems;

"(C) training in the installation and implementation of products, programs, policies, practices, or technologies; and

"(D) such other assistance as may be necessary to encourage the adoption or application of such knowledge.

"(7) The term 'dissemination' means the transfer of knowledge and products gained through research and includes—

"(A) the use of communication techniques to increase awareness of such knowledge and products;

"(B) the provision of comparative and evaluative information necessary to enable educators, school administrators, and others to assess and

make informed judgments about the relevance and usefulness of such knowledge and products in specific settings; and

"(C) the provision of technical assistance needed to adapt, apply, and utilize such knowledge and products in specific educational settings.

"(8) The term 'national education dissemination system' means the activities carried out by the Office of Reform Assistance and Dissemination established by section 405C.

"(9) The term 'Office' means the Office of Educational Research and Improvement established in section 209 of the Department of Education Organization Act.

"(10) The term 'national research institute' means an institute established in section 405B.

"(11) The terms 'United States' and 'State' include the District of Columbia and the Commonwealth of Puerto Rico.

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) NATIONAL INSTITUTES.—

"(A) For the purpose of carrying out section 405B, there is authorized to be appropriated $37,000,000 for fiscal year 1994.

"(B) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Student Achievement, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(C) For the purpose of carrying out the provisions of section 405B relating to the National Institute for the Education of At-Risk Students, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(D) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Innovation in Educational Governance, Finance, Policy-Making, and Management, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(E) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Early Childhood Development and Education, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(F) For the purpose of carrying out the provisions of section 405B relating to the National Institute of Postsecondary Education, Libraries, and Lifelong Learning, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(2) NATIONAL EDUCATION DISSEMINATION SYSTEM.—

"(A)(i) For the purpose of carrying out subsections (b)(2) through (g) of section 405C, there are authorized to be appropriated $22,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 1997.

"(ii) Of the amount appropriated under clause (i) for any fiscal year, the Secretary shall make available not less than $7,175,000 to carry out subsection (f) of section 405C (relating to clearinghouses).

"(B) For the purpose of carrying out subsection (h) of section 405C (relating to regional educational laboratories), there are authorized to be appropriated $37,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 1997. Of the amounts appropriated under the preceding sentence for a fiscal year, the Secretary shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau of Indian Affairs which are located in rural areas).

"(C) For the purpose of carrying out subsection (j) of section 405C (relating to the teacher research dissemination network) there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 1997.

"(D) For the purpose of carrying out subsection (i) of section 405C (relating to the Goals 2000 Community Partnerships program), there are authorized to be appropriated $30,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 and 1997.

"(3) NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD.—Of the amounts appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary shall make available 2 percent of such amounts, or $1,000,000, whichever is less, to the Board for the purpose of carrying out section 405A.

"(4) ALLOCATIONS FOR GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Of the amounts appropriated under paragraph (1) or (2) for any fiscal year, not less than 95 percent shall be expended to carry out the purposes described in such paragraphs through grants, cooperative agreements, or contracts.

"(5) LIMITATIONS ON APPROPRIATIONS.—No amounts are authorized to be appropriated under paragraph (1) or (2) for fiscal year 1995 or any fiscal year thereafter unless the Board has been appointed in accordance with section 405A.

"(6) GRANT AUTHORIZED.—From the amounts appropriated under paragraph (1) for fiscal year 1995, the Secretary is authorized, in accordance with the provisions of this paragraph, to award a grant of not more than $5,000,000 to a public or private institution, agency or organization for a period not to exceed five years for the purpose of conducting a State-by-State poll to determine the perceptions of recent graduates of secondary schools, their instructors in institutions of higher education, parents of recent such graduates, and employers of recent such graduates on how well schools have prepared students for further education or employment. The grant shall be awarded on a competitive basis and shall be matched on a two-to-one basis, with the Federal Government contributing one-third of the total costs of the poll.".

SEC. 102. ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT.

Subsection (b) of section 202 of the Department of Education Organization Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively; and

(2) by adding at the end the following new paragraph:

"(3) There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

"(A) appointed by the President, by and with the consent of the Senate; and

"(B) selected in consultation with the National Educational Research Policy and Priorities Board from among individuals who—

"(i) are distinguished educational researchers;

"(ii) have proven management ability; and

"(iii) have substantial knowledge of education within the United States.".

SEC. 103. SAVINGS PROVISION.

Notwithstanding any other provision of law, contracts for the regional educational laboratories, education resources information clearinghouses and research and development centers assisted under section 405 of the General Education Provisions Act on the date of the enactment of this Act shall remain in effect until the termination date of such contracts.

SEC. 104. EXISTING GRANTS AND CONTRACTS.

Notwithstanding any other provision of law, grants and contracts for the research and development centers assisted under section 405 of the General Education Provisions Act on the date of enactment of this Act shall remain in effect until the termination date of such grants or contracts, as the case may be, except that such grants and contracts may be extended to implement the provisions of this Act.

TITLE II—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

SEC. 201. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act (20 U.S.C. 1221e et seq.) is amended by inserting after section 405 the following new section:

"NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

"SEC. 405A. (a) IN GENERAL.—There is established within the Office a National Educational Research Policy and Priorities Board (hereafter in this section referred to as the 'Board').

"(b) FUNCTIONS.—It shall be the responsibility of the Board, acting through the Assistant Secretary—

"(1) to determine priorities that should guide the work of the Office and provide guidance to the Congress in its oversight of the Office;

"(2) to review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office pursuant to sections 405 through 405C; and

"(3) to regularly review, evaluate, and publicly comment upon, the implementation of its recommended priorities and policies by the Department and the Congress.

"(c) RESEARCH PRIORITIES PLAN.—In cooperation with the Assistant Secretary, the Board shall—

"(1) survey and assess the state of knowledge in education research, development and dissemination to identify disciplines and areas of inquiry within the priority research, development and dissemination needs identified in section 405(b)(3) in which the state of knowledge is insufficient and which warrant further investigation, taking into account the views of both education researchers and practicing educators;

"(2) consult with the National Education Goals Panel and other authorities on education to identify national priorities for the improvement of education;

"(3) actively solicit recommendations from education researchers, teachers, school administrators, cultural leaders, parents, and others throughout the Nation through such means as periodic regional forums;

"(4) provide recommendations for the development, maintenance, and assurance of a strong infrastructure for education, research, and development in the United States; and

"(5) on the basis of such recommendations, develop a research priorities program which shall recommend priorities for the investment of the resources of the Office over the next 5-, 10-, and 15-year periods, including as priorities those areas of inquiry in which further research, development and dissemination—

"(A) is necessary to attain the goals for the improvement of education identified in paragraph (2);

"(B) promises to yield the greatest practical benefits to teachers and other educators in terms of improving education; and

"(C) will not be undertaken in sufficient scope or intensity by the other Federal and non-Federal entities engaged in education research and development.

"(d) CONTENTS OF PLAN—

"(1) IN GENERAL.—The research and priorities plan described in subsection (c) shall, at a minimum—

"(A) set forth specific objectives which can be expected to be achieved as a result of a Federal investment in the priorities set forth in the plan;

"(B) include recommendations with respect to research and development on cross-cutting issues which should be carried out jointly by 2 or more of the research institutes; and

"(C) include an evaluative summary of the educational research and development activities undertaken by the Federal government during the preceding 2 fiscal years which shall describe—

"(i) what has been learned as a result of such activities;

"(ii) how such new knowledge or understanding extends or otherwise relates to what had been previously known or understood;

"(iii) the implications of such new knowledge or understanding for educational practice and school reform; and

"(iv) any development, reform, and other assistance activities which have utilized such knowledge or understanding and the effects of such efforts.

"(2) REPORT.—

"(A) Not later than 6 months after the first meeting of the Board and October 1 of every second year thereafter, the Assistant Secretary shall publish a report specifying the proposed research priorities of the Office and allow a 60-day period beginning on the date of the publication of the report for public comment and suggestions.

"(B) Not later than 90 days after the expiration of the 60-day period referred to in subparagraph (A), the Assistant Secretary shall submit to the President and the Congress a report specifying the research priorities of the Office and any public comment and suggestions obtained under such subparagraph.

"(e) ADDITIONAL RESPONSIBILITIES OF THE BOARD.—It shall also be the responsibility of the Board to—

"(1) provide advice and assistance to the Assistant Secretary in carrying out the coordination activities described in section 405;

"(2) make recommendations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the Director for each research institute established by section 405B after making special efforts to identify qualified women and minorities and soliciting and giving due consideration to recommendations from professional associations and interested members of the public;

"(3) advise and make recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for the Office of Educational Research and Improvement; and

"(4) review and approve standards for the conduct and evaluation of research developed by the Assistant Secretary pursuant to subsection (h) of section 405.

"(f) STANDING SUBCOMMITTEES.—

"(1) ESTABLISHMENT; FUNCTIONS.—The Board shall establish a standing subcommittee for each of the Institutes established by subsection (a) of section 405B and for the Office of Reform Assistance and Dissemination established by subsection (b) of section 405C which shall advise, assist, consult with and make recommendations to the Assistant Secretary, the Board, the Director of such entity and the Congress on matters related to the activities carried out by and through such entities.

"(2) COMPOSITION.—

"(A) Each standing subcommittee shall consist of 3 members of the Board and 6 additional individuals appointed by the Board who have significant experience in and knowledge of the disciplines relevant to the purposes of the entity for which the subcommittee is established.

"(B) The Board shall assure that the membership of each subcommittee includes both educational researchers and persons who are knowledgeable about the research, development and dissemination needs of practitioners, including classroom teachers, school administrators, and members of State or local boards of education.

"(g) POWERS OF THE BOARD.—In carrying out its functions, powers, and responsibilities, the Board—

"(1) shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule who shall assist in carrying out and managing the activities of the Board and perform such other functions the Board determines to be necessary and appropriate;

"(2) shall hire its own staff through routine government procedures;

"(3) may arrange for the detail of staff personnel and utilize the services and facilities of any agency of the Federal Government;

"(4) may enter into contracts, or make other arrangements as may be necessary to carry out its functions;

"(5) may review any grant, contract, or cooperative agreement made or entered into by the Office;

"(6) may, to the extent otherwise permitted by law, obtain directly from any department or agency of the United States such information as it deems necessary to carry out its responsibilities;

"(7) may convene workshops and conferences, collect data, and establish subcommittees which may be composed of members of the Board and nonmember consultants (including employees of the Department) with expertise in the particular area addressed by such subcommittees; and

"(8) shall establish such rules and procedures to govern its operations as it considers appropriate, to the extent otherwise permitted by law.

"(h) MEMBERSHIP IN GENERAL.—

"(1) QUALIFICATIONS.—The members of the Board shall be eminent persons who, by virtue of their training, experience, and background, are exceptionally qualified to appraise the educational research and development effort of the Nation and to establish policies and priorities to govern future Federal investment in educational research, development, and dissemination.

"(2) BROAD REPRESENTATION.—Due consideration shall be given to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the Nation.

"(3) LIMITATION.—A voting member of the Board may not serve on any other governing or advisory board within the Department of Education.

"(4) CONFLICT OF INTEREST.—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

"(i) SECRETARIAL APPOINTMENTS.—The Board shall consist of 18 members appointed by the Secretary. Of the members of the Board—

"(1) seven shall be appointed from among researchers in the field of education who have been nominated by the National Academy of Sciences and the National Academy of Education (giving due consideration to recommendations made by the American Educational Research Association), including persons who are among the leading authorities on early childhood education and the education of at-risk students;

"(2) five shall be outstanding field-based professional educators;

"(3) one shall be a Chief State School Officer;

"(4) one shall be a local education agency school superintendent or principal;

"(5) one shall be a member of a State or local board of education or Bureau of Indian Affairs-funded school board;

"(6) one shall be a professional librarian, school library media specialist, library administrator, or library science educator;

"(7) one shall be a parent with extensive experience in promoting parental involvement in education; and

"(8) one shall be an individual from business and industry with significant experience in promoting private sector involvement in education.

"(j) REQUIREMENTS FOR NOMINATIONS BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL ACADEMY OF EDUCATION.—

"(1) IN GENERAL.—In making nominations for the members of the Board described in subsection (i)(1), the National Academy of Sciences and the National Academy of Education—

"(A) may not nominate any individual who is an elected officer or employee of such organizations; and

"(B) shall each nominate not less than 5 individuals for each of the positions on the Board for which such organization has responsibility for making nominations.

"(2) REQUEST FOR ADDITIONAL NOMINATIONS.—In the event that the Secretary determines that none of the individuals nominated by the National Academy of Sciences or the National Academy of Education meets the qualifications for membership on the Board specified in subsection (i), the Secretary may request that such organization make additional nominations.

"(k) NOMINATIONS FOR BOARD MEMBERSHIP.—Prior to appointing any member of the Board, the Secretary shall actively solicit and give due consideration to recommendations of persons qualified for membership on the board from the National Education Association, the American Federation of Teachers, the National Parent-Teachers Association, the American Library Association, the American Association of School Administrators, the National Association of State Boards of Education, the National Indian School Board Association, the Association of Community Tribal Schools, the National Indian Education Association, and other education-related organizations and interested members of the public.

"(l) EX OFFICIO MEMBERS.—The ex officio, nonvoting members of the Board shall include the Assistant Secretary and may also include—

"(1) the Director of Research for the Department of Defense;

"(2) the Director of Research for the Department of Labor;

"(3) the Director of the National Science Foundation;

"(4) the Director of the National Institutes of Health;

"(5) the chair of the National Endowment for the Arts;

"(6) the chair of the National Endowment for the Humanities;

"(7) the Librarian of Congress; and

"(8) the Director of the Office of Indian Education Programs of the Department of the Interior.

"(m) CHAIR.—The Board shall select a Chair from among its appointed members who shall serve for a renewable term of 2 years.

"(n) TERMS OF OFFICE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term of office of each voting member of the Board shall be 5 years.

"(2) EXCEPTIONS.—

"(A) Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term for which the predecessor of the individual was appointed shall be appointed

for the remainder of the term. A vacancy shall be filled in the same manner in which the original appointment was made.

"(B) The terms of office of the members of the Board who first take office after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act shall, as designated by a random selection process at the time of appointment, be as follows:

"(i) 2 years for each of 6 members of the Board.

"(ii) 3 years for each of 6 members of the Board.

"(iii) 5 years for each of 6 members of the Board.

"(3) PROHIBITION ON CERTAIN CONSECUTIVE TERMS.—An individual who has been a member of the Board for 10 consecutive years shall thereafter be ineligible for appointment during the 5-year period beginning on the date of the expiration of the 10th year.

"(o) MEETINGS OF BOARD.—

"(1) INITIAL MEETING.—The Secretary shall ensure that the first meeting of the Board is held not later than May 15, 1994.

"(2) SUBSEQUENT MEETINGS.—The Board shall meet quarterly, at the call of the Chair, and when at least one-third of the members of the Board make a written request to meet.

"(3) QUORUM.—A majority of the Board shall constitute a quorum.

"(4) OPEN MEETINGS.—The Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Board.".

TITLE III—NATIONAL RESEARCH INSTITUTES

SEC. 301. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 201 of this Act, is amended by inserting after section 405A the following new section:

"NATIONAL RESEARCH INSTITUTES

"SEC. 405B. (a) ESTABLISHMENT OF INSTITUTES.—In order to fulfill the research and development purposes of the Office, and to carry out, in accordance with the standards established by the Board, a program of high-quality and rigorously evaluated research and development that is capable of improving Federal, State, Indian tribal, and local education policies and practices, there are established within the Office the following institutes:

"(1) The National Institute for the Education of At-Risk Students.

"(2) The National Institute for Innovation in Educational Governance, Finance, Policy-Making, and Management.

"(3) The National Institute for Early Childhood Development and Education.

"(4) The National Institute on Student Achievement.

"(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Education.

"(b) DIRECTORS.—

"(1) IN GENERAL.—Each Institute established by subsection (a) shall be headed by a Director who shall be appointed by the Assistant Secretary from among persons who have significant experience and expertise in the disciplines relevant to the purposes of such Institute. Prior to making such appointment, the Assistant Secretary shall solicit and give due consideration to recommendations made by the Board of persons qualfied to fulfill the position.

"(2) TERM OF OFFICE.—The Director of each Institute shall serve for a renewable term of 3 years.

"(3) REPORTING.—Each Director shall report directly to the Assistant Secretary regarding the activities of the Institute and shall work with the other directors to promote research syntheses across the Institutes.

"(c) AUTHORITIES AND DUTIES.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to conduct research, development, demonstration, and evaluation activities to carry out the purposes for which such Institute was established—

"(A) directly;

"(B) through grants, contracts, and cooperative agreements with institutions of higher education, regional educational laboratories, public and private organizations, institutions, agencies, and individuals, which may include—

"(i) grants to support research and development centers which are—

"(I) awarded competitively for a period of not less than 6 and not more than 10 years;

"(II) funded at not less than $2,000,000 annually in order to support a full range of basic research, applied research and dissemination activities, which may also include development activities; and

"(III) established by institutions of higher education, by institutions of higher education in consortium with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(ii) public-private research partnerships established by a State or local education agency, Bureau of Indian Affairs-funded school, or tribal department of education, in concert with a private organization and a team of educational researchers, for which the Federal share shall be limited to not more than 50 percent of the total costs of the project;

"(iii) meritorious unsolicited proposals for educational research and related activities;

"(iv) proposals that are specifically invited or requested by the Assistant Secretary, on a competitive basis; and

"(v) dissertation grants, awarded for a period of not more than 2 years and in a total amount not to exceed $20,000 to graduate students in the sciences, humanities, and the arts to support research by such scholars in the field of education;

"(C) through the provision of technical assistance; and

"(D) through the award of fellowships to support graduate study in educational research by qualified African-American, Hispanic, American Indian and Alaska Native, and other individuals from groups which have been traditionally underrepresented in the field of educational research which shall—

"(i) be awarded on the basis of merit for a period of 3 years; and

"(ii) provide stipends to each fellow in an amount which shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except that such amounts shall be adjusted as necessary so as not to exceed each fellow's demonstrated level of need.

"(2) SCOPE AND FOCUS OF ACTIVITIES.—In carrying out the purposes for which each Institute is established, the Assistant Secretary shall—

"(A) maintain an appropriate balance between applied and basic research;

"(B) significantly expand the role of field-initiated research in meeting the Nation's education research and development needs by reserving not less than 15 percent of the amounts available to each Institute in any fiscal year to support field-initiated research described in clauses (iii) through (v) of paragraph (1);

"(C) provide for and maintain a stable foundation of long-term research and development on core issues and concerns conducted through university-based research and development centers by reserving not less than one-third of the amounts available to each Institute in any fiscal year to support such research and development centers;

"(D) support and provide research information that leads to policy formation for State legislatures, State and local boards of education and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement; and

"(E) coordinate the Institute's activities with the activities of the regional educational laboratories and with other educational service organizations in designing the Institute's research agenda and projects in order to increase the responsiveness of such Institute to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

"(3) REQUIREMENTS REGARDING FINANCIAL ASSISTANCE.—No grant, contract, or cooperative agreement may be made under this section unless—

"(A) sufficient notice of the availability of, and opportunity to compete for, assistance has first been provided to potential applicants through notice published in the Federal Register or other appropriate means;

"(B) it has been evaluated through peer review in accordance with the standards developed pursuant to subsection (h) of section 405;

"(C) it will be evaluated in accordance with the standards developed pursuant to subsection (h) of section 405;

"(D) in the case of a grant, contract, or cooperative agreement which exceeds $500,000 for a single fiscal year or $1,000,000 for more than one fiscal year, the Secretary has complied with the requirements of paragraph (4); and

"(E) in the case of a grant, contract, or cooperative agreement to support a research and development center, all applications for such assistance have been evaluated by independent experts according to standards and criteria which include—

"(i) whether applicants have assembled a critical mass of high quality researchers sufficient to achieve the mission of the center;

"(ii) whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center;

"(iii) whether there is a substantial staff commitment to the work of the center;

"(iv) whether the directors and staff will devote adequate time to center activities; and

"(v) review of the contributions of primary researchers (other than researchers at the proposed center) to evaluate the appropriateness of such primary researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time commitment to achievement of the mission of the center.

"(4) BOARD REVIEW OF CERTAIN PROPOSED GRANT AND CONTRACT ACTIONS.—The Assistant Secretary may not solicit any contract bid or issue a request for proposals or applications for any grant or cooperative agreement the amount of which exceeds $500,000 in any single fiscal year or which exceeds an aggregate amount of $1,000,000 for more than one fiscal year unless the Board has had an opportunity to review such proposed grant, contract, or cooperative agreement action and to provide written comments to the Assistant Secretary with respect to whether—

"(A) the purposes and scope of the proposed action are consistent with the Research Priorities Plan; and

"(B) the methodology and approach of the proposed action are sound and adequate to achieve its stated objectives.

"(5) HISTORICALLY UNDERUTILIZED RESEARCHERS AND INSTITUTIONS.—The Assistant Secretary shall establish and maintain initiatives and programs to increase the participation in the activities of each Institute of groups of researchers

and institutions that have been historically underutilized in Federal educational research activities, including—

"(A) researchers who are women, African-American, Hispanic, American Indian and Alaska Native, or other ethnic minorities;

"(B) promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors;

"(C) historically black colleges and universities, tribally controlled community colleges, and other institutions of higher education with large numbers of minority students;

"(D) institutions of higher education located in rural areas; and

"(E) institutions and researchers located in States and regions of the Nation which have historically received the least Federal support for educational research and development.

"(6) ADDITIONAL AUTHORITIES.—The Assistant Secretary—

"(A) may obtain (in accordance with section 3109 of title 5 but without regard to the limitation in such section on the period of service) the services of experts or consultants with scientific or professional qualifications in the disciplines relevant to the purposes of such Institute;

"(B) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(C) may accept voluntary and uncompensated services; and

"(D) may accept unconditional gifts made to the Office to support its activities.

"(d) NATIONAL INSTITUTE FOR THE EDUCATION OF AT-RISK STUDENTS.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The rate of decline in our urban schools is escalating at a rapid pace. Student performance in most inner city schools grows worse each year. At least half of all students entering ninth grade fail to graduate 4 years later and many more students from high-poverty backgrounds leave school with skills that are inadequate for today's workplace. In 1988 the average National Assessment of Educational Progress (NAEP) reading score of white 17 year-olds was approximately 20 points higher than that of African-American 17 year-olds and 25 points higher than that of Hispanic 17 year-olds. None of the existing Federal educational research and development programs are adequately addressing this obvious emergency.

"(B) Rural schools enroll a disproportionately large share of the Nation's poor and at-risk students and yet often lack the means to address effectively the needs of these children. Intensive efforts must be made to overcome the problems of geographic isolation, declining population, inadequate financial resources and other impediments to the educational success of children residing in rural areas.

"(C) By the year 2000, an estimated 3.4 million school age children with limited English language proficiency will be entering the school system. The Federal Government must develop effective policies and programs to address the educational needs of this growing population of children who are at increased risk for educational failure.

"(D) An educational emergency exists in those urban and rural areas where there are large concentrations of children who live in poverty. The numbers of educationally disadvantaged children will substantially increase by the year 2020, when the number of impoverished children alone will be 16.5 million, a 33 percent increase over the 12.4 million children in poverty in 1987.

"(E) American Indian and Alaska Native students are keenly at-risk of educational failure, with demonstrated high dropout, illiteracy and poverty rates, and cultural, linguistic, social and geographic isolation. The estimated 400,000 Indian and Alaska Native student population from over 500 Indian and Alaska Native tribes, is small and scattered throughout remote reservations and villages in 32 States, and in off-reservation rural and urban communities where Indians constitute but a small percentage of public school student bodies. To meaningfully address the special educational needs of this historically under-served population, the existing research and development system must be opened to Indian and Alaska Native people to identify needs and design ways to address such needs.

"(F) Minority scholars as well as institutions and groups that have been historically committed to the improvement of the education of at-risk students need to be more fully mobilized in the effort to develop a new generation of programs, models, practices, and schools capable of responding to the urgent needs of students who are educationally at-risk.

"(2) PURPOSE.—It shall be the purpose of the Institute for the Education of At-Risk Students to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve educational opportunities for students who are at-risk for educational failure, particularly children who reside in inner city and rural areas, and on Indian reservations, and children of limited English proficiency. Such program shall—

"(A) undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate and adapt interventions, programs, and models which promote greater achievement and educational success by at-risk students, such as—

"(i) methods of instruction and educational practices (including community services) which improve the achievement and retention of at-risk students;

"(ii) means by which parents and community resources and institutions (including cultural institutions) can be utilized to support and improve the achievement of at-risk students;

"(iii) the training of teachers and other educational professionals and paraprofessionals to work more effectively with at-risk students;

"(iv) the most effective uses of technology in the education of at-risk students;

"(v) programs designed to promote gender equity in schools that serve at-risk students; and

"(vi) methods of assessing the achievement of students which are sensitive to cultural differences, provide multiple methods of assessing student learning, support student acquisition of higher order capabilities, and enable identification of the effects of inequalities in the resources available to support the learning of children throughout the Nation; and

"(B) maximize the participation of those schools and institutions of higher education that serve the greatest number of at-risk students in inner city and rural areas, and on Indian reservations, including model collaborative programs between schools and schools systems, institutions of higher education, cultural institutions, and community organizations.

"(3) COMPREHENSIVE RESEARCH PROGRAM.—The Institute shall support a diverse and comprehensive program of research and development which shall include research related to the educational needs of—

"(A) at-risk students who reside in urban areas;

"(B) at-risk students who reside in rural areas;

"(C) children with limited English language proficiency; and

"(D) Indian and Alaska Native students.

"(4) CONSULTATION WITH INDIAN AND ALASKA NATIVE EDUCATORS.—All research and development activities supported by the Institute which relate to the education of Indian and Alaska Native students shall be developed in close consultation with Indian and Alaska Native researchers and educators, tribally controlled community colleges, tribal departments of education, and others with expertise in the needs of Indian and Native Alaska students.

"(e) NATIONAL INSTITUTE FOR INNOVATION IN EDUCATIONAL GOVERNANCE, FINANCE, POLICY-MAKING, AND MANAGEMENT.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) Many elementary and secondary schools in the United States—

"(i) are structured according to models that are ineffective and rely on notions of management and governance that may be outdated or insufficient for the challenges of the next century; and

"(ii) are unsuccessful in equipping all students with the knowledge and skills needed to succeed as citizens and in the working world.

"(B) New approaches are needed in the governance and management of elementary and secondary education with the United States at the State, local, school building and classroom level.

"(C) Not enough is known about the effects of various systems of school governance and management on student achievement to provide sound guidance to policymakers as they pursue school restructuring and reform.

"(D) A concentrated Federal effort is needed to support research, development, demonstration, and evaluation of approaches to school governance, finance and management which promise to improve education equity and excellence throughout the Nation.

"(2) PURPOSE.—It shall be the purpose of the National Institute on Innovation in Educational Governance, Finance, Policy-Making, and Management to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve student achievement through school restructuring and reform. Such program shall—

"(A) undertake research necessary to provide a sound basis from which to identify, develop and evaluate approaches in governance, finance, policy-making, and management at the State, local, tribal, school building and classroom level which promise to improve educational equity and excellence, such as—

"(i) open enrollment programs, magnet schools and other systems through which parents may select the public schools and educational programs in which their children are enrolled;

"(ii) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule;

"(iii) effective approaches to organizing learning;

"(iv) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

"(v) effective approaches to organizing, structuring, and financing vocational education;

"(vi) the provision of financial and other rewards and incentives based on performance to improve student achievement;

"(vii) the use of regulatory flexibility on the State or district level to promote innovation and school restructuring;

"(viii) school-based management;

"(ix) the restructuring of school finance systems at the State and local level to promote greater equity in the distribution of resources for education and to maximize the allocation of such resources to support direct learning;

"(x) expanding the role of teachers in policy-making and administration at the school and district-wide level;

"(xi) programs designed to increase the involvement of parents and families in the management and governance of schools and the education of their children;

"(xii) effective approaches to increasing the representation of women and minorities among leadership and management positions in education;

"(xiii) approaches to systemic reforms involving the coordination of multiple policies of each level of government to promote higher levels of student achievement;

"(xiv) approaches to coordinated services for children; and

"(xv) policies related to school to work transitions and preparing noncollege-bound students; and

"(B) undertake research and development activities necessary to provide information on the skills required for successful educational leadership at the State, tribal, and local level and to enhance the ability of school leaders and administrators to improve the educational environment for all students.

"(3) RESEARCH ON EDUCATIONAL CHOICE.—In carrying out the duties of the Institute, the Assistant Secretary shall conduct or support research on whether and to what extent the quality of education in the United States would be improved by providing public funds to parents for the costs of attendance of their children at the elementary and secondary schools of the parents' choice.

"(f) NATIONAL INSTITUTE FOR EARLY CHILDHOOD DEVELOPMENT AND EDUCATION.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The Nation has set as a goal that all children should arrive at school ready to learn.

"(B) Despite efforts to expand and improve preschool programs, many children still reach school age unprepared to benefit from formal education programs.

"(C) Early intervention for disadvantaged children from conception to age five has been shown to be a highly cost-effective strategy for reducing later expenditures on a wide variety of health, developmental, and educational problems that often interfere with learning. Long-term studies of the benefits of preschool education have a demonstrated return on investment ranging from three to six dollars for every one dollar spent.

"(D) The Federal government should play a central role in providing research-based information on early childhood education models which enhance children's development and ultimately their success in school.

"(2) PURPOSE.—The purpose of the National Institute for Early Childhood Development and Education is to carry out a comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve early childhood development and education. Such program shall identify, develop, evaluate, and assist others to replicate sound policies and practices that may include—

"(A) social and educational development of all infants, toddlers, and preschool children;

"(B) the role of parents and the community in promoting the successful social and educational development of children from birth to age five;

"(C) training and preparation of teachers and other professional and paraprofessional preschool and child care workers;

"(D) the structure and environment of early childhood education and child care settings which lead to improved social and educational development;

"(E) practices and approaches which sustain the benefits of effective preschool and child care programs;

"(F) effective learning methods and curriculum for early childhood learning, including access to current materials in libraries;

"(G) the importance of family literacy and parental involvement in student learning;

"(H) the impact that outside influences have on learning, including television, and drug and alcohol abuse; and

"(I) methods for integrating learning in settings other than the classroom, such as within families and communities, with a special emphasis on character development and the value of hard work.

"(3) CERTAIN REQUIREMENTS.—In carrying out the activities of the Institute, the Assistant Secretary shall—

"(A) place special emphasis on the special early childhood education needs of at-risk children, children with disabilities, and girls; and

"(B) ensure that its research and development program provides information that can be utilized in improving the major Federal early childhood education programs, including Head Start, Even Start, chapter 1 preschool programs, and part H of the Individuals with Disabilities Education Act, and Bureau of Indian Affairs early childhood development programs.

"(g) NATIONAL INSTITUTE ON STUDENT ACHIEVEMENT.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The current achievement levels of students in the Nation are far below those that might indicate competency in challenging subject matter in English, mathematics, science, history, and geography and other areas, or across the subject areas.

"(B) Very few students demonstrate that they can use their minds well. In recent assessments, more students are gaining basic skills, yet fewer are demonstrating a grasp of higher-level applications of those skills.

"(C) During the past 20 years, relatively little has changed in how students are taught. Despite much research suggesting better alternatives, classrooms are still dominated by textbooks, teacher lectures, and short-answer activity sheets and unequal patterns of student attention.

"(D) Despite progress in narrowing the gaps, the differences in performance between white students and their minority counterparts remain unacceptably large. While progress has been made in reducing the gender gap in mathematics, it still remains at higher levels of problem solving. Too little progress has been made in reducing gender performance gaps favoring males in science and females in writing.

"(2) PURPOSE.—The purpose of the National Institute on Student Achievement is to carry out a coordinated and comprehensive program of research and development to provide research-based leadership to the Nation as it seeks to improve student achievement in English, mathematics, science, history, geography, and other subject areas and across the boundaries of the subject areas. Such program shall—

"(A) identify, develop, and evaluate innovative and exemplary methods to improve student knowledge at all levels in English, mathematics, science, history, geography, civics and government, foreign languages, arts and humanities, economics, and other subject areas, such as—

"(i) student learning and assessment in various subject matters;

"(ii) the effects of organizational patterns on the delivery of instruction, including issues of grouping and tracking, ungraded classrooms, and on the effects of various pedagogies, including the issues of technology in education;

"(iii) the best methods of teacher preparation;

"(iv) methods to improve the process of reading, the craft of writing, the growth of reasoning skills, and the development of information-finding skills;

"(v) enabling students to develop higher order thinking skills;

"(vi) methods to teach effectively all students in mixed-ability classrooms;

"(vii) curriculum, instruction, and assessment, in vocational education;

"(viii) the impact and effectiveness of Federal, State, and local efforts to provide gender-fair educational opportunities to elementary and secondary students; and

"(ix) programs, policies, approaches which promote gender equity in elementary and secondary education;

"(B) conduct basic and applied research in the areas of human learning, cognition, and performance, including research and development on the education contexts which promote excellence in learning and instruction, and motivational issues which provide a key to learning;

"(C) identify, develop, and evaluate programs designed to enhance academic achievement and narrow racial and gender performance gaps in a variety of subject areas, including research and development on methods of involving parents in their children's education and ways to involve business, industry and other community partners in promoting excellence in schools; and

"(D) include a comprehensive, coordinated program of research and development in the area of assessment which—

"(i) addresses such issues as—

"(I) the validity, reliability, generalizability, fairness, costs, relative merits, and most appropriate uses of various approaches and methods of assessing student learning and achievement;

"(II) methods and approaches to assessing student opportunities to learn (including the quality of instruction and the availability of resources necessary to support learning) and evaluating the quality of school environment;

"(III) the design, development, evaluation, and validation of model performance-based and other alternative or innovative formats or uses of assessments;

"(IV) the impact of high-stakes uses of assessment on student performance and motivation, narrowing of curriculum, teaching practices, and test integrity;

"(V) the fairness and impact of various methods of assessment on children of different races, ethnicities, gender, socioeconomic status, English language proficiencies, and children with other special needs;

"(VI) standards of performance, quality, and validity for various methods of assessment and the means by which such standards should be developed;

"(VII) current and emerging testing practices of State and local education agencies within the United States, as well as other nations;

"(VIII) the diverse effects, both intended and unintended, of assessments as actually used in the schools, including effects on curriculum and instruction, effects on equity in the allocation of resources and opportunities, effects on equity of outcomes, effects on other procedures and standards for judging students and practitioners and possible inflation of test scores;

"(IX) identifying and evaluating how students with limited English language proficiency and students with disabilities are included and accommodated in the various assessment programs of State and local education agencies; and

"(X) the feasibility and validity of comparing or equating the results of different assessments;

"(ii) reflects recommendations made by the National Education Goals Panel (provided such panel has been authorized by law);

"(iii) complies with the 'Standards for Educational and Psychological Tests' developed by the American Psychological Association, the National Council on Measurement in Education, and the American Educational Research Association;

"(iv) is consistent with the 'Criteria for Evaluation of Student Assessment Systems' developed by the National Forum on Assessment; and

"(v) complies with the 'Code of Fair Testing Practices in Education' developed by the Joint Committee on Testing Practices.

For purposes of this subparagraph, the term 'development' means the development of prototypes for the purposes of research and evaluation.

"(h) NATIONAL INSTITUTE FOR POSTSECONDARY EDUCATION, LIBRARIES, AND LIFELONG LEARNING.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The American system of postsecondary education is foremost in the world in its achievement of both academic excellence and equity in access, but maintaining that preeminence requires renewed efforts to strengthen the quality of postsecondary education. Disappointing student performance on achievement tests and licensure examinations, declining rates of persistence and completion among minorities, and other troubling trends in the quality of postsecondary education must be addressed by the Nation as part of its overall drive to improve American education.

"(B) The need to improve our Nation's economic productivity to meet the competitive challenges of a new, international economy, coupled with high levels of mobility in the United States labor market and demographic changes in the workforce, now demands more and higher quality programs of learning and training in the American workplace.

"(C) The more than 1,000,000 men and women incarcerated in the Nation's prisons and jails are among the most severely educationally disadvantaged in the United States, with high rates of functional illiteracy and extremely low levels of educational attainment. Since an estimated 90 percent of these individuals are expected to be released by the end of the decade, the Nation must act to assure that our correctional system has the means to equip these Americans with the knowledge and skills they will need to participate productively in our society.

"(D) The development of a 'Nation of Students' capable of and committed to the pursuit of formal and informal lifelong learning is essential to sustain both national and individual economic success and to provide a nurturing environment in which all children and youth can learn and achieve. Historically the most effective community resource for lifelong learning, the Nation's public library system must expand and restructure its delivery of services to take full advantage of the potential of new information technologies to meet the needs of learning communities.

"(2) PURPOSE.—The purpose of the National Institute for Postsecondary Education, Libraries, and Lifelong Learning is to promote greater coordination of Federal research and development on issues related to adult learning and to carry out a program of research and development in adult learning to provide nonpartisan, research-based leadership to the Nation as it seeks to improve libraries, postsecondary education, and lifelong learning throughout the United States. Such program—

"(A) shall promote greater coordination, cooperation, and interaction among entities within the Federal Government which support research and development related to postsecondary education, libraries, and lifelong learning;

"(B) shall enable greater collaboration among entities within the Federal Government which support research and development related to postsecondary education, libraries, and lifelong learning by supporting research and development projects which are carried out jointly by such entities;

"(C) shall support research and development in those areas of postsecondary education, libraries, and lifelong learning which are not being addressed sufficiently by other entities within the Federal Government;

"(D) may include basic and applied research, development, replication, and evaluation activities in such areas as—

"(i) methods of assessing and evaluating individual, program, and institutional performance;

"(ii) the uses and applications of new technologies to improve program effectiveness and enhance student learning;

"(iii) practices, policies, and programs which address the unique needs of adult learners, including—

"(I) institutional and classroom policies and practices at the postsecondary level necessary to improve matriculation, persistence, achievement and graduation by students who are economically disadvantaged, ethnic and racial minorities, women, older, working, and who have children;

"(II) instructional practices and programs which are effective in correctional settings;

"(III) new models of service delivery for public library systems which expand opportunities for lifelong learning;

"(IV) effective programs and approaches which promote greater access to and success by minorities in postsecondary programs which prepare them for scientific, technical, teaching, and health career fields;

"(V) effective approaches to work-based learning; and

"(VI) the most effective training methods for adults to upgrade education and vocational skills;

"(iv) the effectiveness of Historically Black Colleges and Universities, Tribally-Controlled Indian Community Colleges, women's colleges, and other special mission institutions in fulfilling their mission of providing access and equal opportunity in higher education;

"(v) the quality of higher education at all levels and the roles and responsibilities of regional and national accrediting agencies in assuring the quality and relevance of academic goals and objectives established by institutions of higher education;

"(vi) approaches to improving the productivity of colleges, community colleges, universities, and other postsecondary institutions;

"(vii) financial barriers to postsecondary educational opportunity, including—

"(I) the role of Federal programs authorized under title IV of the Higher Education Act and State grant and work programs in mitigating such barriers;

"(II) the impact of the rising total cost of postsecondary education on access to higher education; and

"(III) the extent and impact of student reliance on loans to meet the costs of higher education;

"(viii) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills; and

"(ix) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks.

"(3) INVOLVEMENT OF CERTAIN AGENCIES AND ORGANIZATIONS.—In promoting coordination and collaboration on research and development on issues related to postsecondary education, libraries, and lifelong learning, the Institute shall, as appropriate, seek the involvement of—

"(A) within the Department of Education—

"(i) the Office of Library Programs;

"(ii) the Office of Correctional Education;

"(iii) the Office of Vocational and Adult Education;

"(iv) the National Institute on Disability and Rehabilitation Research; and

"(v) the Office of Postsecondary Education;

"(B) the National Institute for Literacy;

"(C) the National Board for Professional Teaching Standards;

"(D) the Employment and Training Administration of the Department of Labor;

"(E) the Administration for Children and Families within the Department of Health and Human Services;

"(F) the National Institutes of Health;

"(G) the National Endowment for Humanities;

"(H) the National Endowment for the Arts;

"(I) the Bureau of Prisons of the Department of Justice;

"(J) the Department of Commerce;

"(K) the Department of Defense; and

"(L) the Office of Indian Education Programs of the Department of the Interior.

"(4) In addition to the responsibilities described in paragraph (2), the Assistant Secretary shall ensure that the activities of the existing National Center on Literacy are fully coordinated with those of the National Institute for Literacy.

"(i) COORDINATION OF RESEARCH ON CROSS-CUTTING ISSUES.—The Assistant Secretary shall promote the coordination of research and development activities among the Institutes established by subsection (a) to investigate those cross-cutting disciplines and areas of inquiry, such as assessment, the use of technology and the training of teachers and school administrators, which are relevant to the missions of more than one of the Institutes. Such activities shall—

"(1) address cross-cutting disciplines and areas of inquiry which have been proposed by the Assistant Secretary and are consistent with the research priorities identified by the Board;

"(2) be carried out jointly (1) by any one of the Institutes and—

"(A) one (or more) of the Institutes;

"(B) the National Center for Education Statistics; or

"(C) any research and development entity administered by other offices of the Department of Education or by any other Federal agency or Department; and

"(3) meet all the standards set by the Assistant Secretary and the Board for other research and development conducted by the Office.

"(j) PROGRAM ON TEACHING AND TEACHER EDUCATION.—

"(1) IN GENERAL.—The Assistant Secretary, in accordance with the requirements of this subsection, shall undertake a comprehensive, coordinated program of research in the area of teaching, teacher education, and professional development.

"(2) CERTAIN PURPOSES OF PROGRAM.—In carrying out the program established under paragraph (1), the Assistant Secretary shall conduct, directly or through grants and contracts, basic and applied research and analytical activities to further knowledge about, make recommendations, and improve—

"(A) the ability of classroom teachers and schools to assist new and diverse populations of students in successfully assimilating into the classroom environment;

"(B) the working conditions of teachers and other educational practitioners, which may include such topices as—

"(i) teacher isolation;

"(ii) professional resources available to teachers;

"(iii) continuing educational and professional opportunities available to teachers;

"(iv) physical facilities and equipment, such as office space, telephone, computer access, and fax machines and television cable access available to teachers in the work environment;

"(v) opportunities for teachers to share information and resources with other teachers and education professionals;

"(vi) opportunities for advanced learning experience; and

"(vii) the reduction of stress in the teaching profession;

"(C) institutional program renewal and instruction;

"(D) restructuring of State certification of teachers and teacher education standards; and

"(E) assisting in the development of teacher certification standards by Indian tribal departments of education.

"(3) CERTAIN ACTIVITIES.—In carrying out the program established under paragraph (1), the Assistant Secretary—

"(A) shall work with institutions of higher education engaged in the preparation of teachers and professional organizations of teacher educators and practitioners to encourage institutional program renewal and restructuring;

"(B) may conduct, directly or through grants and contracts research on—

"(i) effective and reflective teaching for the preparation and continuing education of teachers;

"(ii) the use of computing and multi-made technology to advance the understanding and abilities of teacher educators and classroom teachers;

"(iii) the development and appraisal of curriculum and curriculum materials for the initial and continuing education of teachers and teacher educators; and

"(iv) strengthening the evaluation and dissemination of information on programs for continuing professional education and renewal of those who educate teachers for initial or advanced licensure or certification; and

"(C) shall work with the national regional education laboratories, the ERIC clearinghouses, national education research library, and the National Center for Education Statistics to maximize information available, to prevent unnecessary duplication of efforts and resources, and to ensure the results of the centers work are widely available.

"(k) RESEARCH ON EDUCATIONAL TECHNOLOGY.—The Assistant Secretary shall undertake a comprehensive, coordinated program of research and development in the area of the uses and applications of technology in education. Such program—

"(1) may support basic and applied research and development, analysis, evaluation in the area of the uses and applications of technology to education, including—

"(A) the capabilities of current and emerging technologies and their possible uses in education;

"(B) the uses and applications of technology—

"(i) to improve instruction within all content areas in the school curriculum;

"(ii) to educate more effectively at-risk students and other students with special needs;

"(iii) to improve education in rural communities and other remote areas;

"(iv) to improve the assessment of student learning and achievement;

"(v) to deliver preservice and inservice training for teachers, librarians, and school administrators; and

"(vi) to deliver and improve professional development and continuing education programs;

"(C) the cost and educational effectiveness of technologies used in education;

"(D) effective models and approaches for providing the preservice and inservice training and technical assistance necessary to enable teachers, librarians, and school administrators, cultural organizations, and others to use technology effectively in education;

"(E) the identification of barriers to greater use of technologies in education and potential approaches to eradicating or mitigating such barriers;

"(F) methods and approaches which can be utilized by teachers, school administrators, and education policymakers, and educational programs in cultural institutions to evaluate the quality and most appropriate uses of software and other technologies designed for use in education; and

"(G) approaches to organizing and managing schools and classrooms to make the most effective use of technology in education; and

"(2) shall be coordinated with related research and development activities undertaken by the Office of Special Education Programs, the National Science Foundation, the Department of Defense, and other Federal agencies.

"(l) TRANSITIONAL PROVISIONS.—

"(1) TEMPORARY REORGANIZATIONS.—Upon the enactment of the Educational Research, Development and Dissemination Excellence Act, the Secretary shall reorganize the research and development functions and activities of the Office into administrative units the purposes of which shall be the same as those for each of the national research institutes established in subsection (a). Such administrative units shall be responsible for planning and providing for the establishment of such institutes and shall cease to exist on the dates upon which each of the relevant institutes is established. The provisions of subsection (c) (relating to authorities and duties) shall apply to all activities undertaken by each such administrative unit.

"(2) DATES FOR ESTABLISHMENT OF INSTITUTES.—The National Institute for the Education of At-Risk Students, the National Institute for Innovation in Educational Governance, Finance, Policy-Making, and Management, the National Institute for Early Childhood Development and Education, the National Institute on Student Achievement, and the National Institute on Postsecondary Education, Libraries, and Lifelong Learning shall each be established effective October 1, 1994.".

TITLE IV—NATIONAL EDUCATION DISSEMINATION SYSTEM

SEC. 401. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 301 of this Act, is amended by inserting after section 405B the following new section:

"NATIONAL EDUCATION DISSEMINATION SYSTEM

"SEC. 405C. (a) IN GENERAL.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) In order to improve the American educational system for all students, achieve the national education goals, and provide for greater educational equity, policymakers, administrators, teachers, and parents must have ready access to the best information and methods available as a result of educational research and development.

"(B) The Office of Educational Research and Improvement should have as one of its primary purposes the dissemination of such information and methods in order to assist the national education reform effort.

"(C) All current resources within the Office, the Department, and other agencies that can help accomplish this goal should be coordinated by the Assistant Secretary so as to form a systematic process to accomplish these objectives.

"(D) Education research has the capacity to improve teaching and learning in our Nation's schools, however, teachers need training in the developmental skills necessary to translate research into practice and to allow them to become a cadre of knowledgeable practitioners and leaders in educational improvement.

"(E) Adequate linkages between research and development providers and practitioners are essential to ensuring that research on effective practice is useful, disseminated and supported with technical assistance to all educators, and that all educators are partners in the research and development process.

"(2) PURPOSE.—The purpose of this section is to—

"(A) create a national system of dissemination, development, and educational improvement in order to create, adapt, identify, validate, and disseminate to educators, parents, and policymakers those educational programs that have potential or have been shown to improve educational opportunities for all students; and

"(B) empower and increase the capacity of teachers to participate in the research and development process.

"(3) DEFINITION OF EDUCATIONAL PROGRAM.—For the purposes of this section, the term 'educational program' includes educational policies, research findings, practices, and products.

"(b) ESTABLISHMENT OF OFFICE.—

"(1) IN GENERAL.—There is established within the Office an Office of Reform Assistance and Dissemination (in this section referred to as the 'Dissemination Office') through which the Secretary shall carry out all functions and activities described in this section.

"(2) CERTAIN DUTIES.—The Dissemination Office shall—

"(A) identify educational programs that may merit being designated as exemplary or promising educational programs;

"(B) based solely on the educational merits and promise of such programs, select those to be designated as exemplary or promising;

"(C) provide technical and financial assistance to individuals and organizations in the process of developing promising educational programs in the priority areas identified in section 405(b)(3), but who might not, without such assistance, be able to complete necessary development and assessment activities;

"(D) nationally disseminate information regarding the exemplary and promising programs to educators, parents, and policymakers through a variety of means, including existing Department activities, education associations and networks, and communication technologies;

"(E) provide training and technical assistance regarding the implementation and adoption of such exemplary and promising programs by interested entities; and

"(F) carry out a program of research on models for successful knowledge dissemination, and utilization, and strategies for reaching education policymakers, practitioners, and others interested in education.

"(3) ADDITIONAL DUTIES.—The Dissemination Office shall carry out and contain the following functions and activities:

"(A) A process for the identification of educational programs that work.

"(B) The educational resources information clearinghouses.

"(C) Dissemination through new technologies.

"(D) Smartline.

"(E) The regional educational laboratories.

"(F) Teacher Research Dissemination Network.

"(G) The Goals 2000 Community Partnerships Program.

"(H) The existing National Diffusion Network and its Developer-Demonstrator and State Facilitator projects.

"(I) Such other programs or entities the Secretary determines are consistent with the purposes for which the Dissemination Office is established.

"(c) IDENTIFICATION OF PROGRAMS.—

"(1) IN GENERAL.—The Assistant Secretary shall establish a process through which successful educational programs are actively sought out for possible dissemination through the national educational dissemination system. Such process shall, at a minimum, have the capability to—

"(A) work closely with the research institutes, centers, regional educational laboratories, the

National Diffusion Network and its Developer-Demonstrator and State Facilitator projects, learning grant institutions established under the Goals 2000 Community Partnerships Program, department-supported technical assistance providers, and other entities to identify successful educational programs at the regional, State, local, or classroom level;

"(B) review successful educational programs supported by the Department through all of its programs, including Chapter 1, Even Start, Drug-Free Schools and Communities Act of 1986, the Individuals With Disabilities Education Act, Bilingual Education, Indian Education, the Women's Educational Equity Act, and Adult and Vocational Education;

"(C) through cooperative agreements, review for possible inclusion in the system educational programs administered by the Departments of Health and Human Services (particularly the Head Start program), Labor and Defense, the National Science Foundation, the Department of the Interior (particularly the Office of Indian Education Programs), and any other appropriate Federal agency; and

"(D) provide for an active outreach effort to identify successful educational programs through cooperative arrangements with State and local education agencies, teachers and teacher organizations, curriculum associations, foundations, private schools, institutions of higher education, and other entities that could enhance the ability of the Secretary to identify programs for possible inclusion in the dissemination system.

"(2) PRIORITY PROGRAMS.—In carrying out this subsection, the Secretary shall place a priority on identifying programs, products, and practices related to the priority research and development needs identified in section 405(b)(3).

"(d) DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS.—

"(1) IN GENERAL.—The Assistant Secretary, in consultation with the Board, shall establish 1 or more panels of appropriately qualified experts and practitioners to—

"(A) evaluate educational programs that have been identified by the Secretary under subsection (c) or that have been submitted to the Secretary for such evaluation by some other individual or organization; and

"(B) recommend to the Secretary programs that should be designated as exemplary or promising educational programs.

"(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In determining whether an educational program should receive a recommendation under paragraph (1), a panel established under such paragraph shall consider—

"(A) whether, based on empirical data, which may include but shall not be limited to test results, the program is effective and should thus be designated as exemplary and disseminated through the national dissemination system; or

"(B) whether there is sufficient evidence to lead a panel of experts and practitioners to believe that the program shows promise for improving student achievement and should thus be designated as promising and disseminated through the national dissemination system while it continues to be evaluated.

"(3) REQUIREMENT REGARDING APPROVAL OF PROGRAMS.—In seeking out programs for approval under paragraph (2), the Assistant Secretary shall seek programs that may be implemented at the State, local, and classroom level.

"(4) REQUIREMENTS REGARDING PANELS.—

"(A) A panel shall not eliminate a program from consideration under this subsection based solely on the fact that it does not have one specific type of supporting data, such as test scores.

"(B) The Assistant Secretary may not designate a program as exemplary or promising unless a panel established under paragraph (1) has recommended that the program be so designated.

"(C) The Secretary shall establish such panels under paragraph (1) as may be necessary to ensure that each program identified or submitted for evaluation is evaluated.

"(D) Not less than ⅔ of the membership of a panel established under paragraph (1) shall consist of individuals who are not officers or employees of the United States. Members of panels under paragraph (1) who are not employees of the United States shall receive compensation for each day engaged in carrying out the duties of the panel as well as compensation for their expenses.

"(e) DISSEMINATION OF EXEMPLARY AND PROMISING PROGRAMS.—

"(1) IN GENERAL.—In order to ensure that programs identified as exemplary or promising are available for adoption by the greatest number of teachers, schools, local and State education agencies, and Bureau of Indian Affairs-funded schools, the Assistant Secretary shall utilize the capabilities of—

"(A) the education resources information clearinghouses;

"(B) Smartline;

"(C) the regional educational laboratories;

"(D) the National Diffusion Network;

"(E) entities established under the Goals 2000 Community Partnerships Program;

"(F) department-supported technical assistance providers;

"(G) the National Library of Education; and

"(H) other public and private nonprofit entities, including existing education associations and networks, that have the capability to assist educators in adopting exemplary and promising programs.

"(2) REQUIREMENTS FOR ASSISTANT SECRETARY.—In carrying out paragraph (1), the Assistant Secretary shall ensure that all such entities are—

"(A) kept apprised of the availability of specific programs for dissemination;

"(B) provided technical assistance, if necessary, to carry out this dissemination function; and

"(C) involved in the national education dissemination system as specified by law.

"(f) EDUCATION RESOURCES INFORMATION CLEARINGHOUSES.—

"(1) IN GENERAL.—The Assistant Secretary shall establish a system of 16 education resource information clearinghouses having, at a minimum, the functions and scope of work as the clearinghouses had on the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act.

"(2) ADDITIONAL FUNCTIONS.—In addition to those functions already being carried out by the clearinghouses, such clearinghouses may—

"(A) periodically produce interpretive summaries, digests, and syntheses of the results and findings of education-related research and development; and

"(B) contain and make available to users information concerning those programs designated as exemplary and promising under subsection (c).

"(3) COORDINATION OF ACTIVITIES.—The Assistant Secretary shall assure that the functions and activities of such clearinghouses are coordinated with the activities of the research institutes, the regional educational laboratories, learning grant institutions, other clearinghouses supported by the Department, the National Diffusion Network, and other appropriate entities within the Office and the Department.

"(4) SPECIAL RESPONSIBILITIES OF THE SECRETARY.—To assure that the information provided through such clearinghouses is fully comprehensive, the Secretary shall—

"(A) require that all reports, studies, and other resources produced directly or by grant or contract with the Department of Education are made available to clearinghouses;

"(B) establish cooperative agreements with the Departments of Defense, Health and Human Services, Interior, and other Federal agencies to assure that all education-related reports, studies, and other resources produced directly or by grant or contract with the Federal Government are made available to such clearinghouses; and

"(C) devise an effective system for maximizing the identification, synthesis, and dissemination of information related to the needs of Indian and Alaska Native children.

"(5) COPYRIGHT PROHIBITED.—

"(A) No clearinghouse or other entity receiving assistance under this subsection may copyright or otherwise charge a royalty or other fee that—

"(i) is for the use or redissemination of any database, index, abstract, report, or other information produced with assistance under this subsection; and

"(ii) exceeds the incremental cost of disseminating such information.

"(B) For purposes of subparagraph (A), the incremental cost of dissemination does not include any portion of the cost of collecting, organizing, or processing the information which is disseminated.

"(g) DISSEMINATION THROUGH NEW TECHNOLOGIES.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to award grants or contracts in accordance with this subsection to support the development of materials, programs, and resources which utilize new technologies and techniques to synthesize and disseminate research and development findings and other information which can be used to support educational improvement.

"(2) SOURCES OF MATERIALS AND RESEARCH ABOUT TEACHING AND LEARNING FOR IMPROVING NATIONWIDE EDUCATION (SMARTLINE).—

"(A) ELECTRONIC NETWORK.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall establish and maintain an electronic network which shall, at a minimum, link—

"(i) each office of the Department of Education;

"(ii) the research institutes established by section 405B;

"(iii) the National Center for Education Statistics;

"(iv) the National Library of Education; and

"(v) entities engaged in research, development, dissemination, and technical assistance under grant, contract, or cooperative agreement with the Department of Education.

"(B) CERTAIN REQUIREMENTS FOR NETWORK.—The network described in subparagraph (A) shall—

"(i) to the extent feasible, build upon existing national, regional, and State electronic networks and support video, telecomputing, and interactive communications;

"(ii) at a minimum, have the capability to support electronic mail and file transfer services;

"(iii) be linked to and accessible to other users, including State and local education agencies, institutions of higher education, museums, libraries, and others through the Internet and the National Research and Education Network; and

"(iv) be provided at no cost (excluding the costs of necessary hardware) to the contractors and grantees described in clause (v) of subparagraph (A) and to educational institutions accessing such network through the Internet and the National Research and Education Network.

"(C) INFORMATION RESOURCES.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, may make available through the network described in subparagraph (A)—

"(i) information about grant and contract assistance available through the department;

"(ii) an annotated directory of current research and development activities and projects being undertaken with the assistance of the Department;

"(iii) information about publications published by the Department and, to the extent feasible, the full text of such publications;

"(iv) statistics and data published by the National Center for Education Statistics;

"(v) syntheses of research and development findings;

"(vi) a directory of other education-related electronic networks and databases, including information about the means by which they may be accessed;

"(vii) a descriptive listing of materials and courses of instruction provided by telecommunications partnerships assisted under the Star Schools program;

"(viii) resources developed by the ERIC Clearinghouses;

"(ix) education-related software (including video) which is in the public domain;

"(x) a listing of instructional materials available through telecommunications to local education agencies through the Public Broadcasting Service and State educational television networks; and

"(xi) such other information and resources the Assistant Secretary considers useful and appropriate.

"(D) EVALUATIONS REGARDING OTHER FUNCTIONS OF NETWORK.—The Assistant Secretary shall also undertake projects to test and evaluate the feasibility of using the network described in subparagraph (A) for—

"(i) the submission of applications for assistance to the Department; and

"(ii) the collection of data and other statistics through the National Center for Education Statistics.

"(E) TRAINING AND TECHNICAL ASSISTANCE.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall—

"(i) provide such training and technical assistance as may be necessary to enable the contractors and grantees described in clause (v) of subparagraph (A) to participate in the electronic network described in such subparagraph; and

"(ii) work with the National Science Foundation to provide, upon request, assistance to State and local education agencies, the Department of the Interior's Office of Indian Education Programs, tribal departments of education, State library agencies, libraries, museums, and other educational institutions in obtaining access to the Internet and the National Research and Education Network.

"(h) REGIONAL EDUCATIONAL LABORATORIES.—

"(1) REGIONAL EDUCATIONAL LABORATORIES.—The Assistant Secretary shall enter into contracts with public or private nonprofit entities to establish a networked system of 10 regional educational laboratories which serve the needs of each region of the Nation in accordance with the provisions of this subsection. For the purposes of this subsection, the term 'region' means 1 of the 10 geographic regions set forth in section 2(a) of part 707 of title 34, Code of Federal Regulations (34 CFR 707.2(a)), as published in number 157 of volume 53 of the Federal Register on August 15, 1988.

"(2) DUTIES.—Each regional educational laboratory receiving assistance under this subsection shall, with such assistance, assist State education agencies, intermediate education agencies, local school districts, and schools funded by the Bureau of Indian Affairs in implementing broad-based, systemic school improvement strategies through the use of applied research and development activities. The regional educational laboratories shall support such system-wide reform efforts through—

"(A) the development of a plan for identifying needs and for serving the needs of the region by conducting a continuing survey of the educational needs, strengths and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

"(B) the dissemination of information about programs designated as exemplary and promising under subsection (c) and other appropriate programs and practices;

"(C) the provision of support and technical assistance in—

"(i) replicating and adapting such exemplary and promising practices;

"(ii) the development of high-quality, challenging curriculum frameworks;

"(iii) the development of valid, reliable, fair systems of assessment which are based upon State, local, or Bureau of Indian Affairs-funded school curriculum frameworks and reflect recent advances in the field of educational assessment;

"(iv) the improvement of professional development strategies to assure that all teachers are prepared to teach a challenging curriculum;

"(v) expanding and improving the use of technology in education to improve teaching and learning;

"(vi) the development of alternatives for restructuring school finance systems to promote greater equity in the distribution of resources; and

"(vii) the development of alternative administrative structures which are more conducive to planning, implementing, and sustaining school reform and improved educational outcomes;

"(D) the development of educational programs and practices that address State, regional, or Indian tribal needs in relating to their school reform efforts;

"(E) facilitating communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the national education goals;

"(F) bringing teams of experts together to develop and implement school improvement plans and strategies;

"(G) the provision of training in—

"(i) the field of education research and related areas;

"(ii) the use of new educational methods; and

"(iii) the use of information-finding methods, practices, techniques, and products developed in connection with such training for which the regional educational laboratory shall be authorized to support internships and fellowships and to provide stipends; and

"(H) the provision of support and technical assistance (upon their request) to State facilitators funded through the National Diffusion Network.

"(3) NETWORKING.—In order to improve the efficiency and effectiveness of the regional laboratories, the governing boards of the ten regional laboratories shall establish and maintain a network to—

"(A) share information about the activities each is carrying out;

"(B) plan joint activities that would meet the needs of multiple regions;

"(C) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

"(D) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

"(4) ADDITIONAL DUTIES.—Each regional education laboratory receiving assistance under this subsection shall carry out the following activities:

"(A) Collaborate with the Institutes established under section 405B in order to—

"(i) maximize the use of research conducted through the Institutes in the work of such laboratory;

"(ii) keep the Institutes apprised of the work of the regional educational laboratories in the field; and

"(iii) inform the Institutes about additional research needs identified in the field.

"(B) Consult with the State educational agencies and library agencies in the region in developing the plan for serving the region.

"(C) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

"(D) Report and disseminate information on overcoming the obstacles faced by rural educators and rural schools.

"(E) Identify successful educational programs that have either been developed by such laboratory in carrying out its functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional laboratories so that they may be considered for inclusion in the national education development and dissemination system.

"(5) CERTAIN REQUIREMENTS.—In carrying out its responsibilities, each regional educational laboratory shall—

"(A) establish a governing board that—

"(i) is the sole entity that—

"(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award; and

"(II) determines the regional agenda of the laboratory, consistent with the priority research and development needs identified in section 405(b)(3); and

"(ii) reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies;

"(B) comply with the standards established by the Assistant Secretary and the Board under section 405A;

"(C) coordinate its activities, collaborate, and regularly exchange information with the institutes established under section 405C, the National Diffusion Network, and its Developer Demonstrator and State Facilitator projects, learning grant institutions and district education agents assisted under subsection (i), the ERIC Clearinghouses, and other entities engages in technical assistance and dissemination activities which are supported by other Offices of the Department of Education; and

"(D) allocate its resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local education agencies, or Bureau of Indian Affairs-funded schools which may require special assistance from the laboratory.

"(6) EVALUATIONS.—The Assistant Secretary shall provide for periodic, independent evaluations of each of the laboratories in carrying out the duties described in paragraph (1) in accordance with the standards developed by the Assistant Secretary and the Board and transmit the results of such evaluations to the relevant committees of the Congress, the Board, and the appropriate regional educational laboratory board.

"(7) INVITATION REGARDING COMPETITION FOR AWARDS OF ASSISTANCE.—Prior to awarding a grant or entering into a contract under this section, the Secretary shall invite applicants, including the existing regional educational laboratories, to compete for such award through notice in the Federal Register and in the publication of the Department of Commerce known as the Commerce Business Daily.

"(8) APPLICATION FOR ASSISTANCE.—Each application for assistance under this subsection shall—

"(A) cover not less than a 5-year period;

"(B) describe how the applicant would carry out the activities required by this subsection; and

"(C) contain such additional information as the Secretary may reasonably require.

"(9) RULE OF CONSTRUCTION.—No regional educational laboratory receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department as authorized by law.

"(10) ADVANCE PAYMENT SYSTEM.—Each regional educational laboratory shall participate in the advance payment system at the Department of Education.

"(i) GOALS 2000 COMMUNITY PARTNERSHIPS PROGRAM.—

"(1) PURPOSE.—The purpose of the Goals 2000 Community Partnerships program is to improve the quality of learning and teaching in the Nation's most impoverished urban and rural communities by supporting sustained collaborations between universities, schools, businesses, and communities which apply and utilize the results of educational research and development.

"(2) GRANTS FOR GOALS 2000 COMMUNITY PARTNERSHIPS.—The Assistant Secretary is authorized to make grants to eligible entities to support the establishment of Learning Grant Institutions and District Education Agents and the activities authorized under this subsection within eligible communities.

"(3) DEFINITION OF ELIGIBLE ENTITY AND ELIGIBLE COMMUNITY.—For the purposes of this subsection:

"(A) The term 'eligible entity' includes any institution of higher education, regional education laboratory, National Diffusion Network project, national research and development center, public or private nonprofit corporation, or any consortium thereof that—

"(i) has demonstrated experience, expertise and commitment in serving the educational needs of at-risk students; and

"(ii) is, by virtue of its previous activities, knowledgeable about the unique needs and characteristics of the community to be served.

"(B) The term 'eligible community' means a unit of general purpose local government (such as a city, township, or village), a nonmetropolitan county, tribal village, or a geographically distinct area (such as a school district, school attendance area, ward, precinct or neighborhood), or any group of such entities that—

"(i) has a population of not less than 200,000 and not more than 300,000; and

"(ii) in which not less than one-half of the school-age children have family incomes which are below the poverty line, as determined by the 1990 United States Census, participation in the National School Lunch program, or other current, reliable data concerning family income.

"(4) GOALS 2000 COMMUNITY PARTNERSHIPS.—Each learning grant institution receiving assistance under this subsection shall establish a Goals 2000 community partnership to carry out the activities authorized under this subsection. Such partnership—

"(A) shall include the participation of one or more local educational agencies, institutions of higher education, community-based organizations, parents, teachers, and the business community;

"(B) may include the participation of human, social service and health care agencies, Head Start and child care agencies, libraries, museums, employment and training agencies, and the State educational agency or tribal department of education; and

"(C) shall be broadly representative of all segments of the community in which the activities will be carried out.

"(5) COMPREHENSIVE GOALS 2000 PLAN.—Each Goals 2000 Community Partnership shall develop a comprehensive plan for assuring educational success and high achievement for all students in the community. Each such plan shall—

"(A) adopt the 6 national educational goals;

"(B) identify additional needs and goals for educational improvement within the community;

"(C) focus on helping all students reach challenging content and student performance standards;

"(D) be consistent with the State and local plan for system-wide education improvement developed pursuant to the Goals 2000: Educate America Act;

"(E) establish a comprehensive community-wide plan for achieving such goals; and

"(F) develop a means for measuring the progress of the community in meeting such goals for improvement.

"(6) IMPLEMENTATION OF COMMUNITY-WIDE PLAN.—Each Goals 2000 Community Partnership shall, utilizing the District Education Agent, provide assistance in implementing the community-wide plan for educational improvement by—

"(A) supporting innovation, restructuring, and continuous improvement in educational practice by—

"(i) disseminating information throughout the community about exemplary and promising educational programs, practices, products, and policies;

"(ii) evaluating the effectiveness of federally funded educational programs within the community and identifying changes in such programs which are likely to improve student achievement;

"(iii) identifying, selecting and replicating exemplary and promising educational programs, practices, products, and policies in both in and out-of-school settings;

"(iv) applying educational research to solve specific problems in the classroom, home and community which impede learning and student achievement; and

"(v) supporting research and development by teachers, school administrators, and other practitioners which promise to improve teaching and learning and the organization of schools;

"(B) improving the capacity of educators, school administrators, child care providers and other practitioners to prepare all students to reach challenging standards and to attain the goals set out in the comprehensive community-wide plan through such means as—

"(i) the training of prospective and novice teachers (including preschool and early childhood educators) in a school setting under the guidance of master teachers and teacher educators;

"(ii) training and other activities to promote the continued learning and professional development of experienced teachers, related services personnel, school administrators to assure that they develop the subject matter and pedagogical expertise needed to prepare all students to reach challenging standards;

"(iii) training and other activities to increase the ability of prospective, novice, and experienced teachers to teach effectivenly at-risk students, students with disabilities, students with limited English language proficiency, and students from diverse cultural backgrounds; and

"(iv) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective, and experienced teachers;

"(C) promoting the development of an integrated system of service delivery to children from birth through age 18 and their families by facilitating linkages and cooperation among—

"(i) local education agencies;

"(ii) health and social services agencies and providers;

"(iii) juvenile justice and criminal justice agencies;

"(iv) providers of employment training; and

"(v) child care, Head Start, and other early childhood agencies; and

"(D) mobilizing the resources of the community in support of student learning and high achievement by facilitating effective partnerships and collaboration among—

"(i) local education agencies;

"(ii) postsecondary educational institutions;

"(iii) public libraries;

"(iv) parents;

"(v) community-based organizations, neighborhood associations, and other civic and community organizations;

"(vi) child care, Head Start, and other early childhood agencies;

"(vii) churches, synagogues and other religious institutions;

"(viii) labor organizations; and

"(ix) business and industry.

"(7) ADDITIONAL REQUIREMENTS.—In carrying out its responsibilities under this subsection, each partnership receiving assistance under this subsection shall—

"(A) appoint a District Education Agent who shall be responsible, on a full-time basis, for directing the implementation of the community-wide plan. Such individual shall have significant experience and expertise in the field of education in—

"(i) addressing the needs of at-risk students; and

"(ii) conducting educational research and promoting the application of the results of such research to educational practice;

"(B) provide for such other professional and support personnel as may be necessary to implement the community-wide plan under the direction of the District Education Agent; and

"(C) coordinate its activities and work cooperatively with the National Diffusion Network State facilitators, regional laboratories, and other components of the Office to utilize most effectively Federal research, development, and dissemination resources in implementing the community-wide plan.

"(8) APPLICATION FOR GRANTS.—Any eligible entity desiring a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require. Each such application shall—

"(A) include a comprehensive plan for meeting the objectives and requirements of this subsection; and

"(B) provide evidence of support for the application from local elected officials, the State education agency, the local education agency, parents, local community leaders, businesses, and other appropriate organizations.

"(9) PRIORITY IN MAKING GRANTS; DURATION AND AMOUNT OF GRANT.—Each grant made under this subsection shall be—

"(A) awarded on a competitive basis, with first priority given to those applications from communities with the greatest percentage of school-age children in families with poverty-level incomes;

"(B) made for a 5-year period, with funding for the second and each successive year in this

period conditioned upon a determination by the Assistant Secretary that the grant recipient has complied with the conditions of the grants during the previous year; and

"(C) an amount equal to not less than $1,000,000 per year.

"(10) LIMITATION OF ONE GRANT PER CONGRESSIONAL DISTRICT.—Not more than one grant shall be awarded within a single congressional district.

"(11) TECHNICAL ASSISTANCE; EVALUATIONS.—In administering the program authorized under this subsection, the Assistant Secretary shall, either directly or through grant or contract with an eligible nonprofit agency—

"(A) upon request, provide technical assistance to eligible entities to assist in the development of a comprehensive plan to meet the requirements of this subsection and in the preparation of applications for assistance;

"(B) regularly provide technical assistance to learning grant institutions receiving assistance under this subsection to assist with the development and implementation of the community-wide plan for educational improvement;

"(C) provide for an independent evaluation of the activities assisted under this subsection, including—

"(i) the impact of the Goals 2000 Community Partnerships program on children and families within each community, including (but not limited to) effects on the extent of educational achievement, rates of school retention and completion, and enrollment in program postsecondary educational programs; and

"(ii) whether an intensified effort to apply and utilize educational research within a limited geographic area significantly improves student learning and achievement; and

"(D) plan for the expansion of the Goals 2000 Community Partnerships program throughout the remainder of the Nation beginning in fiscal year 1998.

"(j) TEACHER RESEARCH DISSEMINATION NETWORK.—

"(1) FINDINGS.—The Congress finds that—

"(A) education research, including research funded by the Office, is not having the impact on the Nation's schools that such research should;

"(B) relevant education research and resulting solutions are not being adequately disseminated to the teachers that need such research and solutions;

"(C) there are not enough linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (k), the National Diffusion Network State facilitators, the Education Resources Information Clearinghouses, and the public schools, to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

"(D) the average teacher has almost no time to plan or engage in a professional dialogue with such teacher's peers about strategies for improving learning;

"(E) teachers do not have direct access to information systems or networks;

"(F) teachers have little control over what in-service education teachers will be offered; and

"(G) individual teachers are not encouraged to move beyond the walls of their classrooms to identify and use outside resources.

"(2) PROGRAM AUTHORIZED.—

"(A) The Assistant Secretary shall enter into contracts with regional educational laboratories, in partnership with 1 or more institutions of higher education in each State of its region, the National Diffusion Network, and other entities with demonstrated experience, expertise, and commitment in the areas of teacher research or teacher professional development, such as the national research and development centers, professional teacher organizations, and other qualified organizations and associations, in the region to carry out activities described in paragraph (3).

"(B) The Assistant Secretary shall enter into contracts under this subsection in an equitable manner and shall provide assistance on the basis of the number of schools, teachers, and students in each regional educational laboratory region with attention given to populations with special needs and the increased cost burden of service delivery in regions of sparse population.

"(C) Contracts under this subsection shall be awarded for a period of not less than 3 years.

"(3) PROGRAM ACTIVITIES.—

"(A) Each regional partnership described in paragraph (2)(A) entering into a contract under this subsection shall carry out programs of providing training to teachers relevant to the needs and problems of the schools and school districts where teachers, who participate in the programs, serve. The purpose of such programs shall be to—

"(i) educate teachers on how to acquire information about education research findings and best practices;

"(ii) provide teachers with current education research and development theory, skills, and practice as shall enable them to modify, design, develop, and adapt such findings and practices to effect local district and classroom outcomes that improve education;

"(iii) enable teachers to become actively involved in the applied research and development process;

"(iv) provide teachers the ability to become leaders in the utilization of applied research and to become active participants in the Federal research and development partnership;

"(v) enhance the ability of teachers to evaluate and choose effective education programs and curricula; and

"(vi) facilitate collaboration between the teacher change agent and the National Diffusion Network State facilitator.

"(B) Teachers that participate in training assisted under this subsection shall be known as 'teacher change agents'.

"(C) The program described in subparagraph (A) shall provide teacher change agents with training during the summer and at such other times as agreed to by the district, which shall—

"(i) give teacher change agents knowledge and guidance in using the existing educational improvement services and resources funded by the United States Department of Education and other major research organizations, including the products and work of the regional educational laboratories, professional teacher organizations, the National Diffusion Network, institutions of higher education, the Educational Research Information Centers, National Research Centers, National Research Institutes, State Departments of Education, local education agencies, and other nonprofit organizations participating in the improvement of education;

"(ii) provide teacher change agents with in-depth knowledge about a number of products, programs, and processes developed by entities described in clause (i) that the teacher change agents judge most relevant to the needs of the district or districts they will serve;

"(iii) inform teacher change agents about government programs, including, but not limited, to programs in government agencies other than the Department of Education, which offer research opportunities, fellowships, and funding; and

"(iv) provide teacher change agents with instruction in technical assistance skills in order to increase their capacity to aid district and school site teacher teams responsible for leading school improvement activities at the district and school site level.

"(D) The school year activities described in subparagraph (A) shall provide teacher change agents participating in such program during the school year with—

"(i) opportunities to meet with other teacher change agents to exchange experiences;

"(ii) additional training or assistance as needed or requested;

"(iii) updates in education research, application, and findings; and

"(iv) opportunities to provide feedback into the educational research infrastructure regarding needed research and ways to improve the development and dissemination of information.

"(E) The regional partnership program may support educational improvement and reform activities such as—

"(i) training in applied research methodologies;

"(ii) assistance in conducting applied research;

"(iii) teacher research sabbaticals;

"(iv) video conferencing for additional training in order to reduce travel time and expenses;

"(v) training in developing and implementing effective teacher in-service training;

"(vi) training in change management, including strategies for restructuring schools, building local capacity, and generally strengthening the culture of schools so that schools are conducive and supportive of change, including training in interpersonal and leadership skills; and

"(vii) training in the appropriate use of technology to assist classroom teachers.

"(F) TEACHER RESPONSIBILITIES.—Teacher change agents shall, during the school year—

"(i) meet with other teachers and district or school site teacher teams to provide other teachers with knowledge about how to acquire information regarding education research findings and best practices, including what resources are available from the Department of Education and how to obtain products and technical services from the Department;

"(ii) meet with the National Diffusion Network State Facilitator to coordinate and not duplicate efforts in the dissemination of exemplary educational programs;

"(iii) help interested schools identify resources needed to address the school's needs and act as liaison between the school and the appropriate resource entities, such as regional educational laboratories, centers, national institutes, institutions of higher education, professional teacher organizations, scholars, consultants, and other schools and school districts that may be of assistance;

"(iv) teach other teachers how to use the products, programs, and processes in which the teacher was trained pursuant to paragraph (2)(C)(II);

"(v) work with other teachers and teacher teams to adapt identified exemplary practices, programs, and research results to implement school site or classroom improvements as desired, and provide follow-up activities throughout a 2-year period to ensure the successful adaptation and implementation of such programs in local schools; and

"(vi) inform teachers about how they can obtain Federal research funding, fellowships, and sabbaticals.

"(G) APPLICATION.—

"(i) IN GENERAL.—Each regional partnership desiring a contract under this subsection shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

"(ii) CONTENTS.—Each application described in clause (i) shall—

"(I) contain a plan acceptable to affected States and local education agencies for conducting the program to be assisted under this section;

"(II) contain assurances that the partnership requirements are fulfilled;

"(III) contain assurances that both district and school site teacher teams will be established to work in conjunction with the teacher change agent;

"(IV) contain a plan for the selection of district and school site teacher team participants and others as deemed appropriate by the teacher change agent and the regional partnership;

"(V) contain assurances that the regional partnership, in conjunction with the participating school districts, shall provide each teacher change agent with a stipend for the entire calendar year commensurate with such teacher's salary and travel expenses, to permit a teacher to participate in such program without incurring loss of income;

"(VI) contain assurances that each teacher change agent participating in the program shall receive an award of not more than $10,000 to be used by such teacher during the school year of such teacher's participation to purchase materials, support, and coordinate with other teachers or site teacher teams in the school district;

"(VII) contain assurances that such regional partnerships shall provide not more than $5,000 to each school district or group of school districts having an individual from such district or districts participating in the program assisted under this section for each of the 2 years following such participation to enable such school district or districts to continue efforts to improve dissemination of effective practices and programs within the district or districts;

"(VIII) contain assurances that representatives of State educational agencies, intermediate educational agencies, teacher centers, teacher educators at institutions of higher education, and school district in-service or curriculum specialists will be eligible to participate in the program assisted under this section if such individuals pay the cost of their participation; and

"(IX) contain an assurance that such regional partnership shall permit a teacher to participate in the program only after such partnership determines that the teacher will be afforded a full opportunity by the district to perform such teacher's responsibilities described in paragraph (3)(F).

"(4) TEACHER SELECTION AND ELIGIBILITY.—

"(A) NOMINATION.—Teacher participants in the program assisted under this subsection shall be nominated by their peers at the school district level.

"(B) ELIGIBILITY.—Each school district or group of school districts desiring to have teachers from such district or districts participate in the program assisted under this subsection shall provide the regional partnership with the names of such teachers, and an indication of the type of issues or problems on which each such teacher would like to receive information and training.

"(C) SELECTION.—

"(i) Teacher participants shall be selected by the regional partnerships in consultation with the State educational agencies in the region. Teacher participants shall be selected in such a manner so as to ensure an equitable representation of such teachers by State and school enrollment within the region.

"(ii) The number of teachers selected each year shall be determined in accordance with the amount of funding received by the regional partnership.

"(5) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Assistant Secretary shall provide for an independent evaluation of the program assisted under this subsection to determine the net impact and cost effectiveness of the program and the reactions of teachers and school districts participating in such program, including any career plan changes of participating teachers.

"(B) DATE.—The evaluation described in subparagraph (A) shall be submitted to the Congress within 6 months after the completion of the third year of the program.

"(C) FUNDING.—The Assistant Secretary may reserve not more than $250,000 of the amount appropriated under section 405(i)(2)(E) to carry out the evaluation described in this paragraph.".

TITLE V—NATIONAL LIBRARY OF EDUCATION

SEC. 501. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 401 of this Act, is amended by inserting after section 405C the following new section:

"NATIONAL LIBRARY OF EDUCATION

"SEC. 405D. (a) IN GENERAL.—There is established within the Office a National Library of Education (hereafter in this section referred to as the 'Library'), which shall be maintained as a governmental activity.

"(b) FUNCTIONS OF LIBRARY.—The functions of the Library are—

"(1) to provide a central location within the Federal Government for information about education;

"(2) to provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

"(3) to promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

"(c) ONE-STOP INFORMATION AND REFERRAL SERVICE.—The Library shall establish and maintain a central information and referral service to respond to telephonic, mail and electronic and other inquiries from the public concerning—

"(1) programs and activities of the Department of Education;

"(2) publications produced by the Department of Education and, to the extent feasible, education related publications produced by the Departments of Labor, Health and Human Services, and other Federal agencies;

"(3) services and resources available to the public through the Office, including the ERIC Clearinghouses, the research institutes, and the national education dissemination system;

"(4) statistics and other information produced by the National Center for Education Statistics; and

"(5) referrals to additional sources of information and expertise about educational issues which may be available through educational associations and foundations, the private sector, colleges and universities, libraries and bibliographic databases.

The Library shall maintain and actively publicize a toll-free telephone number through which public inquiries to the Library may be made.

"(d) COMPREHENSIVE REFERENCE SERVICES.—The Library shall, to the extent feasible, provide for the delivery of a full range of reference services on subjects related to education to employees of the Department and its contractors and grantees, other Federal employees, and members of the general public. Such services may include—

"(1) specialized subject searches;

"(2) search and retrieval of electronic databases;

"(3) document delivery by mail and facsimile transmission;

"(4) research counseling, bibliographic instruction, and other training services;

"(5) interlibrary loan services; and

"(6) selective dissemination of information services.

The Library shall first give priority in the provision of reference services to requests made by employees of the Department.

"(e) COOPERATION AND RESOURCE SHARING.—The Library shall promote greater cooperation and resource sharing among libraries and archives with significant collections in the area of education through such means as—

"(1) the establishment of information and resource sharing networks among such entities;

"(2) the development of a national union list of education journals held by education libraries throughout the United States;

"(3) the development of directories and indexes to textbook and other specialized collections held by education libraries throughout the United States; and

"(4) cooperative efforts to preserve, maintain and promote access to items of special historical value or interest.

"(f) ADMINISTRATION.—The Library shall be administered by an Executive Director who shall—

"(1) be appointed by the Assistant Secretary from among persons with significant training or experience in library and information science;

"(2) serve for a renewable term of 5 years; and

"(3) be paid at not less than the minimum rate of basic pay payable for GS-15 of the General Schedule.

"(g) TASK FORCE.—

"(1) IN GENERAL.—The Assistant Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the 'Task Force') to provide advice on the establishment of the Library.

"(2) PREPARATION OF PLAN.—The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this section.

"(3) CERTAIN AUTHORITIES.—The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this section.

"(4) REPORT.—The Task Force shall prepare and submit to the Assistant Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

"(h) TRANSFER OF FUNCTIONS.—There are hereby transferred to the Library all functions of—

"(1) the Department of Education Research Library;

"(2) the Department of Education Reference Section; and

"(3) the Department of Education Information Branch.

"(i) COLLECTION DEVELOPMENT POLICY.—Not later than 180 days after the enactment of the Educational Research, Development, and Dissemination Excellence Act, the Assistant Secretary shall promulgate a comprehensive collection development policy to govern the Library's operations, acquisitions, and services to users. Such collection development policy shall—

"(1) be consistent with the functions of the Library set out in subsection (b);

"(2) emphasize the acquisition and maintenance of a comprehensive collection of reference materials; and

"(3) avoid unnecessary duplication by putting a priority on meeting the information needs of the Library's users through cooperation and resource-sharing with other entities with significant collections in the field of education.

"(j) ARREARAGE AND PRESERVATION.—On the basis of the collection development policy promulgated under subsection (h), the Executive Director shall develop a multiyear plan which shall set forth goals and priorities for actions needed to—

"(1) eliminate within 3 years the arrearage of uncataloged books and other materials in the Library's collections; and

"(2) respond effectively and systematically to the preservation needs of the Library's collections, relying, whenever possible, upon cooperative efforts with other institutions to preserve and maintain the usability of books and materials in the Library's collections.".

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous matter, on H.R. 856, the bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 856, the Educational Research, Development, and Dissemination Excellence Act. This legislation reauthorizes and restructures the Office of Educational Research and Improvement [OERI], to establish a worldclass research and development system to guide and drive the national effort to improve education and achieve the national goals.

This legislation has been crafted through a uniquely open and participatory process. We have worked hard to put together a true bipartisan, consensus bill. The Subcommittee on Select Education and Civil Rights has held 18 hearings and heard from 112 witnesses about the kinds of changes which must be made in the structure and authorities of OERI. We have carefully considered and, in most cases, adopted the recommendations of two complementary studies of OERI completed by the National Academy of Sciences and the National Academy of Education. We have held more than 45 meetings with the Republican staff of the Education and Labor Committee drafting, discussing, and redrafting legislative language; many useful, and important provisions of this bill have been contributed by Mr. GOODLING and Mr. BALLENGER and their staffs. We met with the Department of Education on several occasions for line-by-line discussions of the legislation and have included 67 changes they recommended. And we gave an opportunity to present written and oral comments about the bill to any organization and individual who wanted to be heard. The end product of this lengthy, exhaustive process is a very strong, consensus bill which sets OERI on a bold, new course.

If we are to achieve the ambitious national educational goals, OERI must be moved from the periphery to the center of educational reform and innovation in America. It must become the locomotive which pulls and guides the national effort to improve education with sound, research-based leadership for change.

In every other realm of public policy, we recognize that a substantial investment in research and development is essential to provide us with the knowledge we need to guide and support our actions. In agriculture, in aeronautics, in medicine, in engineering, and in other sciences, a robust system of research and development shapes and drives decisionmaking. Research and development is recognized as an indispensable beacon to point the way.

This has not been the case with research and development in education. The Federal educational research and development system is held in low repute; in general, the knowledge it produces is not considered to be terribly useful to efforts to improve the quality of education. There has been no coherent or consistent long-term agenda; research priorities at OERI have rapidly fluctuated, shifting with changes in key personnel and administrations, and have been dominated by short-term and frequently partisan considerations. Research priorities have not been responsive to many of the needs and concerns of teachers, school administrators, and other practitioners. Critical areas of research, including the education of at-risk students and early childhood development, have not received adequate attention. Efforts to translate the knowledge gained from educational research into real improvements in educational practice have been fragmented, sporadic, and ineffective. And largely as a result of the system's overall lack of credibility, educational research and development has been dangerously underfunded.

H.R. 856 seeks to address these and other severe problems which now impair and afflict the federal system of educational research and development.

First and foremost, the bill creates a stable, nonpartisan system of governance modeled upon the National Institutes of Health and the National Science Foundation to guide OERI's activities. An 18-member National Educational Research Policy and Priorities Board consisting of both educational researchers and representatives of teachers, parents, school administrators, and other stakeholders in the Nation's educational system is established to oversee and guide OERI. The Board's key function is to work with the Assistant Secretary to develop a comprehensive research priorities plan to end the incoherent flavor of the month approach to research which has limited OERI's effectiveness for so long. This would be a long-term agenda for OERI's research and development efforts, reflecting a consensus of both educators and researchers, which would set out priorities and objectives for OERI, including areas which merit further inquiry and the most effective means of addressing them. This research priorities plan would provide guidance to the Department in its administration of OERI and the Congress in its oversight of these activities.

H.R. 856 also realigns OERI's activities according to an institute structure to provide an enduring focus for its efforts. Currently, OERI is organized by how it conducts research, with different units managing the research centers program, field-initiated research, and so forth, and not by what is being studied. This has contributed to the overall lack of coherence and stability at OERI. H.R. 856 would restructure OERI's research and development activities according to an institute framework, with institutes focused in the following areas: The education of at-risk students; educational governance, finance, and management; early childhood learning, communities, and families; student achievement; and postsecondary education, libraries, and lifelong learning. These institutes would conduct research through the same means that OERI now employs, including through centers and field-initiated research.

To assure that the results of educational research are fully translated into real improvements in practice, H.R. 856 creates an Office of Reform Assistance and Dissemination within OERI which would be responsible for managing and directing multiple efforts to synthesize, disseminate and promote the use of knowledge gained through research. These efforts include the ERIC Clearinghouses and the regional educational laboratories.

H.R. 856 also establishes the Goals 2000 Community Partnerships to support sustained collaborations among institutions of higher education, community-based organizations, local education agencies, and others to use research and development to improve education in low-income communities. In the most impoverished communities in America, there is an urgent need for a permanent, independent resource to support and guide efforts to improve education. This district education agent program is inspired and derived from the county agricultural extension agent, a program which proved enormously successful in the first part of this century in transforming American agriculture, community by community, to a position of world dominance. Following the agriculture extension program model, a district education agent would be based in a learning grant institution and would work with the local community to develop and implement a comprehensive plan to improve education from the pre-school to postdoctoral level. The agent will also help schools and community members evaluate the success of Federal

educational programs within the community and assist in improving their implementation. Other activities which may be supported by the partnerships include pre-service and in-service professional development for educators within the community, facilitating the coordination of social, health, and other services to children, and school- and community-based research by teachers and others designed to solve specific problems within the community.

Through these and other provisions, H.R. 856 would restructure and reinvigorate OERI so that it can begin to provide the Nation with the research-based knowledge it needs to meet the national educational goals. Just as the National Institutes of Health guides the national effort to improve the practice of medicine and the health of our people, just as the National Science Foundation guides the national effort to improve the practice of science of engineering and to advance our knowledge in those disciplines, OERI would be invested with the means and authority to lead the national effort to improve the practice of education and to enhance the quality of educational opportunities available to our citizens. OERI would be placed at the center of an overwhelming campaign to improve education in America.

I am pleased and proud that H.R. 856 enjoys support from the American Educational Research Association, the National Education Association, the National PTA, the Council for Educational Development and Research, the National Indian Education Association, and many others. Even so, I understand that there remain a few naysayers who have expressed misgivings about the policymaking authority of the Board and have worried that the institute structure set out in the bill may be too ambitious.

A review of the history of Federal support for research and development puts these complaints in the proper perspective. Similar concerns and objections were raised during the consideration of the legislation which established the National Science Foundation and the National Institutes of Health.

It took the Congress and President Harry Truman 3 years to agree on legislation establishing the National Science Foundation because the White House objected to the policymaking power the Congress wanted to invest in the National Science Board. In fact, the President vetoed the first NSF legislation over this very issue. Ultimately, however, reason prevailed and the President agreed to a National Science Board with considerable policymaking authority. No one today disputes the wisdom of that decision. The governance structure of the NSF is universally recognized as a success.

It took the Congress and the President 5 years to agree on legislation establishing the National Institutes of Health because of White House concerns about the cost involved. Despite overwhelming support within the scientific community and Congress for the creation of NIH, President Calvin Coolidge and his Bureau of the Budget were steadfastly opposed, maintaining that it was an unjustifiable government expense. Some career health officials within the Federal Government opposed the legislation as well, expressing the fear that they would fail in trying to implement legislation so ambitious. Ultimately, however, reason prevailed. In 1931, in the midst of the Depression, President Herbert Hoover overruled his budget advisers and signed into law the legislation establishing the National Institutes of Health. Hoover dismissed those who argued that the legislation was too costly and ambitious, commenting, "Some scientific discoveries and inventions have in the past been the result of genius struggling in poverty. But poverty does not clarify thought, nor furnish laboratory equipment."

No one today disputes the wisdom of Hoover's decision. The National Institutes of Health is today one of the world's foremost research agencies whose work is recognized as essential to the improvement and protection of the public health.

History makes it plain that the naysayers who sought to thwart the creation of NSF and NIH were wrong. In the years to come, I expect that the few lonely voices who still carp about the important elements of this legislation will similarly be proven wrong. With H.R. 856, we can provide meaningful support to the efforts of teachers, school administrators, parents and others to reform and improve the quality of our children's education. With this legislation, we can assure that the kind of research-based knowledge they need will be systematically and abundantly produced by OERI. No longer will OERI be a faint and flickering light; it will be a powerful and reliable beacon for reform and change in education.

Mr. Speaker, to significantly improve education in America we need an overwhelming campaign. This legislation provides the Office of Educational Research and Improvement with the capability to lead this overwhelming campaign for the improvement of education.

□ 1450

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

I rise in support of H.R. 856, an act to reauthorize the Office of Educational Research and Improvement [OERI].

Many of us represent schools, school districts, and States that have launched significant school reform efforts. These efforts have the goal of raising the achievement levels of all students—the disadvantaged, average, and gifted alike. In order to accomplish this, it has become clear that schools and teachers will have to reinvent the way they operate—from management to instruction.

The success of the school reform effort is vital to the economic health of the country. It is difficult to think of creating high performance jobs without first creating high performance schools that produce high achievement students. This is why business organizations at the national, State, and local level are working to make school reform a success.

A critical element of this national movement is a high quality research and development effort so that educational change is based on sound experience and knowledge. No business would undertake such a major retooling without such research-based information. Unfortunately, the Federal effort in educational R&D is currently not up to the task. It not only falls short of the private sector's R&D capacity, but it does not compare to other Federal programs, in energy, health, agriculture, and the sciences.

H.R. 856 lays out a blueprint for OERI so we will be generating the highest quality educational innovations in the world by the year 2000. The legislation also creates a means by which this knowledge can be shared with, and adopted by, schools across the country. For example, a national educational computer network, Smartline, is authorized. Smartline will connect schools, States, universities, and Federal R&D centers with a focus on improved practice.

Mr. OWENS and I have worked together for almost 3 years on this legislation. While I continue to have reservations about some provisions, I support the major thrust of the bill and believe it can deliver on the promise of Federal leadership in this important area.

My congratulations to Mr. OWENS and my thanks to his staff for their willingness to find agreement on many provisions of the legislation. I am sure we will continue this bipartisan effort as we move the bill through the remainder of the legislative process.

I urge my colleagues to join me in support of passage of H.R. 856.

Mr. GOODLING. Mr. Speaker, I rise to speak in support of H.R. 856, the reauthorization of the Office of Educational Research and Improvement [OERI] in the U.S. Department of Education.

When we come to the floor with an education bill, there is often a discussion about the appropriate role of the Federal Government in our Nation's education system. This is a healthy discussion given the American tradition and the legal foundation for education being primarily a State and local function.

However, I believe that there are some areas where there is both a legitimate and important role for the Federal Government. One

such area is the support of educational research and development. It does not make sense to have the over 15,000 school districts or the 50 State education agencies carrying out totally independent research and development efforts—no more than it does in the area of agriculture, health, and science.

Unfortunately, the track record of the Federal R&D effort in education has not been up to the standards set in these other areas. Too often, the work has been driven by politics or simply the lack of any long-term vision for education. As a result, the reputation and funding levels of OERI are not what they should be.

Considering that we, as a nation, spend more than $300 billion on elementary and secondary education, it is a major problem that we are not producing top quality information about what programs and practices lead to the highest levels of learning. If our education system is nearing chapter 11, part of the problem is an almost total lack of knowledge-based change.

Mr. OWENS and Mr. BALLENGER have both put a great deal of effort into creating a structure for OERI that could fill the leadership vacuum in educational R&D. However, like any plan, the results will come as a result of good faith implementation on the part of the Department. I would hope that in 5 years we will be able to look at OERI and compare it to the other highly regarded Federal research entities.

Congratulations to Mr. OWENS and Mr. BALLENGER for their bipartisan work on this legislation. The quality of the product demonstrated their hard work and good faith.

I urge my colleagues to support H.R. 856.

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

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

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rule and pass the bill, H.R. 856, as amended.

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

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. David Zaroff, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 2493, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. DURBIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. SKEEN moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 2493, be instructed that, in resolving the differences between the House and the Senate, the total discretionary spending should remain, as nearly as possible, within the totals in the House-passed bill for budget authority and outlays.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes and the gentleman from Illinois [Mr. DURBIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

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

Mr. Speaker, I do not want to take my entire time, but I would like to say it is pretty much self-explanatory.

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

Mr. SKEEN. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I accept the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New Mexico [Mr. SKEEN].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. DURBIN, Mr. WHITTEN, Ms. KAPTUR, Mr. THORNTON, Ms. DELAURO, Messrs. PETERSON of Florida, PASTOR, SMITH of Iowa, NATCHER, SKEEN, and MYERS of Indiana, Mrs. VUCANOVICH, Mr. WALSH, and Mr. MCDADE.

There was no objection.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2808) to facilitate recovery from the recent flooding of the Mississippi River and its tributaries by providing greater flexibility for depository institutions and their regulators, and for other purposes.

The Clerk read as follows:

H.R. 2808

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 "Depository Institutions Disaster Relief Act of 1993".

SEC. 2. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within any area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of any determination referred to in subsection (a).

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. 3. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, on the day before the date of any such determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

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

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) LEVERAGE LIMIT.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 4. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term "qualifying regulatory agency" means—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. 5. STUDY; REPORT TO THE CONGRESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study that—

(1) examines how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluates the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contains recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the results of the study required by subsection (a).

SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions meet the financial services needs of their communities and customers located in areas affected by the 1993 flooding of the Mississippi River and its tributaries.

SEC. 7. OTHER AUTHORITY NOT AFFECTED.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

The SPEAKER pro tempore (Mr. MORAN). Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

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

Mr. Speaker, I rise today in support of H.R. 2808, the Depository Institutions Disaster Relief Act of 1993. H.R. 2808 is a bipartisan effort to respond to the problems faced by borrowers and lenders in areas damaged by the 1993 flooding of the Mississippi River and its tributaries.

This legislation arises out of concerns expressed by Members of the House that existing banking law and regulations may hinder efforts of borrowers and lenders to recover from damage caused by the unprecedented flooding in the Midwest. I wrote to each of the bank regulatory agencies to determine what problems, if any, had been raised by banks and thrifts and to ask them whether any statutory relief was warranted. Each regulator responded that its power under existing law, including last year's disaster relief act, was sufficient to address the reconstruction effort. I would like to introduce copies of this correspondence into the RECORD. However, some provisions of last year's law had expired and so we reauthorize those provisions in today's legislation.

H.R. 2808 also takes into account the fact that the rains that caused the flooding also extensively damaged property, especially farmland, that may lie outside the flood plains.

In addition, today's legislation calls for a study as to how the temporary measures provided last year and this year have been utilized and whether such measures should be made permanent.

I note that the bank regulators' response directly contradicts the call by some to allow the waiver of any banking law or regulation in response to the disaster. Such wholesale regulatory relief based on de minimis ties to a disaster area is not needed and cannot be justified. The desire to respond to the suffering of residents of the disaster area must be reconciled with the need for regulatory relief that does not compromise safety and soundness. H.R. 2808 strikes that balance and recognizes that strong financial institutions are the key for reconstruction in disaster areas.

I thank those members of the Banking Committee and the House that worked with me to fashion this responsive and responsible legislation.

Mr. Speaker, I include herewith correspondence and documents regarding the flood disaster and the role of banks and banking regulations, as follows:

OFFICE OF THRIFT SUPERVISION,
Washington, DC, July 28, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of July 21, 1993, inviting our comment on H.R. 2661, the Depository Institutions' Disaster Relief Act of 1993.

H.R. 2661 would permit the federal banking agencies to waive any law applicable to any insured institution located within a designated major disaster area or an adjacent area. Any such waiver would be limited to three years' duration and could only be granted if it enhanced an institution's ability to lend in the disaster area and was consistent with safety and soundness.

We agree that this broad grant of authority is not necessary to address the problems of credit availability for recovery in disaster areas. As an alternative, you have asked us to consider whether changes should be made to the Depository Institutions' Disaster Relief Act of 1992 ("1992 DIDRA").

In our experience, the provisions included within the 1992 DIDRA proved adequate to address regulatory impediments to credit availability following the Florida and Hawaii hurricanes. In fact, the federal banking agencies will shortly issue an interagency order under the 1992 DIDRA that excepts transactions in the Midwest disaster areas from the otherwise applicable appraisal requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").

It is, of course, necessary to weigh the impact on safety and soundness of loosening regulatory controls against any additional benefit to be derived from such action on the availability of credit in an affected area. We believe the 1992 DIDRA provisions struck a good balance between these competing concerns. In order to address problems caused by the Midwest flooding, you may wish to consider reinstating those provisions of the 1992 DIDRA that have expired.

We are currently working closely with our field offices to develop and implement programs in order to respond to the need for credit availability in areas affected by the Midwest floods. As the flooding subsides and the cleanup process begins, we will continue to monitor whether other impediments to credit availability arise. If they do, we will apprise you of any additional problems that require legislative action.

Thank you for the opportunity to express our views on this issue.

Sincerely,

JONATHAN L. FIECHTER,
Acting Director.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, July 27, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter requesting comments on any recommended changes to the Depository Institution Disaster Relief Act of 1992 (DIDRA), P.L. 102-485, that may be needed to respond to this year's flooding.

The Federal Deposit Insurance Corporation is sensitive to the special needs which accompany natural disasters such as floods, earthquakes and major storms and we support the intent of DIDRA to facilitate recovery from such disasters. In order to lessen unnecessary regulatory interference with local economic recovery, we have acted already on those regulations that we can temporarily modify. A News Release listing temporarily modified supervisory practices is enclosed for your information.

Certain laws and regulations that are beneficial and protect public policy interests in normal times can slow an insured institution's response in providing financial services during disasters. As we learned in 1992, granting temporary regulatory relief from these laws does not affect the safety and soundness of insured institutions. Insured institutions continue to be subject to active supervision and bank management is always expected to act in a prudent manner. It is unlikely that regulated institutions would purposefully harm themselves of their customers, or cause a loss to the insurance fund soley due to temporary waiver of a law or regulation. If any institution became involved in unacceptable activities, the federal financial institutions' regulatory agencies have substantial enforcement powers to force correction.

Congress may want to consider reinstating DIDRA's expired provisions. Several sections of DIDRA have sunset dates. Two Sections expired in April 1993: Section 3 (Truth in Lending Act; Expedited Funds Availability Act) and Section 5 (Banking Publication Requirements). To allow banks regulatory relief for future disasters, Congress might consider the benefits of extending these provisions permanently as well as the April 1994 expiration date of Section 4 (Deposit of Insurance Proceeds). These provisions would provide regulatory relief during disasters and facilitate recovery after the disaster.

We appreciate the opportunity to comment on this important issue and stand ready to help in any way we can.

Sincerely,

ANDREW C. HOVE, Jr.,
Acting Chairman.

FDIC ANNOUNCES STEPS TO HELP REBUILD FLOODED AREAS OF THE MIDWEST

The Federal Deposit Insurance Corporation announced today a series of initiatives intended to help rebuild Midwest states that have been damaged by recent serious flooding.

The FDIC said it is encouraging the state-chartered banks it supervises "to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control." Extending repayment terms, restructuring existing loans or easing terms for new loans, if done in a manner consistent with sound banking practices, "can both contribute to the health of the community and serve the long-run interests of the lending institution," the FDIC said.

The agency added that those banks showing flexibility in working with borrowers in the affected areas "will not be subject to examiner criticism," provided that proper risk controls and management oversight are exercised. The FDIC said it will take these unusual circumstances into consideration when examining lenders whose levels of delinquent and nonperforming loans increase.

Other aspects of the FDIC announcement today provide specific regulatory relief. One is a temporary waiver of certain real estate appraisal regulations for the areas affected by the current flooding. Another is temporary relief from certain capital requirements if an already adequately capitalized bank finds its asset levels increasing due solely to deposits of insurance proceeds or government assistance funds.

The FDIC's guidelines are attached and will be sent to state nonmember banks and FDIC examiners in the next few days.

SUPERVISORY PRACTICES REGARDING DEPOSITORY INSTITUTIONS AND BORROWERS AFFECTED BY FLOODING IN THE MIDWESTERN UNITED STATES

In response to the serious flooding in the Midwest the FDIC is announcing to the financial institutions for which it is the primary federal regulator the following initiatives to provide regulatory relief and facilitate recovery.

Lending. It has been a long-standing practice of the FDIC to promote supervisory actions that encourage federally regulated financial institutions to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control.

The physical destruction and business disruption caused by recent heavy flooding in the Midwest has placed financial pressures on businesses and individuals in the affected areas, in some cases adversely affecting their ability to repay loans in accordance with original terms and conditions. Often the financial pressures stemming from such events are transitory in nature, and borrowers are able to resume payments when economic conditions improve or the borrowers' financial positions stabilize. Under such circumstances, financial institutions generally determine that the most prudent policy is to work with borrowers experiencing difficulty in a manner that is consistent with sound banking practices, rather than take more precipitous actions such as foreclosures and/or forcing the borrower into bankruptcy.

Lenders often find it in their and the borrowers' interests to extend terms of repayment or otherwise restructure the borrower's debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve the capacity of such borrowers to service debt, and strength a financial institution's ability to collect on its loans. Financial institutions in areas affected by the widespread flooding may also deem it appropriate to ease credit-extending terms for new loans to certain borrowers, consistent with prudent banking practices, in order to assist the borrowers in recovering their financial strength and place them in a better position to service their debts. With proper risk controls and management oversight, these actions can both contribute to the health of the local community and serve the long-run interests of the lending institution and will not be subject to examiner criticism.

Financial institutions in the affected areas may find that their levels of delinquent and nonperforming loans will increase. Consistent with long-standing practices, the FDIC in supervising these institutions will take into consideration the unusual circumstances they face.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. In carrying out its supervisory responsibilities, the FDIC recognizes that efforts to work with borrowers in communities under stress can be consistent with safe and sound banking practices as well as in the public interest.

Credit Availability. The FDIC reminds lenders of its recently announced program on documentation of loans to small and medium-sized businesses and farms. If an institution has adequate capital and is rated 1 or 2, it may designate a basket of loans that examiners will evaluate solely on the basis of performance and will be exempt from criticism for documentation. An extension of the program to some 3 rated institutions is in progress. Bankers may discuss the details of this policy with their regional office.

Waiver of Real Estate Appraisal Regulations. Pursuant to section 2 of The Depository Institutions Disaster Relief Act of 1992 (DIDRA) the FDIC is in process of preparing a waiver of certain real estate appraisal regulations for the areas affected by the current flooding. Once the waiver is issued, affected real estate transactions for up to three years would not require an appraisal by a state-licensed or state-certified appraiser nor need to be prepared in accordance with all the regulatory standards. Action on this waiver is expected in the next several days, in time for any recovery lending.

Leverage Capital Requirements. Through April 22, 1994, section 4 of DIDRA permits the FDIC to grant to individual banks some relief from regulations governing leverage capital requirements if, as a result of a temporary inflation of assets due solely to the deposit of insurance proceeds or government assistance funds, capital ratios are temporarily reduced. In order to qualify, an institution must have been adequately capitalized before the disaster. Banks affected who may need this relief should contact their FDIC regional office for particulars.

Temporary Banking Facilities. FDIC regional offices will expedite any request to operate temporary bank facilities by an institution whose quarters have been damaged or that desires to provide more convenient

availability of services to those affected by the flooding. In most cases, a telephone notice to the regional office will suffice initially and necessary written notification can be submitted later.

Reporting Requirements. FDIC-supervised institutions affected by the flooding should notify the FDIC regional office if they expect a delay in filing their June 30 Call Reports of Income and Condition or other reports. The FDIC will take into consideration any causes beyond the control of a reporting institution in considering how long a delay in filing can be accepted.

Community Reinvestment. To encourage financial institutions to meet the needs of communities, the FDIC, in assessing Community Reinvestment Act ("CRA") performance, will give positive consideration to a financial institution's active participation in programs where most or all of the financing provided may benefit affected low- and moderate-income borrowers or such neighborhoods even if located outside of the institution's delineated community. In determining whether and to what extent positive consideration will be given, the FDIC will assess the activities undertaken in the context of an institution's overall CRA program. Where such participation augments or complements an overall CRA program that is directly responsive to the credit needs in an institution's delineated community, it will be considered favorably in reaching an overall CRA conclusion.

The FDIC encourages depository institutions in the affected disaster areas to meet the financial service needs of their communities. Institutions that require supervisory assistance due to disruption of operations and other problems resulting from the flooding should contact their FDIC Division of Supervision regional office for further information.

NATIONAL CREDIT UNION ADMINISTRATION,
Washington, DC, July 26, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In the absence of Chairman Roger Jepsen, I am replying to your letter of July 21 regarding P.L. 102-485. In the wake of devastating floods hitting the Midwest, NCUA field examiners and regional personnel have visited credit unions threatened or affected, assisting with relocation of offices and cleaning up flooded facilities. Similar to NCUA's efforts after Hurricane Andrew and Iniki, the agency stresses three priorities in our actions:

Ensuring the safety of credit union staff,

Keeping facilities and operations available to members, and

Providing cash and loans as needed by members.

NCUA anticipates and has announced that we will take the following actions when appropriate:

Postpone examinations of affected credit unions,

Encourage loans with special terms and reduced documentation to credit union members in flooded areas,

Allow affected credit unions to delay filing their 5300 call reports, and

Guarantee lines of credit through the Share Insurance Fund and the Central Liquidity Facility.

In response to your request, we have surveyed each of NCUA's regional offices located in areas of recent natural disasters. The agency believes we have sufficient authority at this time to effectively assist affected credit unions. We do not have any suggested changes to the Depository Institutions Disaster Relief Act. If you have any questions regarding our response to the flooding, please contact us.

Sincerely,

ROBERT E. LOFTUS,
Director, Public and Congressional Affairs.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, DC, July 26, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to respond to your request for comment on whether any changes are needed in the Depository Institutions Disaster Relief Act of 1992 (DIDRA) to respond to operational and credit needs in the areas in the Midwest that have been affected by the recent flooding.

Under the existing provisions of DIDRA, the Federal Reserve and the other federal financial institutions regulatory agencies have taken several steps to provide regulatory relief, including waiver of the appraisal requirements of Title XI of FIRREA and the agencies' appraisal regulations and relief from certain leverage capital standards. Using its regulatory authority, the Board has also provided temporary relief from certain provisions of Regulation Z (Truth in Lending). In addition to these initiatives, the Federal Reserve has also authorized the Reserve Banks in the affected areas to grant filing extensions to those organizations that are unable to meet regulatory reporting deadlines due to flood-related problems. Furthermore, consistent with long-standing practice, the Federal Reserve has reminded our examiners that they should give due consideration to the unusual circumstances that institutions face in flood-affected areas in determining any supervisory action. These initiatives to provide relief in the Midwest are similar to those taken in 1992 in response to Hurricanes Andrew and Iniki and the Los Angeles civil unrest.

The Federal Reserve believes that DIDRA as originally enacted gives the agencies sufficient authority to provide regulatory relief while also enabling them to take appropriate actions to maintain the safety and soundness of federally insured institutions. In that light, even though affected institutions are exempt from the appraisal requirements, the agencies still require institutions to document the collateral's value. Further, after waiving the appraisal requirement in disaster areas, the agencies have the discretion to revoke or modify the waiver, with proper notice, if circumstances so warrant. Under the provisions for relief from the leverage capital standards, there are also adequate safeguards to prevent possible abuse. First, an eligible institution must request relief from the appropriate Reserve Bank which will review each request on a case-by-case basis and consult with Board staff on the decision to grant relief. Second, the institution must have been adequately capitalized prior to the disaster and present an acceptable plan for managing the resulting increase in assets and deposits.

Several provisions of DIDRA have expired or are about to expire. These provisions include: section 3 (Truth in Lending Act; Expedited Funds Availability Act) which expired in April 1993 and gave the Board the authority to provide temporary relief from provisions of the Truth in Lending Act and the Expedited Funds Availability Act; section 4 (Deposit of Insurance Proceeds) which expires on April 23, 1994 and allows an institution to apply for relief from the leverage capital standards under certain situations; and section 5 (Banking Agency Publication Requirements) which expired in April 1993 and allowed the agencies to waive certain procedural requirements in acting on applications or regulatory initiatives where immediate action is needed to facilitate recovery from the disaster.

While the Board was able to use its existing authority to provide relief from the Regulation Z (Truth in Lending) requirements similar to that provided by DIDRA, the Board believes that Congress may wish to extend the availability of sections 3, 4 and 5 of DIDRA in order to permit the agencies to respond quickly and uniformly in future major disaster areas. Congress may also wish to give consideration to extending the coverage of section 3 to give the Board the ability to grant temporary relief in major disaster areas from provisions of the Electronic Fund Transfer Act and the Truth in Savings Act.

Please be assured that the Federal Reserve will continue to monitor the situation in the Midwest and respond to the needs of affected institutions and borrowers.

Sincerely,

ALAN GREENSPAN.

COMPTROLLER OF THE CURRENCY, ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 27, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate the opportunity to comment on the OCC's experience in implementing the various provisions of the Depository Institutions Disaster Relief Act of 1992 (DIDRA), Public Law 102-485. Following the destruction caused by Hurricane Andrew we found the provisions of the Act to be extremely helpful to us in working with our national banks in both insuring continued service to their customers and in facilitating long term recovery operations. We are very grateful for your past efforts in providing us the proper financial regulatory relief that can be granted to victims of natural disasters.

Presently, we feel that we have sufficient flexibility to deal with the effects of a natural disaster without the need for additional legislation that would allow us to waive any law or regulation for financial institutions located in disaster areas.

The flood-damaged Midwest is currently receiving our full attention with respect to insuring credit availability for flood victims so that businesses and communities can begin the hard work of recovery. OCC field office directors and duty station managers throughout the Midwest are working with national banks in the flood areas to explain and to provide the various forms of regulatory relief that are available to them. More details are provided in the attached banking circular that was issued to encourage national banks to work constructively with borrowers experiencing financial difficulties due to the floods.

To help rebuild businesses, farms, and assist affected communities, the OCC encourages national banks to make every effort to assess their respective credit needs. To assist

in this area, national banks have been told that, for branches destroyed or severely damaged, they may establish temporary facilities without additional approval or authorization (see attached memorandum).

As evidenced by the regulatory actions taken already by the OCC to assist national banks and their customers affected by the floods in the Midwest, our current authority in this area is sufficient. I do appreciate, however, your interest in exploring the need for any possible additional authority.

Thank you again for allowing me to comment.

Sincerely,

EUGENE A. LUDWIG,
Comptroller of the Currency.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 21, 1993.

Type: Banking Bulletin.

Subject: Working with Borrowers Affected by Recent Flooding in the Midwest.

To: The Chief Executive Officers of National Banks and All Examining Personnel.

This issuance is intended to encourage bankers to work with borrowers in communities affected by recent flooding in the Midwest. The OCC recognizes that the effects of such natural disasters on local businesses and individuals are often transitory, and that prudent efforts to adjust or alter terms on existing loans in areas affected by the flooding should not be subject to examiner criticism. The OCC has provided guidance on this and related matters to its district offices in the areas affected.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. The OCC recognizes that efforts by banks to work with borrowers in communities under stress, if conducted in a reasonable way, are consistent with safe and sound banking practice as well as in the public interest.

This may include working with borrowers to extend the terms of repayment or otherwise restructuring the borrower's debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen the financial institution's ability to collect on its loans. Financial institutions may also ease credit-extension terms for new loans to certain borrowers, consistent with prudent banking practices. This will help such borrowers recover their financial strength and place them in a better position to service their debts.

The Depository Disaster Relief Act of 1992 (DIDRA) provided the OCC and the other federal financial regulatory agencies with the authority to grant certain regulatory relief to financial institutions affected by major disasters. As provided in section 2 of DIDRA, the OCC is issuing a waiver of their real estate appraisal regulations for real estate related transactions affected by the flooding. A separate notice will be issued, detailing the specific counties included.

Under section 4 of DIDRA, financial institutions may seek, until April 22, 1994, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds.

Financial institutions seeking such relief should contact their district office to determine eligibility.

With proper risk controls and management oversight, these steps can contribute both to the health of the local community, as well as serve the long-run interests of the lending institution. And, consistent with long-standing OCC practice, such efforts by lenders will not be subject to examiner criticism, if carried out in a prudent manner.

The OCC further recognizes that the flooding may affect compliance with reporting and publishing requirements under various laws and regulations. Institutions that have flood-related difficulties complying with any reporting requirement should contact the office that supervises their bank or the district office.

In the consumer loan area, Regulation Z provides the consumer with the option to waive or modify the three-day rescission period when a "bona fide personal financial emergency" exists. To exercise this option, the consumer must provide the lender with a statement describing the emergency in accordance with the regulation.

Additional information may be obtained from OCC headquarters in Washington. For questions on consumer matters, contact Compliance Management at (202) 874-4428.

For specific questions regarding corporate matters (branching, temporary operations, etc.) contact Bank Organization and Structure at (202) 874-5060.

Responsible Office: For general guidance on applying this statement, contact the Office of the Chief National Bank Examiner in Washington, (202) 874-5170.

JERI GILLAND,
Acting Chief National Bank Examiner.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC.

To: District Deputy Comptrollers, District Administrators Deputy Comptroller, Multinational Banking.

From: Frank Maguire, Acting Senior Deputy Comptroller, Corporate Policy and Economic Analysis.

Date: July 16, 1993.

Subject: Branching in Emergency Conditions; Mississippi River and Missouri River Floods.

Effective immediately, I delegate my authority under 12 CFR 5.2 (b) to the District Deputy Comptrollers, District Administrators, and Deputy Comptroller for Multinational Banking. This authority is limited to requests from national banks to provide temporary banking services at new locations, in or near the geographic areas affected by the flooding of the Missouri and Mississippi rivers and their direct or indirect tributaries. You may subdelegate this authority to the Directors under your supervision without prior approval.

Part 5.2(b) enables the OCC to adopt procedures different from those described in OCC regulations when the Office deems such action appropriate. The emergency conditions prompted by the flooding warrant abbreviated procedures for processing branch applications. As such, the districts may exempt certain regulatory requirements, and decide either written or oral requests, for national banks to provide temporary banking services to locations that are declared a "major disaster area" by the President of the United States. In exercising the authority contained herein, the districts shall ensure that adequate records are maintained of all decisions. The districts should also record requests and actions under this authority on the Licensing Information System.

TEMPORARY FACILITIES AT EXISTING BRANCH LOCATIONS

A national bank with a branch or branches destroyed or severely damaged may temporarily establish additional facilities at or in the immediate vicinity of a previously approved branch office site without any additional approval or authorization. This conforms to 12 U.S.C. 36 because the facility is merely an extension of the authorized branch.

Please contact Al Herlands or Cindy Hausch-Booth if you have questions regarding this directive.

FEDERAL RESERVE PRESS RELEASE

JULY 23, 1993.

The Federal Reserve Board today announced a series of steps designed to help ease financial stress in areas affected by flooding in the midwest.

A supervisory statement adopted by the Board encourages financial institutions to work constructively with borrowers who are experiencing difficulty due to the flooding.

The statement says that banks may find it appropriate to ease credit terms to help new borrowers restore their financial strength, consistent with prudent banking practices, and to restructure debt or extend repayment terms for existing borrowers.

The Board also waived appraisal regulations for real estate related transactions affected by the flooding, and temporarily amended its Truth in Lending Regulation Z to provide relief under waiver rules so that borrowers may gain ready access to loan funds when they use their primary dwelling as collateral for a loan.

Under the right of rescission, a borrower normally has three business days to cancel a loan contract when it is secured by the borrower's principal dwelling.

Steps taken are outlined in the attached statement. Also attached is a copy of a transmittal letter to be sent to state member banks and bank holding companies in the affected areas.

STATEMENT ON SUPERVISORY PRACTICE REGARDING FINANCIAL INSTITUTIONS AND BORROWERS AFFECTED BY FLOODS IN THE MIDWESTERN UNITED STATES, JULY 23, 1993

It has been a long-standing practice of the Federal Reserve to promote supervisory actions that encourage regulated financial institutions to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control.

The physical and business disruption caused by recent heavy floods in the Midwest has placed financial pressures on businesses and individuals in the affected areas, in some cases adversely affecting their ability to repay loans in accordance with original terms and conditions. Often the financial pressures stemming from such events are transitory in nature, and borrowers are able to resume payments when economic conditions improve or the borrowers' financial positions stabilize. Under such circumstances, financial institutions generally determine that the most prudent policy is to work with borrowers experiencing difficulty, in a manner that is consistent with sound business practices, rather than take more precipitous actions such as foreclosure and/or forcing borrowers into bankruptcy.

Lenders often find it in their and the borrowers' interests to extend terms of repayment or otherwise to restructure borrowers' debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen financial institutions' ability to collect on their loans. Financial institutions in areas affected by the widespread flooding may also deem it appropriate to ease credit

terms, consistent with prudent banking practices, for new loans to certain borrowers in order to assist the borrowers to recover their financial strength and place them in a better position to service their debts. With proper risk controls and management oversight, these actions can contribute both to the health of the local community and serve the long-run interests of lending institutions. If carried out in a prudent manner, such efforts by lenders will not be subject to examiner criticism.

Financial institutions in the affected areas may find that their levels of delinquent and nonperforming loans will increase. Consistent with long-standing practice, the Federal Reserve, in supervising these institutions, will consider the unusual circumstances these institutions face in determining any supervisory response.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. In carrying out its supervisory responsibilities, the Federal Reserve recognizes that efforts to work with borrowers in communities under stress, if conducted in a reasonable way, are consistent with safe and sound practices as well as in the public interest.

The Federal Reserve also recognizes that financial institutions in disaster-affected areas may encounter difficulty in complying with financial reporting requirements. Institutions in disaster areas that have encountered difficulties complying with such reporting requirements should contact the appropriate Reserve Bank as soon as possible for further guidance.

In addition, the Federal Reserve reminds regulated institutions of the availability of the recently announced program on documentation for loans to small- and medium-sized businesses and farms, which may assist lenders in meeting the credit needs of borrowers in disaster areas. This program allows institutions that are adequately capitalized and have a CAMEL rating of 1 or 2 to designate a basket of loans which examiners will evaluate solely on the basis of performance and will not criticize due to loan documentation. To qualify for the exemption, the loan may not exceed the lesser of $900,000 or 3 percent of the institution's total capital. The total basket of such loans may not exceed 20 percent of total capital.

There are also several initiatives in process pursuant to the Depository Institutions Disaster Relief Act of 1992 (DIDRA), which provided the Federal Reserve and the other federal banking agencies with the authority to grant certain regulatory relief to financial institutions affected by major disasters. As provided in section 2 of DIDRA, the Board has waived the appraisal requirements of Title XI of FIRREA and the Board's regulation for real estate related transactions affected by the flooding.

Under section 4 of DIDRA, financial institutions may seek, until April 23, 1994, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds. Financial institutions that may need such relief should contact the appropriate Reserve Bank.

Pursuant to section 3 of DIDRA, relief was granted from certain requirements under Regulation Z (Truth in Lending) that related to consumers' right of rescission for certain loans secured by their principal dwellings. The authority to make exceptions under section 3 of DIDRA has expired. The Board has approved similar relief through its existing authority under Regulation Z. In particular, a final rule has been approved to temporarily amend Regulation Z regarding consumer waivers of the right to cancel certain home-secured loans so that borrowers in the major disaster areas may more readily gain access to loan funds.

Finally, in keeping with the intent of DIDRA and previous initiatives to encourage financial institutions to meet the needs of communities devastated by major disasters, the Federal Reserve, in assessing Community Reinvestment Act performance, will give positive consideration to financial institutions' participation in programs where most or all of the financial provided may ultimately benefit low- and moderate-income borrowers or such neighborhoods located outside of an institution's delineated community.

Specific questions on these initiatives should be directed to the appropriate Reserve Bank.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT

SUGGESTED TRANSMITTAL LETTER TO STATE MEMBER BANKS AND BANK HOLDING COMPANIES

To the Chief Executive Officer of State Member Banks and Bank Holding Companies

The Depository Institutions Disaster Relief Act of 1992 ("DIDRA")[1] permits federal financial institutions' regulatory agencies to grant relief from leverage capital standards for banking organizations in areas affected by major disasters in certain areas.[2] The President recently has determined that a major disaster exists in certain areas of the Midwest affected by flooding. As a result, some banking organizations in the affected areas may wish to submit requests for relief to their appropriate Reserve Bank.

For an 18-month period following the enactment of DIDRA on October 23, 1992, the agencies may grant institutions that have collected insurance payments in connection with a major disaster temporary relief from the leverage limits for prompt corrective action on a case-by-case basis. Institutions experiencing temporary asset growth from the deposit of funds obtained from insurance proceeds or government assistance programs received as a result of a major disaster may apply to the Federal Reserve Bank for such relief.

LEVERAGE STANDARDS

For an 18-month period, Section 4 of DIDRA authorizes the Board to permit individual state member banks to subtract from the bank's total assets the amount of certain insurance proceeds collected by the bank in calculating the bank's leverage limit for prompt corrective action purposes.[3] A state member bank may request relief if it has experienced temporary asset growth from the deposit of funds received from insurance companies or government assistance programs because of the damage caused by a major disaster. A state member bank is eligible provided that:

(1) the institution's principal place of business was in the major disaster area on the day before the President declared the area as a major disaster;

(2) 60 percent or more of the institution's deposits are normally from individuals residing or businesses located in the disaster area;

(3) the institution was adequately capitalized before the disaster as defined in Section 38 of Federal Deposit Insurance Act (FDIA); and

(4) the institution has an acceptable plan for managing this increase in assets and deposits.

This relief allows an institution to deduct from its total assets, as defined in Section 38 of FDIA, for purposes of determining the Tier 1 leverage ratio, an amount not exceeding the qualifying amount of deposit volume attributable to insurance proceeds or governmental assistance. As a result of this relief, an institution will not be placed in a lower capital category based on its Tier 1 leverage ratio for purposes of prompt corrective action.

This relief does not apply with regard to the calculation of an institution's risk-based capital ratios for purposes of prompt corrective action. Accordingly, in order to limit the effect of an influx of such deposits on their risk-based capital ratios, institutions may need to invest insurance proceeds in lower risk-weighted assets such as U.S. government securities. Moreover, DIDRA does not give relief from the calculation of the tangible equity to total assets ratio used to determine the critically undercapitalized category for prompt corrective action.[4]

State member banks that believe they are eligible for relief should submit a written request to the Reserve Bank. Upon receiving the request, the Reserve Bank will determine whether in fact the bank meets the eligibility criteria. The Reserve Bank will also consider the appropriateness and reasonableness of the bank's plan for restoring capital to the required minimums. The Reserve Bank will periodically review the bank's progress in meeting the objectives of its plan. If the institution needs to materially change its approved plan, the institution will have to submit a revised plan for approval.

If there are any questions, contact (Reserve Bank staff member).

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 22, 1993.

OCC OUTLINES RELIEF ON MIDWEST FLOODS

The Office of the Comptroller of the Currency (OCC) announced today various initiatives undertaken to assist national banks and their customers affected by the floods in the Midwest.

The OCC's field office directors and duty station managers throughout the Midwest are working with national banks in the flood areas to explain and to provide the various forms of regulatory relief available to them. These national banks have been told that, for branches destroyed or severely damaged, they may establish temporary facilities without additional approval or authorization.

The OCC has also notified affected national banks that other requirements will also be waived, including those related to call report filings, leverage capital and real estate appraisal requirements, and consumer regulations in ways that aid flood victims.

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[1] Pub. L. 102—485, 106 Stat. 2771 (1992).

[2] Such areas are those for which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Act, has determined that a major disaster exists.

[3] The Federal Deposit Insurance Act (FDIA): 12 U.S.C. 1811, Section 38.

[4] Under Section 38 of FDIA, an institution is critically undercapitalized if its ratio of tangible equity to total assets is 2 percent or less. Tangible equity is defined as core capital elements plus the outstanding cumulative perpetual preferred stock, net of all intangible assets except limited amounts of purchase mortgage servicing rights.

In addition to these efforts already taken by the OCC in the affected states, the OCC also issued today a banking circular to encourage institutions to work constructively with borrowers experiencing difficulties due to the floods. The OCC encourages national banks to make efforts to assess the credit needs of businesses and communities affected by the floods.

To help rebuild businesses, farms and assist affected communities, the OCC's guidance points out that:

National banks may work with borrowers by extending terms of repayments or restructuring borrowers' debt obligations;

National banks may seek to ease credit-extension terms for new loans with certain borrowers, consistent with prudent banking practices;

The OCC will take into account the unusual circumstances in dealing with any increases in levels of delinquent and nonperforming loans caused by the floods;

The OCC will issue, under provisions of the Depository Institutions Disaster Relief Act of 1922 (DIDRA), an order to waive real estate appraisal regulations for real estate affected by the flooding;

The OCC will grant temporary relief to eligible financial institutions from the leverage capital requirements when assets increase due to the influx of insurance proceeds or government assistance.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 21, 1993.

WORKING WITH BORROWERS AFFECTED BY RECENT FLOODING IN THE MIDWEST

To the Chief Executive Officers of National Banks and All Examining Personnel:

This issuance is intended to encourage bankers to work with borrowers in communities affected by recent flooding in the Midwest. The OCC recognizes that the effects of such natural disasters on local businesses and individuals are often transitory, and the prudent efforts to adjust or alter terms on existing loans in areas affected by the flooding should not be subject to examiner criticism. The OCC has provided guidance on this and related matters to its district offices in the areas affected.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. The OCC recognizes that efforts by banks to work with borrowers in communities under stress, if conducted in a reasonable way, are consistent with safe and sound banking practices as well as in the public interest.

This may include working with borrowers to extend the terms of repayment or otherwise restructuring the borrower's debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen the financial institution's ability to collect on its loans. Financial institutions may also ease credit-extension terms for new loans to certain borrowers, consistent with prudent banking practices. This will help such borrowers recover their financial strength and place them in a better position to service their debts.

The Depository Disaster Relief Act of 1992 (DIDRA) provided the OCC and the other federal financial regulatory agencies with the authority to grant certain regulatory relief to financial institutions affected by major disasters. As provided in section 2 of DIDRA, the OCC is issuing a waiver of their real estate appraisal regulations for real estate related transactions affected by the flooding. A separate notice will be issued, detailing the specific counties included.

Under section 4 of DIDRA, financial institutions may seek, until April 22, 1994, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds. Financial institutions seeking such relief should contact their district office to determine eligibility.

With proper risk controls and management oversight, these steps can contribute both to the health of the local community, as well as serve the long-run interests of the lending institution. And, consistent with long-standing OCC practice, such efforts by lenders will not be subject to examiner criticism, if carried out in a prudent manner.

The OCC further recognizes that the flooding may affect compliance with reporting and publishing requirements under various laws and regulations. Institutions that have flood-related difficulties complying with any reporting requirements should contact the office that supervises their bank or the district office.

In the consumer loan area, Regulation Z provides the consumer with the option to waive or modify the three-day rescission period when a "bona fide personal financial emergency" exists. To exercise this option, the consumer must provide the lender with a statement describing the emergency in accordance with the regulation.

Additional information may be obtained from OCC headquarters in Washington. For questions on consumer matters, contact Compliance Management at (202) 874-4428.

For specific questions regarding corporate matters (branching, temporary operations, etc.) contact Bank Organization and Structure at (202) 874-5060.

Responsible office: For general guidance on applying this statement, contact the Office of the Chief National Bank Examiner in Washington, (202) 874-5170.

JERI GILLAND,
Acting Chief National Bank Examiner.

OTS GIVES S&LS GUIDELINES TO HELP FLOOD REBUILDING

WASHINGTON, D.C., July 14, 1993—Savings and loans in states hit by flooding have been told by their federal regulator to reach out to their communities and work with borrowers to finance rebuilding. The Office of Thrift Supervision (OTS) issued the guidelines today from its Chicago and Dallas regional offices.

"OTS will do its part to cut through red tape and adjust our supervision to help thrift institutions recover so they, in turn, can make a meaningful contribution to the general recovery effort," said John Downey, OTS deputy director for regional operations.

The guidelines said OTS will grant temporary waivers of some rules to help savings institutions cope with the disaster. For example, OTS will encourage lending to rebuild small businesses by granting temporary waivers to the rule that requires thrifts to keep 65 percent of their assets in housing loans. Institutions that find themselves with a sudden increase of deposits of insurance payments or government assistance can apply for temporary waivers of the leverage ratio capital requirement.

The directives, issued by Ronald N. Karr, Chicago regional director, and Frederick R. Casteel, Dallas regional director, urge thrifts to work with borrowers to restructure or to increase their loans if needed to finance reconstruction or repair. Thrifts are also urged to consider temporarily waiving charges for late payments for flood victims, and to seek out various government programs that may help in cases in which credit risk of potential borrowers is too great.

The directives were sent to savings institutions in Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, South Dakota and Nebraska. Copies of the directives are available from the OTS press office: 202/906-6693.

OFFICE OF THRIFT SUPERVISION,
Dallas/Fort Worth, TX, July 14, 1993.

To the Chief Executive Officer:

The recent storms and floods have devastated portions of the Midwest and interrupted vital services to thousands of residents. Concerted efforts are needed to rebuild lost or damaged homes and businesses. Therefore, I strongly encourage all thrifts operating in the affected areas to:

Reach out to your communities and assess their credit needs. Meet with local governmental and community organizations to find out what is required. Make sound loans to rebuild what has been damaged or lost.

Where credit risks are determined to be too great, work actively with state and federal agencies, as well as other financial institutions, to find ways to mitigate those risks.

Work with borrowers to restructure or to increase their loans if needed to finance reconstruction or repair.

Consider temporarily waiving charges for late payments.

Take advantage of both the Community Investment Program (CIP) and Affordable Housing Program (AHP) offered by the applicable Federal Home Loan Bank. Direct your inquiries regarding these programs to the Bank's Community Investment Officer.

Identify RTC/FDIC properties in the area which could be utilized by local or federal agencies to facilitate relief efforts.

OTS intends to facilitate the rebuilding efforts to the greatest possible extent within the parameters of safety and soundness. For example:

Small businesses in certain parts of the Midwest have suffered considerable damage, and many of these businesses are vital to the health and well being of their communities. To help rebuild these businesses, OTS will consider temporarily waiving the Qualified Thrift Lender requirements for those institutions who continue to meet their capital requirements. Institutions are cautioned to operate within their established lines of business and areas of expertise. To request a waiver, an institution should outline a proposal and submit it to this office.

OTS staff will assist institutions whenever possible by acting as a liaison with other governmental agencies in an effort to cut through red tape and speed up the rebuilding process.

OTS is considering waiving the appraisal requirement for properties located in an area designated eligible for federal assistance.

Through the implementation of Section 4 (Deposit of Insurance Proceeds) of the Depository Institutions Disaster Relief Act of 1992 (the "DIDRA") , the OTS may grant relief from leverage ratio capital standards under prompt corrective action if an institution experiences a temporary increase it its total asset position because of the deposit of insurance proceeds or government assistance funds paid to depositors in connection with damage or loss caused by a major disaster. Thrifts that are headquartered in a major

disaster area and that derive more than 60 percent of total deposits from the area of intense devastation, should contact the OTS's Regional office if it is believed that an exception from the leverage ratio capital standards will be necessary. Such regulatory relief may be allowed for an 18-month period from the enactment of DIDRA.

As a result of the flooding, certain institutions may experience difficulty in meeting the filing deadlines for the June 30, 1993 Thrift Financial Report ("TFR"). If it is anticipated that your institution will be unable to file its TFR on a timely basis, please contact Mike Edgar at 214/281-2050 to arrange for a filing extension.

Positive efforts undertaken to assist in rebuilding communities and providing replacement housing will be favorably considered during an OTS evaluation of an institution's performance under the CRA. Success can only be achieved by individuals, community organizations, and financial institutions working together through the difficult process of recovery. I encourage you to contact Regional Deputy Director Harlan Halsne at 913/339-5005 in our Kansas City office or me at 214/281-2200 if you believe that OTS can be of assistance or if you have ideas that could help with the rebuilding process.

Sincerely,

FREDERICK R. CASTEEL,
Regional Director.

OFFICE OF THRIFT SUPERVISION,
Chicago, IL, July 13, 1993.

To the Chief Executive Officer:

The recent flooding in the Midwestern states, which is devastating areas along the Mississippi River and its tributaries, is a tragedy for the affected communities and thousands of innocent victims. Scores of people have been left homeless and unemployed.

As this natural disaster continues to unfold, concerted efforts will be needed to rebuild lost or damaged homes and businesses. Therefore, I strongly encourage all thrifts operating in the affected areas to:

Reach out to your communities and assess their credit needs. Meet with local governmental and community organizations to find out what is required. Make sound loans to rebuild what has been damaged or lost.

Where credit risks are determined to be too great, work actively with state and federal agencies, as well as other financial institutions, to find ways to mitigate those risks.

Work with borrowers to restructure or to increase their loans if needed to finance reconstruction or repair.

Consider temporarily waiving charges for late payments.

Take advantage of both the Community Investment Program (CIP) and Affordable Housing Program (AHP) offered by the Federal Home Loan Bank of Chicago. Direct your inquires regarding these programs to the Bank's Community Investment Officer.

Identify RTC/FDIC properties in the area which could be utilized by local or federal agencies to faciliate relief efforts.

OTS intends to facilitate the rebuilding efforts to the greatest possible extent within the parameters of safety and soundness. For example:

Small businesses in certain parts of Illinois and Wisconsin have suffered considerable damage, and many of these businesses are vital to the health and well being of their communities. However, the Qualified Thrift Lender ("QTL") test may hinder an institution's ability to loan to these affected businesses. To help rebuild these businesses, QTS will consider temporarily waiving the QTL requirements for those institutions who continue to meet their capital requirements. Institutions are cautioned to operate within their established lines of business and areas of expertise. To request a waiver, an institution should outline a proposal and submit it to this office.

Through the implementation of Section 4 (Deposit of Insurance Proceeds) of the Depository Institutions Disaster Relief Act of 1992 (the "DIDRA"), the OTS may grant relief from leverage ratio capital standards under prompt corrective action if an institution experiences a temporary increase in its total asset position because of the deposit of insurance proceeds or government assistance funds paid to depositors in connection with damage or loss caused by a major disaster. Thrifts that are headquartered in a major disaster area and that derive more than 60 percent of total deposits from the area of intense devastation should contact the OTS's Central Regional Office if it is believed that an exception from the leverage ratio capital standards will be necessary. Such regulatory relief may be allowed for an 18-month period from the enactment of DIDRA.

As a result of the flooding, certain institutions may experience difficulty in meeting the filing deadlines for the June 30, 1993 Thrift Financial Report ("TFR"). If it is anticipated that your institution will be unable to file its TFR on a timely basis, please contact Mike Edgar, Manager Financial Reporting Division, at 214-281-2050 to arrange for a filing extension.

OTS staff will assist institutions whenever possible by acting as a liaison with other governmental agencies in an effort to cut through red tape and speed up the rebuilding process.

Positive efforts undertaken to assist in rebuilding communities and providing replacement housing will be favorably considered during an OTS evaluation of an institution's performances under the CRA. Success can only be achieved by individuals, community organizations, and financial institutions working together through the difficult process of recovery. I encourage you to contact me at 312-540-5905 or Chester Biedron at 312-540-5974 if you believe that OTS can be of assistance or if you have ideas that could help with the rebuilding process.

Sincerely,

RONALD N. KARR,
Regional Director.

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

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

Mr. Speaker, I want to thank the distinguished chairman for his comments, and also most specifically for his timely consideration of this legislation. And in so doing, I would also like to thank Members from outside the areas affected by these floods for their sympathetic support to a whole range of flood assistance on this legislation, and I also want to recognize the gentleman from Minnesota [Mr. GRAMS] for initiating the real legislation which helped precipitate the bill before us today, and the gentleman from Iowa [Mr. NUSSLE] for his work in this particular area. They are to be congratulated for their commitment and thoughtfulness in this flood endeavor.

My Speaker, I rise today in support of H.R. 2802, the Depository Institutions Disaster Relief Act of 1993. This bill gives regulators the authority to waive temporarily certain regulations so that banks will be better able to meet the disaster needs of their communities in the wake of the 1-in-500-year flood.

I am grateful to all of those who have worked so hard to bring this bill to the floor today. In particular, Representative ROD GRAMS and Chairman GONZALEZ have been prompt and diligent in constructing legislation which will allow banks and thrifts to address the unique economic challenges caused by this flood and to facilitate the cleanup. Without their leadership, we would not be here today.

Americans can be proud of the way our country has pulled together to respond to this devastating flood. Volunteer groups, the Red Cross, State and local governments, the U.S. Military, FEMA, and the administration, should all be commended for their efforts. President Clinton and Secretary Espy have worked tirelessly to bring relief to the flood victims. The House has also responded by passing the emergency flood bill. However, we have the chance today to offer further assistance not by appropriating more money, but simply by granting bank regulatory agencies with the flexibility they need to work with financial institutions to ensure the adequate flow of credit to these floodswept communities.

H.R. 2808, which is patterned after legislation enacted last year to respond to Hurricane Andrew and Hurricane Iniki, allows banking regulators to waive temporarily certain provisions of the Truth in Lending Act and the Expedited Funds Availability Act. For example, the Expedited Funds Act requires banks to honor checks within a certain number of days. In some flood areas, power outages and computer damage have made it difficult for financial institutions to process checks and post deposits in a timely manner. The Federal Reserve could grant such exceptions only if the exemption could reasonably be expected to facilitate recovery in the disaster area and if the benefits were expected to outweigh any possible adverse effects.

H.R. 2808 also permits regulators to take into consideration extraordinary asset growth at a depository institution as a result of the inflow of Government assistance checks and insurance payments. In modifying the way the leverage ratio is calculated, regulators could free up crucial capital so that financial institutions could better assist disaster victims. Furthermore, the bill allows regulators to waive certain publication and notification requirements if such actions would facilitate recovery. Finally, H.R. 2808 requires the GAO to study how regulators have utilized the provisions of this act and provisions of last year's Hurricane Bill to determine their effectiveness in providing relief to people and communities in disaster areas and to determine if any of these provisions should be made permanent.

Financial institutions play an important role in their communities when a disaster strikes. H.R. 2808 gives bank regulators the flexibility to allow these institutions to better provide credit and assistance to disaster victims in their time of greatest need. I urge my colleagues to suspend the rules and pass this legislation to assist flood victims and communities to begin the process of recovery.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, I thank the gentleman very much for yielding the time.

Mr. Speaker, first, I want to thank Chairman GONZALEZ for his leadership in acting quickly to bring this important legislation to the floor.

Just 2 weeks ago, I along with Mr. BEREUTER, Mr. LEACH, Mr. SMITH, and a bipartisan group of other Members introduced legislation similar to this bill.

And just last Thursday, the chairman was concerned enough to join us in a colloquy in which he committed to acting promptly on this matter. And, now, here it is Monday, and we've got a good bill here on the floor. Again. I want to thank the chairman for leadership in bringing this to the floor so quickly.

Mr. Speaker, in passing this bill, we are only doing what makes sense for lenders, borrowers, and the American taxpayer.

Two weeks, ago, I met with a group of Minnesota lenders who raised concerns about the effects Federal banking regulations might have on victims of the disastrous Midwest flooding.

They pointed out that Federal banking regulations have become so onerous that in many cases, lenders will have their hands tied and be unable to restructure or make new credit available to farmers, small businesses, and families who have suffered financially from the recent flooding.

That would be a real tragedy, because in many cases, local lenders who may have worked with particular farmers, small businesses or families for two or three generations, would not have the discretion to help people who would be good, safe customers if it weren't for the flooding.

Shutting good people down would be an injustice to those people, the lenders, and even for taxpayers who would have to pay the bill for the costs associated with unemployment and lost jobs.

It would also ignore the fact that in most communities in America, local lenders know more and care more about what happens to the people in their local communities than any regulator or bureaucrat sitting in Washington. The local lenders see borrowers as people, not just figures on a piece of paper.

Mr. Speaker, just 1 year ago this House passed similar legislation on behalf of the victims of Hurricane Andrew.

Today, I hope we will give the same consideration to the Midwest flood victims. And by this time next year, I hope we will give the same flexibility to lenders across the country, many of whom have customers facing economic crisis of their own.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, first I would like to thank the chairman of the committee for his diligence and speed in bringing this matter to the floor today, as well as the gentleman from Iowa [Mr. LEACH] for his leadership in participating in a bipartisan effort, as well as the gentleman from Minnesota [Mr. GRAMS] who as a freshman I think has definitely shown that you can be effective by introducing legislation and getting it worked to the floor very quickly with help from a bipartisan coalition, including the chairman of a very powerful committee.

I would like to say that I am an original cosponsor, because I have no question in my mind that this disaster needs to have the full consideration and concern that we have had in the past for other disasters. I think we have established a precedent from Hurricane Andrew last year. We took similar action with regard to bank regulations. And there is no question that similar concerns arise here for small business people, for farmers and for families. There is the need for credit, the need for deposits in a very expedited and expeditious form, and we need speed and efficiency within our process.

But we also recognize that many times regulators spell relief p-a-p-e-r-w-o-r-k, paperwork, and what we wanted to do was try and reduce some of that paperwork, try and reduce some of the overhead, and try and get deposits and credit out to the people that need it.

This bill maintains the safety and soundness of our bank regulatory system, but it changes three very important rules and regulations in the Truth in Lending Act, in the Expedited Funds Availability Act, and in changes in the Federal Deposit Insurance Act that will allow people to get their deposits much quicker.

Consideration for future regulatory changes I think also are necessary, and I think we may be able to take a lesson from this particular flood in the future by maybe making changes for when disasters do crop up. Hopefully the new task force on disasters will take that matter up, as well as changes in bank regulatory reform for the future.

In the GAO report that is part of this legislation we will look into some of the changes that we made today and their impact both in Hurricane Andrew and from the great flood of 1993 which will be helpful to make sure that those changes are effective for the future.

Mr. LEACH. Mr. Speaker, this bill is of modest provisions, but the circumstances it touches are not of immodest proportions. The flood is truly awesome in its consequences. There has been and will be Government assistance, but most of the assistance that will be coming to people will be from their neighbors and from neighborhood institutions.

As a midwesterner, I would just like to stress how impressed I am with the work of citizens at the local level and of the effectiveness of that work. I wish sometimes when we look at our own body that perhaps as we see people working together so cooperatively in a major emergency that we would take inspiration. Maybe this institution of our own could work in the same kind of spirit.

I am also impressed with what neighborhood financial institutions are doing in the areas affected. Many have led by reserving flood loan accounts for their communities.

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What this bill does is simply ensure that there will be no regulatory roadblocks to local lending.

Let me conclude by noting, in the larger picture, that emergencies of this nature underscore the import of strong financial institutions. They underscore the import to the communities they serve of a strong banking system, one where financial institutions are able to weather instances of bad weather.

One of the things the Midwest can count as true blessing at this time is that we have financial institutions strong enough to help their communities when their communities are put on their back or, as in this case, are deluged with water. What this bill represents is a commitment of the U.S. Government to work credibly, realistically, and flexibly with neighborhood financial institutions. It also underscores the fact that in the Midwest, for all the bad news about finance that has affected much of world lending, we do have credible institutions that are solid and solvent. We have institutions able to take care of people in their community when emergencies of this nature arise.

Let me end by thanking again the distinguished chairman of this committee that I am honored to serve with and repeat, as I have on so many occasions, my high regard for his personal commitment to advance the public interest, particularly when instances of individual inequity and hardship arise.

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

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BARLOW], who represents an affected area.

Mr. BARLOW. Mr. Speaker, I thank the gentleman very much for yielding me this time.

I appreciate very much what the committee has done here in the bipartisan spirit of the Members on the other side who have come together here in a spirit of unity for people who are in trouble, as people are losing their homes, as people are losing their crops, their very livelihoods all through the north-central portion and

the Mississippi Valley of our Nation. You all have come together in the most stirring and rapid, and in the best traditions of American movement, political movement, reaching out rapidly to help people.

I want to extend to you my heartiest congratulations and my deepest appreciation for the people in western Kentucky who appreciate this, and we hope to have more of the work that you have presented us coming forward in the months ahead.

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

Mr. Speaker, I thank the gentleman.

May I say in response that I think I speak for everybody, not only in the Congress but throughout the country, that we share the urgency and the terrible sadness of this very disruptive, unprecedented, and I think, as some folks call it, a 500-year flood, and will continue to sustain our efforts.

Mr. BARLOW. Mr. Speaker, I thank the gentleman very much.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 2808, the Depository Institutions Disaster Relief Act of 1993.

This measure provides regulatory relief for financial institutions doing business in any of the Presidentially declared disaster areas affected by flooding, wind damage, or other disasters that have plagued much of the Midwest in recent weeks.

While H.R. 2808 does not go as far in providing regulatory relief as H.R. 2661, the measure introduced by the distinguished gentleman from Minnesota [Mr. GRAMS] and myself, it does provide the same waivers for financial institutions as were provided in last year's Hurricane Depository Disaster Relief Act. Further, the measure provides for a GAO study to determine the effectiveness of disaster related waivers, to determine if the provisions of this act should be made permanent.

This Member commends the distinguished chairman of the Banking Committee [Mr. GONZALEZ] and the ranking minority member of the Banking Committee [Mr. LEACH] for their attention to this disaster and their action in bringing this measure to the House floor.

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

The SPEAKER pro tempore (Mr. MORAN). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill H.R. 2808.

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

A motion to reconsider was laid on the table.

COMMUNITY INVESTMENT DEMONSTRATION ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 2668) to establish a demonstration program to provide affordable rental housing for low-income families, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2668

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 "Community Investment Demonstration Act of 1993".

SEC. 2. SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION PROGRAM.

(a) AUTHORITY.—Using amounts available pursuant to section 5(c)(7)(B)(ii) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a demonstration program to provide project-based rental assistance under section 8 of such Act on behalf of low-income families residing in housing that is constructed, rehabilitated, or acquired pursuant to a loan or other financing from an eligible pension fund. Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(d)), nothing in this section shall be construed to authorize any action or failure to act that would otherwise constitute a violation of such Act with respect to an eligible pension fund.

(b) CONTRACT TERMS.—Assistance provided under the demonstration under this section with respect to eligible housing—

(1) shall be project-based assistance that is attached to the eligible housing; and

(2) shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

(A) provides such assistance for a term of not less than 60 months and not more than 180 months; and

(B) provides that the contract rents for dwelling units in the eligible housing shall be determined by the Secretary taking into consideration any costs for construction, rehabilitation, or acquisition of the housing, except that such contract rent may not exceed the contract rent permitted pursuant to section 8 of the United States Housing Act of 1937.

(c) ELIGIBLE HOUSING.—The Secretary may enter into a commitment to provide assistance pursuant to this section with respect to a housing project only if—

(1) the housing is—

(A) a multifamily housing project owned by the Secretary or subject to a mortgage held by the Secretary that is delinquent, under a workout agreement, or being foreclosed upon by the Secretary;

(B) designed by the Secretary under section 24(b) of the United States Housing Act of 1937 as a severely distressed public housing project;

(C) a multifamily housing project eligible for assistance for troubled projects under section 201 of the Housing and Community Development Amendments of 1978;

(D) a multifamily housing project located in a empowerment zone or enterprise community designated pursuant to Federal law; or

(E) any other multifamily housing project, including a project to be occupied by homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families;

(2) the Secretary determines that the owner of the housing has obtained commitments, satisfactory in the determination of the Secretary, for financing for the construction, acquisition, or rehabilitation of the housing from an eligible pension fund;

(3) the mortgage for the housing meets standards regarding securitization and such additional standards regarding financing as the Secretary may establish;

(4) in the case of any housing that is to be constructed, the Secretary determines that the owner of the housing has provided reasonable assurances to the Secretary that the owner will own or have control of a site for the housing (which may be a suitable site different from the site specified in the application under subsection (d)) not later than 12 months after notification of the award of assistance under this section;

(5) the housing and any work done with respect to the housing will comply with any applicable environmental laws or regulations;

(6) the construction, rehabilitation, or acquisition of the housing is not inconsistent with the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction in which the housing is located; and

(7) the housing complies with any other requirements established by the Secretary to carry out the demonstration under this section.

(d) APPLICATIONS.—The Secretary shall provide for the owners of eligible housing, together with the eligible pension funds providing financing for the housing, to jointly submit applications for assistance under this section. An application shall include a description of the housing to be constructed, rehabilitated, or acquired, the location of the housing (or the site for the construction of the housing), the terms of the financing by the eligible pension fund, a request for a specific amount of assistance under this section for a specific term, and such other information as the Secretary may require.

(e) SELECTION AND DETERMINATION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall select eligible housing for assistance under this section from among applications submitted pursuant to subsection (d) and, subject to the provisions of this section, shall determine the amount of assistance to be provided for selected housing that is appropriate to maintain the affordability and feasibility of the housing.

(2) LIMITATION.—Of any amounts made available for the demonstration under this section pursuant to the amendment made by subsection (l) of this section, during the 6-month period beginning on the date that such amounts first are made available by the Secretary for assistance under this section, the Secretary may not provide (or make any commitment to provide) more than 50 percent of such amounts for assistance for eligible housing financed by any single eligible pension fund.

(f) RELATION TO PHA PROJECT-BASED LIMIT.—Project-based assistance provided under this section shall not be considered for purposes of any percentage limitation under section 8(d)(2)(A) or (B) of the United States Housing Act of 1937 regarding the amount of assistance under such section that may be attached to the structure.

(g) USE IN PROPERTY DISPOSITION PROGRAM.—

(1) AUTHORITY.—Notwithstanding any provision of section 203 of the Housing and Community Development Amendments of 1978, assistance provided in connection with the disposition as a multifamily housing project under such section 203 may have a contract term of less than 15 years if such assistance is provided (A) under a contract under the

demonstration under this section, and (B) pursuant to a disposition plan under such section 203 for the project that is approved under such section by the Secretary as otherwise in compliance with the requirements of such section.

(2) ALLOCATION.—Of the amounts made available in each fiscal year for assistance under the demonstration under this section, a significant amount may be used in connection with the disposition under section 203 of the Housing and Community Development Amendments of 1978 of eligible housing.

(h) REPORTS.—

(1) GAO.—The Comptroller General of the United States shall submit to the Congress reports under this paragraph evaluating the effectiveness of the demonstration under this section. Such reports shall be submitted not later than the expiration of the 2-year period beginning on the date of the enactment of this section and not later than the expiration of the 6-month period beginning upon the termination date under subsection (k).

(2) SECRETARY.—The Secretary shall submit an annual report to the Congress for each fiscal year in which the Secretary provides assistance pursuant to contracts entered into under this section. The reports shall summarize the activities carried out under this section, describe the housing assisted and the amounts of assistance provided, and include any findings and recommendations of the Secretary as a result of the demonstration under this section. Each such report shall be submitted not later than the expiration of the 3-month period beginning upon the conclusion of the fiscal year for which the report is made.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "eligible housing" means housing for which the requirements under subsection (c) have been met.

(2) The term "eligible pension fund" means any—

(A) trust, fund, plan, or other program established or maintained by any employer or other person for the purpose of providing income or benefits to employees after the termination of employment or deferring income by employees until after the termination of employment, or

(B) other entity that invests principally the amounts of any trust, fund, plan, or other program referred to in subparagraph (A),

that the Secretary considers appropriate for purposes of this section.

(j) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than the expiration of the 45-day period beginning on the date of the enactment of this section.

(k) TERMINATION DATE.—The Secretary may not enter into any new commitment to provide assistance under this section after September 30, 1998.

(l) FUNDING.—Section 5(c)7)(B)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)(B)(ii)) is amended by inserting after "8(1)(2);" the following: "and of which not more than $100,000,000 shall be available for the community investment demonstration program under section 5 of the Homeless and Community Development Amendments Act of 1993;".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

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

Mr. Speaker, I introduced H.R. 2668, together with Congresswoman MARGE ROUKEMA, on July 20, 1993. This is bipartisan legislation designed to encourage investment by pension funds in the construction, rehabilitation, and acquisition of critically needed housing for low-income families.

H.R. 2668 was developed in close cooperation between the Committee on Banking, Finance and Urban Affairs, and the Department of Housing and Urban Development. Secretary Cisneros and other public witnesses recommended and supported this legislation at a subcommittee hearing held on June 16, 1993.

H.R. 2668 would set aside $100 million from incremental section 8 rental certificates in fiscal year 1994 to permit HUD to carry out a Community Investment Demonstration Program on behalf of low-income families residing in housing that is constructed, rehabilitated, or acquired through investments from pension funds.

Pension funds could invest in housing that is: First, a multifamily housing project owned by HUD, or subject to a HUD mortgage that is delinquent, under a workout agreement or under foreclosure; second, designated a severely distressed public housing project; third, a multifamily housing project eligible for assistance for troubled projects; fourth, a multifamily housing project located in an empowerment zone or enterprise community; fifth, any other multifamily housing project, including those occupied by homeless persons or families.

Pension funds estimate that this program will generate from $350 to $550 million in new housing investment. In short, for every $1 the Federal Government sets aside for this program, pension funds will invest at least $3 to $5. The program will provide about 3,000 section 8 rental certificates to be used as project-based assistance by low-income renters in housing constructed or rehabilitated through pension fund investments.

Since these section 8 certificates will leverage investment, the program will act as a catalyst to produce more housing opportunities and demonstrate that such housing is a good investment for pension funds.

In order to ensure that this demonstration program is open to all pension funds, H.R. 2668 has been amended to provide that, no single pension fund could receive more than 50 percent of the assistance authorized; however, if after 6 months funds have not been allocated under this program, this limitation is removed.

Since H.R. 2668 involves pension funds investments, I consulted with the House Education and Labor Committee to ensure that the bill is consistent with existing law governing pension investments. In keeping with the recommendation of the Education and Labor Committee, H.R. 2668 specifically provides that nothing in the demonstration program is to be construed to authorize any action or failure to act, by a pension fund, that would constitute a violation of the Employee Retirement Income Security Act of 1974 [ERISA]. This provision was added to the bill in order to ensure that pension plans who participate in the demonstration program maintain their fiduciary responsibilities under ERISA.

I would also like to introduce into the RECORD at this time a letter supporting H.R. 2668 from the chairman of the Education and Labor Committee, BILL FORD, and the chairman of the Subcommittee on Labor-Management Relations, PAT WILLIAMS.

The critical state of this Nation's low-income housing and community development needs requires us to find new and innovative ways of addressing this situation. While the Federal Government maintains a principal role and responsibility in this area, we must also facilitate private investment in the revitalization of our Nation's cities and other areas in need.

The legislation we are considering today—providing a minimal amount of HUD assistance to leverage investment by pension funds for the acquisition, construction, and rehabilitation of low-income housing—is a small but important beginning to this process.

I therefore urge the adoption of this legislation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, July 30, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Financing and Urban Affairs, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We are pleased to join in supporting H.R. 2668, the Community Investment Demonstration Act of 1993. We applaud your efforts to establish this demonstration project and wholeheartedly support its social objectives.

We also appreciate your assistance and that of your staff as we negotiated the necessary amendment that would make it clear that participation by a pension fund in these types of investments had to be fully consistent with the fiduciary responsibilities governing all investments under the Employee Retirement Income Security Act of 1974 (ERISA). With the inclusion of the specific ERISA amendment in H.R. 2668, over which we had jurisdiction, the Committee on Education and Labor believes that any concern over either the security of workers' pensions or the soundness of the Pension Benefit Guaranty Corporation has been resolved. While the Committee insists on its jurisdiction over this section of H.R. 2668, we do not intend to exercise this claim in order to facilitate its immediate consideration.

Your acknowledgement of this jurisdictional claim by inclusion of this letter in your Committee report to accompany H.R. 2668 would be appreciated.

With kind regards,
Sincerely,

WILLIAM D. FORD,
Chairman, Committee on Education and Labor.

PAT WILLIAMS,
Chairman, Subcommittee on Labor-Management Relations.

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

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

Mr. Speaker, I rise in support of H.R. 2668, the Community Investment Demonstration Act of 1993.

This demonstration initiative would authorize HUD to provide section 8 assistance to housing projects where a pension fund would enter into a partnership with a nonprofit, municipality, or other entities to provide investment funds for the construction, acquisition, or rehabilitation of housing for low- and moderate-income families.

This measure had been a part of an earlier suspension bill passed by the House addressing several housing initiatives. However, the provision was withdrawn at the time because of several questions which arose about the proposal.

The most important of these questions involved the overall role of pension funds in performing social purposes and the safety of these types of investments for the funds.

Because these issues were pension related and not directly germane to the Housing Subcommittee or the underlying request for authorization, I felt a hearing by the Labor-Management Subcommittee may have been appropriate so that these questions could be discussed.

As the ranking member of the Labor-Management Subcommittee, the most important concern with this program was the efficacy of these types of investments by pension funds and the need to ensure, through statutory language, that nothing in this demonstration violated the rules and regulations of the ERISA laws which govern pension funds.

Short of a hearing, I asked the majority and minority staff to analyze the legislation and provide me any of their concerns for the safety and soundness of pension funds and whether or not ERISA laws could be circumvented by this legislation.

The Labor-Management staff and Members agreed that the program was conceptually sound because pension funds are already investing in housing projects in the private sector, but they recommended adding additional statutory language which would make it clear that ERISA laws could not be violated or circumvented in carrying out this program.

They also recommended, and I concur, that pension fund investments, in this demonstration, be limited to the purchase of securities supporting the project or that fund investments be securitized. That clarifying language was added to the bill before the House as introduced by Chairman GONZALEZ and myself.

Our Housing Committee's principal concern in this matter is whether the use of pension funds to help meet the affordable housing needs of our citizens is practical and whether we should authorize HUD to consider participating in such a program.

Our other critical concern is that we not authorize any program which could

I believe the use of pension funds for housing investment may be a legitimate use of private funds leveraged by Federal housing assistance. This legislation is also constructed in such a way that I believe will not jeopardize the future of any pension fund.

Based on this, I advised Chairman GONZALEZ that since my principal concerns about the safety of the pension funds and the role of ERISA laws had been satisfactorily answered, I had no problem with this legislation.

Now, with respect to any issues beyond the safety of the pension funds, I do not believe these are significant or necessarily relevant to the Housing Subcommittee's decision to authorize this demonstration.

This initiative is a demonstration program designed to test the feasibility of using limited Federal rental assistance to leverage millions of dollars in private sector funds for housing.

This legislation does not mandate that any pension fund managers participate in this demonstration. A pension fund manager could not be directed to make investments in projects that would violate his fiduciary responsibilities.

The language in the bill, as recommended by the Labor-Management staff and Members, reiterates that point.

Members should keep in mind that this demonstration is designed to establish whether a nonprofit, or other entities, a pension fund, other investors, HUD, and the secondary market can put together a plan to provide affordable housing utilizing pension investments in a safe and sound manner. The success of any such partnership will depend on the total assessment of an application.

No funds under this demonstration go directly to any pension fund. The section 8 assistance provided by HUD is provided to the project itself through the project sponsor, usually a nonprofit. However, the provision of this assistance represents the steady stream of income which could make such a project attractive to a pension fund and the secondary market.

Mr. Speaker, I believe for these reasons, this initiative should be supported.

□ 1520

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, it is being said that this is just a demonstration project. Well, this demonstrates a truly bad idea. Here is a bill that is a true example of the social welfare state run amok.

If you a take a look at this particular idea, understand what we are doing is we are beginning the process of diverting pension fund money into public sector activities.

I think it needs to be understood that the last great investment pool left in the country is pension funds. Pension funds is where private business and entrepreneurs get the money they need for expanding their business. When companies want to find money to do large, new projects, it is into the pension funds that they are going to find the money that they need.

Now, what we have decided to do, evidently, under this bill is to begin to divert that money away from the private sector and into the public sector and make the pension funds into one new place where we can get all kinds of money for social welfare programs.

I think we ought to understand who it is that is at jeopardy here. The main pension fund that is going to be used for this money is the AFL–CIO pension fund. They are the only ones who have expressed any interest in this whatsoever.

I wonder how many union members out there in the country are going to feel good about their pension fund going into public housing rather than into going into investments to make their company more efficient, to make their company more productive.

I wonder how many of them are going to think that maybe keeping their own job and having their company do a little bit better job as a result of those investments would be a better idea than putting their pension money into public housing.

I wonder how many pensioners out there, AFL–CIO union pensioners, are also a little bit concerned about the fact that this is putting their money at risk, that money that they are counting on for their retirement or are already receiving in retirement is now going to be put at jeopardy in public housing projects.

This is not a protection of the assets of those folks. In fact, the main protection here sounds suspiciously like the S&L protection that we got a few years ago.

And so I think this is one truly bad idea, to take pension funds, divert them out of the private sector into public sector and end up jeopardizing the pension funds of union members and to jeopardize the retirement incomes of millions of pensioners across the country, seems to me to be something we ought to be demonstrating. As a matter of fact, this Congress ought to turn this down flat and say

this is one demonstration we ought not do.

Mr. GONZALEZ. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. WALKER] in order to correct some misstatements. I do not believe the misstatements were made intentionally.

Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Let me say that the gentleman is entitled to his philosophical beliefs, naturally, like we all are. But when he states that only the AFL-CIO is interested, he misspeaks. And the reason is that we had hearings on this proposal, which was proposed by the Secretary of HUD, and during the course of the hearings and after the hearings we had four different organizations representing pension fund trustees who wanted to have more information and wanted to know if they desired to participate, could they?

□ 1530

So of course, under our bill, they can.

The witness we had at the hearing was the AFL-CIO pension fund committee trustee, or whatever, but that did not mean that this was construed with the specific or singular idea that the AFL-CIO pension fund would participate.

Second, this idea goes back to the 1980's and Secretary Sam Pierce's first intention announced to us to try to tap this reservoir that the gentleman very accurately reflects to be a substantial reservoir of capital. Secretary Pierce advanced a proposition that he never fleshed out, because he got immersed in other problems; but it was exactly along these general lines that he was thinking; that is, to divert capital from the pension fund resources for housing.

Mr. WALKER. Well, Mr. Speaker, if the gentleman will allow me to reclaim my time, let me say to the gentleman that I have here a statement from an actuary of the Committee on Education and Labor where I got my information.

He said:

> Although any eligible pension fund is eligible for participation under the Demonstration Project, the AFL-CIO Investment Trust is the only pension fund at this time expressing any interest in participating in the demonstration.

Now, is the gentleman from Texas saying that this actuary is wrong?

The SPEAKER pro tempore (Mr. MORAN). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. GONZALEZ. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. Speaker, will the gentleman yield?

Mr. WALKER. Yes, I yield to the gentleman from Texas.

Mr. GONZALEZ. Let me say, Mr. Speaker, that whatever source the gentleman just read from would not be acquainted with what our subcommittee has received by way of voluntary and interested parties who seek eventually to participate.

Let me assure the gentleman that what I said awhile ago is true. We have had no less than four other inquiries from organizations.

Mr. WALKER. Would the minority staff committee be familiar with that, with what the subcommittee has done now?

Mr. GONZALEZ. It all depends on what date that subcommittee had that.

Mr. WALKER. I have a memo here dated July 23 in which the minority staff also states that the investment trust fund is the only one that they know of.

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield, it is entirely possible that the minority staff was not aware of these contacts for information.

Mr. WALKER. So the staff at the Banking Committee is not aware, the actuary is not aware?

Mr. GONZALEZ. No, the minority staff.

Mr. WALKER. The Education and Labor Committee who looked at this is not fully informed?

We have some letters from people around the country who also seem to be saying the same thing. Are these developments within the last few hours that somebody else has come on board?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield further, there was one other point that I wanted to clarify.

First, this is not anything new, novel or radical.

Let me relate just one experience to the gentleman. The former Secretary of HUD, Samuel Pierce, who certainly was no big friend of public housing or anything like that.

Mr. WALKER. I do not think this has anything to do with being a friend of public housing. What this has to do with is whether or not you think that private pension money ought to be held for entrepreneurial activity, whether we should begin by diverting that into public housing.

In my view, we will get far more benefit as a country out of that money in the private sector producing jobs than we will be diverting it into public housing. I mean, that is the problem here.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may require to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the Committee on Banking, Finance and urban Affairs.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the committee chairman for yielding me this time.

Mr. Speaker, I appreciate the spirit in which the chairman and the ranking minority member have brought this bill out and have amended it to make it very clear that there can be no abuses.

I think one of the lines of criticism of the previous speaker banged into the other one. He said in the first place this would divert too much money from pension funds. Then he said that nobody but the AFL-CIO wants to use it.

Well, if in fact nobody but the AFL-CIO wanted to use it, it would not be diverting all that much money from the pension fund.

Let us be very clear. Noting in this bill is mandatory. Nothing in this bill tells any pension fund what to do with its money. This is no public sector takeover of anything. This is the public sector responding to a request that did come from the AFL-CIO for doing a general bill, limiting the amount in the version that is before us that any one pension fund can have, and it says, "We will help you, if you want to do it."

Second, nothing in this legislation, and the gentlewoman from New Jersey is an expert in this field and made sure of that, nothing in this legislation relaxes one comma of any existing law governing pension funds. No fiduciary responsibility, no safeguards, none of that is relaxed.

In fact, that is why we have this bill. Some pension funds, like the AFL-CIO, said they would like to get into housing.

Now, the gentleman says, what about jobs? Well, some of us think that building housing is a job. The gentleman may not, but very few houses descend from heaven in perfect form. Mostly they need a little carpeting.

The fact is the AFL-CIO pension fund consists of some people who are in the building trades, and yes, very probably some of those in the building trades would want to use their pension funds for housing.

Now, the gentleman says that is a diversion from entrepreneurship. Well, if the people in the building trades want their pension funds to which they have contributed to go into projects where they can go to work, the gentleman from Pennsylvania my not like it, but it is not any of his business, because it is their pension funds.

We are not telling them to do anything.

He is right. This will not be what every pension fund, or even most pension funds will want. Therefore, he is wrong when he says it will be a major diversion from entrepreneurship.

Every restriction, every safeguard, every rule governing the safety and security of pension funds remains absolutely intact. That is why we have this bill.

What we are saying is that housing might be low-income housing, housing for people of moderate income, multifamily housing, might be considered too risky for pension funds given existing law.

So what does this bill do? It simply says that a certain percentage of section 8 already voted, it has not added a penny to the amount that is voted, it says the Secretary shall take some of the section 8 already voted and work with pension funds that want to get into the housing business to leverage that money so that it will reduce the risk.

It recognizes that pensions must be kept secure.

The gentleman said, well, what about these workers? They may be worried about their pension funds. They would be worried, and that is why without the section 8 they may not get into that kind of housing.

The purpose of this is so to some extent people in the building trade put their pension money into jobs that they will get, that will produce housing that we need and at no additional cost to the Federal Government, there will be that degree of security that allows them to go forward. That is what the bill does.

I frankly think that we have some people in the House who figure that if unions are involved, it must be a bad thing. People I think undercut their credibility if anytime we talk about anything with a union, somehow that is to be the cause of anathema.

We have some people who have said, "We would like to use our pension funds for housing and we would be willing to do it for low-income housing if you could help us bring down the risk."

So we are saying in this bill, okay, we will give you some of the section 8 already voted. That will bring this housing within the existing rules that govern pension funds. That is what the bill does and I hope it is agreed to.

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

For purposes of accuracy, I want to clarify something, since the reference that my friend and colleague, the gentleman from Pennsylvania made to a staff memo not under my direction, but my staff actuary wrote the memo.

Now, I want to say that I do not know on what basis the staff person made the statement that the AFL-CIO investment trust is the only pension fund at this time expressing interest. I do not know on what basis he made that statement. It may have been because of fragmentary information that was given to him by staff on the Banking Committee; but I want to assure my friend, the gentleman from Pennsylvania, that it was only fragmentary information. It was not meant, I am sure, by our actuary to deceive or misrepresent anything. It was the only information he had at that time.

Indeed, there are others who have inquired into the program as a possibility for their pension funds.

□ 1540

But the second point that I want to make, and I want to make this very clear because the gentleman from Pennsylvania implied that somehow we are not being precise about this, and we are opening up a new area to put pension funds in jeopardy, is I have worked long and hard to make sure that these pension funds, wherever they may come from, are going to be held to the same high standards as any other pension fund, and I do not like the intimation that somehow we have not done our job here. We have. We have put language, statutory language, in here that is even more demanding than what one might find in any other piece of legislation that deals with pension funds.

And, by the way, pension funds in the private sector are not always the most secure. We have got to be eternally vigilant on that, whether it is public or private, and I intend to be one that is not going to let anything more happen to the pension funds under PBGC insurance claims, and we are going to protect them against any jeopardy.

But finally, Mr. Speaker, I want to concur with the gentleman from Massachusetts [Mr. FRANK] who made the point, and I want to make it in my own way, that indeed, by leveraging these private funds and using section 8 assisted housing, this is not public housing in terms of public housing authorities. It is not. It is rental assisted housing through nonprofits and many private sector developers. Those are the people that are going to be using this. But giving the section 8 subsidies, leveraging it, probably gives more security in the secondary market than the vast majority of pension funds that are out there today investing in other private sector.

Now, Mr. Speaker, we can have a legitimate difference of opinion as to whether or not we get more leveraging or advantage from a direct private sector investment without using HUD section 8 leveraging. We can have that debate, but do not intimate that either the funds are being put at greater jeopardy than they are in the private sector, because they are not, or that we are not using the private sector, because private construction firms, private building trade groups and nonprofits are going to be the people that actually do the building. It is not public housing authority.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate the points the gentlewoman from New Jersey [Mrs. ROUKEMA] is making. I think we should also make clear, because some have said housing may take certain things for granted, when we talk about the section 8 housing, these would not be, in many cases, buildings that were entirely section 8. It would be a mix of section 8 and at market rent so that, in fact, the whole community they are talking for housing would be benefited, but it would be a way to make sure that the lower income piece was included, but it would also leverage multiple family housing in general for which we have a great need.

Mrs. ROUKEMA. Mr. Speaker, I yield 3½ minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I appreciate the gentlewoman from New Jersey [Mrs. ROUKEMA] yielding this time to me, and I have some real reservations about this and concerns and questions about it. I do not think anybody in the country that has had a public housing project in their area is not aware of the fact that many of them have failed in the past. They have been destroyed, and people have moved out, and they have become a blight on the landscape, and many of them have been refurbished, and brought back into top form, and then destroyed again, and so there are some concerns that I have.

Loan guarantees through the Department of Housing and Urban Development would be that these pension plans would receive loan guarantees through the Department of Housing and Urban Development. In addition to that, section 8 rent subsidies for a period of 5 to 15 years to guarantee a steady flow of income to these projects. Well, let us say a project goes down the tubes and everybody loses out, like many of them have in the past. The government then is guaranteeing they are going to go ahead and pay the rents on that project for a period of time, and there would not be anybody in them. So, the taxpayers, in effect, will be paying rents for people that are no longer tenants.

There are three. Under this pension plan investment program it is going to be targeted to three areas: HUD distressed multifamily properties, low-income family projects that have already failed at least once, so they are going to go in and renovate projects in areas where they have failed once, and we are going to guarantee those rents in the event that people move out a second time, which is probably going to happen in many cases, and the Federal Government is going to pay for it, or the taxpayers are going to pay for it, this country is going to pay for it. Homeless construction, or rehabilitation for projects in Federal empowerment zones.

Now the people on our staffs that research this for us had this to say: These are very risky investments, and pension plans have no experience in managing public housing construction

or rehabilitation, and, second, these Federal loan guarantees would create a new Federal liability for risky, private sector investments, much like the S&L crisis. HUD would be required to issue regulations and guarantees that these would be safe investments——

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. No, I will not yield at this time.

However, savings and loan institutions have similar rules, and the Federal Government wound up in possession of billions of dollars' worth of defaulted projects.

Mr. Speaker, I think this is well-intentioned legislation. But if the project is rehabilitated or built, and it fails, the Federal Government, the taxpayers of this country, will be putting up a hundred million dollars to pay the rents on those projects until, I guess, they are rehabilitated a second time, and I think there is also some liability as far as the mortgage itself is concerned. I have been told by some of the staff people that it is going to be sold to Fannie Mae or Ginnie Mae, but there is still some Government support for those programs, and, if it goes down the tubes, once again the taxpayer will be paying a large part of the responsibility.

So, in addition, possibly, and I am not sure about this, but it appears to me there might be some risk to the pension funds that the members of this union are invested in, and we certainly do not want their pension funds to be at risk. Right now they are getting 9 to 11 percent a year return on those investments, but, in addition to that, I think there is a possibility that the Federal Government could be at risk and lose some money.

So, I think that this program should be looked at very, very closely, and it certainly should not be passed on suspension.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume once again to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana [Mr. BURTON] was flatly wrong on one of his central points. Nothing in this bill increases by one penny the financial exposure of the Federal Government. The problems he was talking about——

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana would not yield to me, and I will not yield to him. I say to the gentleman that I was prepared to have the discussion with the gentleman, and he did not want to yield. He made a flatly wrong statement.

The obligations of which the gentleman was referring, to which he was referring, are already in existence in the law. This bill does not authorize a single additional section 8 dollar. What it says is, of the section 8 dollars already authorized, of the obligations the Federal Government has already been appropriated to undertake, some of them may be used in conjunction with pension funds.

So, Mr. Speaker, there is no new financial obligation that will be undertaken by the Federal Government under this bill.

Yes, there are projects at risk. Yes, we have mortgages that we have increased that are defaulting. But those exist wholly independently of this bill. If this bill burned up tomorrow, every penny at risk would still be at risk. This does not increase the Federal Government's exposure in any way, shape or form. What it does do is to try to bring some private capital in in a way that has to meet the standards of existing pension laws. What it says is, giving these exposures, if a pension fund, and it might be a building trades pension fund, wants to come in and say, "If you give us the section 8's, we think we can make this work, and we're talking, by the way, not about public housing in the traditional form in most of these cases. We are talking about mixed housing, privately owned, some low income, and some moderate, and some market rate." But none of this imposes—the gentleman was describing some financial risk for the Federal Government. Sadly they exist. All of those are already out there. This would not implicate the Federal Government in one additional section 8 unit or one additional morgage.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. Now I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Let me just say that one of the target areas is HUD distressed, multifamily properties, low-income housing projects that have failed at least once. So, let us say that we have a failed housing project. It has failed once, and they choose to go in and renovate that project after it has failed maybe once or twice. Now they are putting at risk taxpayers' money into the rent subsidy the gentleman is talking about.

Mr. FRANK of Massachusetts. No, the gentleman from Indiana [Mr. BURTON] is wrong because HUD already is stuck with that.

Now, I have yielded to the gentleman, and he has made his point, and he does not understand the program. The fact that HUD, in the first place, would not be taking under any new mortgage. This does not authorize HUD to write any new mortgage for these people. It simply gives some of the section 8's. HUD already holds the mortgages on those properties sadly. HUD guaranteed them. They failed. HUD had to step in. This does not deal with new mortgage insurance authority. There would be no new assumption by HUD of any responsibility for this overall program. It simply allocates some of the section 8's to deal with already existing Federal obligations.

Mr. WILLIAMS. Mr. Speaker, I rise in support of H.R. 2668, the Community Investment Demonstration Act of 1993.

H.R. 2668 would set aside $100 million from specified section 8 appropriated programs to permit the Department of Housing and Urban Development to create a demonstration project on behalf of low-income families residing in housing constructed, rehabilitated, or acquired through pension fund investments.

Because all private sector pension funds, including those established through collective bargaining, are covered under Employee Retirement Income Security Act of 1974 [ERISA], the Committee on Education and Labor has a keen interest in this bill.

Although H.R. 2668 is a bipartisan bill introduced by Chairman GONZALEZ and Representative MARGE ROUKEMA, I am aware that questions have been raised by some on the Republican side about the safety of these investments by pension funds.

Let me give you a bit of background on the issue.

I am chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor. My subcommittee has jurisdiction over ERISA. Serving as the ranking minority member on my subcommittee is the distinguished gentlewoman from New Jersey, Mrs. ROUKEMA. When Chairman GONZALEZ originally brought H.R. 2517, the Homeless and Community Development Amendments Act of 1993, to the floor several weeks ago, it contained a provision permitting investments by pension funds in a similar section 8 demonstration project. We asked our bipartisan staff to review the language in Chairman GONZALEZ' bill to determine whether there was any reason for concern about the safety of pension funds which might choose to participate in the section 8 housing demonstration project.

In order to avoid any ambiguity about the duty of the pension plan fiduciary to assure the ultimate security of these investments, the Committee on Education and Labor's chairman, BILL FORD, asked Chairman GONZALEZ to include language to clarify that ERISA's strong fiduciary protections would apply.

Chairman GONZALEZ included that language in his amendment to H.R. 2517 and it also included H.R. 2668.

For this reason, I believe that workers and retirees are fully protected by ERISA if their plans choose to make these investments and I support the bill.

□ 1550

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

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

The SPEAKER pro tempore (Mr. MORAN). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 2668, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2668, the bill just under consideration.

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

There was no objection.

INDIAN TRIBAL JUSTICE ACT

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1268

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Justice Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;

(3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;

(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the appropriate forums for the adjudication of disputes affecting personal and property rights;

(7) traditional tribal justice practices are essential to the maintenance of the culture and identity of Indian tribes and to the goals of this Act;

(8) tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation; and

(9) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support within the Bureau of Indian Affairs.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "tribal organization" means any organization defined in section 4(l) of the Indian Self-Determination and Education Assistance Act.

(8) The term "tribal justice system" means the entire judicial branch, and employees thereof, of an Indian tribe, including (but not limited to) traditional methods and forums for dispute resolution, lower courts, appellate courts (including intertribal appellate courts), alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

TITLE I—TRIBAL JUSTICE SYSTEMS

SEC. 101. OFFICE OF TRIBAL JUSTICE SUPPORT.

(a) ESTABLISHMENT.—There is hereby established within the Bureau the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems and Courts of Indian Offenses.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of the date of the enactment of this Act are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) FUNCTIONS.—In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Provide funds to Indian tribes and tribal organizations for the development, enhancement, and continuing operation of tribal justice systems.

(2) Provide technical assistance and training, including programs of continuing education and training for personnel of Courts of Indian Offenses.

(3) Study and conduct research concerning the operation of tribal justice systems.

(4) Promote cooperation and coordination among tribal justice systems and the Federal and State judiciary systems.

(5) Oversee the continuing operations of the Courts of Indian Offenses.

(6) Provide funds to Indian tribes and tribal organizations for the continuation and enhancement of traditional tribal judicial practices.

(d) NO IMPOSITION OF STANDARDS.—Nothing in this Act shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) ASSISTANCE TO TRIBES.—(1) The Office shall provide technical assistance and training to any Indian tribe or tribal organization upon request. Technical assistance and training shall include (but not be limited to) assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes or tribal organizations.

(f) INFORMATION CLEARINGHOUSE ON TRIBAL JUSTICE SYSTEMS.—The Office shall maintain an information clearinghouse (which shall include an electronic data base) on tribal justice systems and Courts of Indian Offenses, including (but not limited to) information on staffing, funding, model tribal codes, tribal justice activities, and tribal judicial decisions. The Office shall take such actions as may be necessary to ensure the confidentiality of records and other matters involving privacy rights.

SEC. 102. SURVEY OF TRIBAL JUDICIAL SYSTEMS.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary shall enter into a contract with a non-Federal entity to conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding, including base support funding, needed to provide for expeditious and effective administration of justice. The Secretary, in like manner, shall annually update the information and findings contained in the survey required under this section.

(b) LOCAL CONDITIONS.—In the course of any annual survey, the non-Federal entity shall document local conditions of each Indian tribe, including, but not limited to—

(1) the geographic area and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case loads;

(4) the facilities, including detention facilities, and program resources available;

(5) funding levels and personnel staffing requirements for the tribal justice system; and

(6) the training and technical assistance needs of the tribal justice system.

(c) CONSULTATION WITH INDIAN TRIBES.—The non-Federal entity shall actively consult with Indian tribes and tribal organizations in the development and conduct of the surveys, including updates thereof, under this section. Indian tribes and tribal organizations shall have the opportunity to review and make recommendations regarding the findings of the survey, including updates thereof, prior to final publication of the survey or any update thereof. After Indian tribes and tribal organizations have reviewed and commented on the results of the survey, or any update thereof, the non-Federal entity shall report its findings, together with

the comments and recommendations of the Indian tribes and tribal organizations, to the Secretary, the Committee on Indian Affairs of the Senate, and the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

SEC. 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Pursuant to the Indian Self-Determination and Education Assistance Act, the Secretary is authorized (to the extent provided in advance in appropriations Acts) to enter into contracts, grants, or agreements with Indian tribes and tribal organizations for the performance of any function of the Office and for the development, enhancement, and continuing operation of tribal justice systems and traditional tribal judicial practices by Indian tribal governments.

(b) PURPOSES FOR WHICH FINANCIAL ASSISTANCE MAY BE USED.—Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) planning for the development, enhancement, and operation of tribal justice systems;

(2) the employment of judicial personnel;

(3) training programs and continuing education for tribal judicial personnel;

(4) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;

(5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of records management systems;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) juvenile services and multidisciplinary investigations of child abuse; and

(E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

(c) FORMULA.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulation, a formula which establishes base support funding for tribal justice systems in carrying out this section.

(2) The Secretary shall assess case load and staffing needs for tribal justice systems that take into account unique geographic and demographic conditions. In the assessment of these needs, the Secretary shall work cooperatively with Indian tribes and tribal organizations and shall refer to any data developed as a result of the surveys conducted pursuant to section 102 and to relevant assessment standards developed by the Judicial Conference of the United States, the National Center for State Courts, the American Bar Association, and appropriate State bar associations.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the case load and staffing needs identified under paragraph (2);

(B) the geographic area and population to be served;

(C) the volume and complexity of the case loads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing and administering the formula for base support funding for the tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

TITLE II—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 201. TRIBAL JUSTICE SYSTEMS.

(a) OFFICE.—There is authorized to be appropriated to carry out the provisions of sections 101 and 102 of this Act, $7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000. None of the funds provided under this subsection may be used for the administrative expenses of the Office.

(b) BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.—There is authorized to be appropriated to carry out the provisions of section 103 of this Act, $50,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(c) ADMINISTRATIVE EXPENSES FOR OFFICE.—There is authorized to be appropriated, for the administrative expenses of the Office, $500,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(d) SURVEY.—For carrying out the survey under section 102, there is authorized to be appropriated, in addition to the amount authorized under subsection (a) of this section, $400,000.

(e) INDIAN PRIORITY SYSTEM.—Funds appropriated pursuant to the authorizations provided by this section and available for a tribal justice system shall not be subject to the Indian priority system. Nothing in this Act shall preclude a tribal government from supplementing any funds received under this Act with funds received from any other source including the Bureau or any other Federal agency.

(f) ALLOCATION OF FUNDS.—In allocating funds appropriated pursuant to the authorization contained in subsection (a) among the Bureau, Office, tribal governments and Courts of Indian Offenses, the Secretary shall take such actions as may be necessary to ensure that such allocation is carried out in a manner that is fair and equitable to all tribal governments and is proportionate to base support funding under section 103 received by the Bureau, Office, tribal governments, and Courts of Indian Offenses.

(g) NO OFFSET.—No Federal agency shall offset funds made available pursuant to this Act for tribal justice systems against other funds otherwise available for use in connection with tribal justice systems.

TITLE III—DISCLAIMERS

SEC. 301. TRIBAL AUTHORITY.

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;

(4) alter in any way any tribal traditional dispute resolution forum;

(5) imply that any tribal justice system is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1268, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the gentleman from New Mexico?

There was no objection.

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

Mr. Speaker, H.R. 1268 establishes an Office of Tribal Justice Support within the Bureau of Indian Affairs to provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal judicial systems. The Office shall provide training and technical assistance to any Indian tribe upon request.

The bill authorizes the Secretary with the full participation of Indian tribes to establish a base support funding formula for tribal justice systems. It authorizes the Secretary to enter into agreements to provide financial assistance to any Indian tribe to perform any function of the Office of Tribal Justice Support pursuant to the Indian Self-Determination Act. It also deletes any reference to tribal judicial conferences in the bill.

The bill requires the Secretary to contract with a non-Federal entity to make a survey of the conditions of tribal justice systems.

H.R. 1268 includes a disclaimer section which provides that nothing in the act shall be construed to encroach upon or limit the inherent sovereign authority of each tribe. It further provides that nothing in this act shall diminish the trust responsibility of the Federal Government to Indian tribes.

Mr. Speaker, this legislation will provide badly needed resources to Indian tribes to improve the administration of tribal courts and provide for the fair dispensation of justice in Indian country. This bill is very similar to the bill which the House passed last year and it reflects agreements reached with the Senate on bill language.

Finally, this measure is the result of years of study by the committees of

the House and Senate. The U.S. Commission on Civil Rights, after 5 years of exhaustive hearings on tribal courts and the Indian Civil Rights Act, found that for 20 years the Federal Government has failed to provide adequate resources for the operation of tribal justice systems. The Commission expressed its strong support for legislation to authorize spending for tribal courts in amounts equal to that of an equivalent State court and then provides for the equitable distribution of funds based on objective criteria. H.R. 1268 reflects the strong recommendations of the U.S. Commission on Civil Rights and the wishes of Indian country.

We worked closely with the Senate on this bill—this is a compromise. We could not agree last year on a bill.

We need to develop all forms of tribal justice systems, from having more public defenders, to training judges, to solidifying traditional tribal courts.

This bill will give the tribes the flexibility to improve their courts and establish justice in Indian country.

I urge my colleagues to support it.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1268, the Indian Tribal Justice Act, as amended by the committee.

The gentleman from New Mexico has adequately explained the provisions of the bill, so I will be brief.

It is clear that there is a real need for an increase in both the financial and technical support afforded to Indian tribal justice systems by this bill. Most tribal justice systems are woefully underfunded and, as a result, understaffed. Consequently, their ability to adequately serve the needs of the tribes and to uphold justice is undermined. Caseloads increase, backlogs develop, and enforcement of tribal laws and regulations lags.

Mr. Speaker, I am pleased that at markup the committee removed title II of the bill as introduced. The purpose of that title, to establish a Tribal Judicial Conference, seems to me to have been extremely ill-advised. First, a number of tribes have expressed serious concerns about the creation of such a conference. Second, the establishment of such a conference—either by the Congress or by the tribes with funding supplied by the Congress—creates yet another bureaucracy to accrue power at the expense of the tribes and to stand between the Federal Government and the tribes' governing bodies. In addition, creation of such a conference seems to me to put the cart before the horse. We need to address the day-to-day needs of tribal justice systems now, rather than siphoning off funds to create a burdensome new bureaucracy. It is my hope that the House will continue to oppose the establishment of such a conference.

Mr. Speaker, in closing I would like to recognize the important contributions that the two tribes in Wyoming—the Northern Arapaho and the Eastern Shoshone of the Wind River Reservation—have made toward the development of this legislation.

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

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

Mr. Speaker, there are a number of tribes that have contributed enormously to the development of this legislation: the Navajo Tribe, the Pojoaque Pueblo, a number of Warm Spring tribes, Wind River, Grand Roads, as well as a number of tribal experts and academics from many universities around the country. They should be commended.

Mr. Speaker, again, this is important legislation for the native Americans. We need a strong tribal justice system. What we are talking about is not just some good structural changes that we are making in consultation with the tribes, but some needed resources.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 1268, as amended.

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

A motion to reconsider was laid on the table.

AMENDMENTS TO ACT PROVIDING FOR EXTENSION OF CERTAIN FEDERAL BENEFITS TO PASCUA YAQUI INDIANS OF ARIZONA

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 734) to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.".

The Clerk read as follows:

H.R. 734

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

SECTION 1. SOVEREIGNTY OF PASCUA YAQUI TRIBE.

(a) IN GENERAL.—Subsection (a) of the first section of the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f(a)) is amended by inserting after the first sentence the following: "The Pascua Yaqui Tribe, a historic Indian tribe, is acknowledged as a federally recognized Indian tribe possessing all the attributes of inherent sovereignty which have not been specifically taken away by Acts of Congress and which are not inconsistent with such tribal status.".

(b) EXTENSION OF ENROLLMENT DEADLINE.—Section 3 of such Act (25 U.S.C. 1300f-2) is amended—

(1) in paragraph (B) by striking "and"; and

(2) by redesignating paragraph (C) as paragraph (D) and inserting after paragraph (B) the following new paragraph (C):

"(C) all those persons of Yaqui blood who are citizens of the United States and who, within three years after the date of enactment of this paragraph, apply for enrollment in the Pascua Yaqui Tribe pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe; and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

□ 1600

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 734, the bill under consideration.

The SPEAKER pro tempore (Mr. MORAN). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

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

Mr. Speaker, H.R. 734 clarifies the status of the Pascua Yaqui Tribe of Arizona. Although the tribe was recognized by the Congress on September 18, 1978, through Public Law 95-375, the Bureau of Indian Affairs has consistently taken the position that the tribe does not have all the powers of a sovereign tribal government. Even though regulatory rights are generally viewed as inherent among most federally recognized tribes, the BIA has established a distinction among tribes asserting that some tribes are historic and possess all sovereign rights and some tribes are created and have limited sovereign rights.

The position that the Pascua Yaqui Tribe is not a historical tribe is derived from several solicitors' opinions. The committee strongly disagrees with these distinctions and asserts that there are not degrees of tribal sovereignty and urges the Department to stop such limitations on tribal self-governance. H.R. 734 affirms that the Pascua Yaqui Tribe is indeed a historical tribe and can perform all the governmental functions of an Indian tribe. The Pascua Yaqui can trace their heritage back to the ancient Toltecs and are clearly a historic tribe.

Of particular importance to the tribe is the right to regulate law and order. The Bureau of Indian Affairs is denying the Pascua Yaqui the right to keep the peace on its reservation even though the State of Arizona has stated that the State has no jurisdiction. This bill fills that jurisdictional void and will allow the tribe to have the law enforcement its members deserve.

In addition to clarifying the recognition status of the Pascua Yaqui Tribe, H.R. 734 extends the enrollment deadline for membership in the tribe to 3 years after enactment. Mr. Speaker, this bill is very important to the Pascua Yaqui Tribe. It was passed unanimously by the committee and I urge my colleagues to support it.

Mr. Speaker, I would like to commend the efforts of the gentleman from Arizona [Mr. PASTOR], who represents this tribe, and also to a former Member of this body, the Honorable John Rhodes, who worked tirelessly for this legislation in years past.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 734, a bill to clarify the status of the Pascua Yaqui Indians of Arizona.

The gentleman from New Mexico has adequately explained the provisions of the bill, so I will be brief.

I disagree with the opinion of the BIA solicitor, and with the BIA's somewhat convoluted created versus historic dichotomy, which underlie this case and which we effectively overturn today.

Given the plenary authority of Congress over all facets of Indian affairs, it seems to me that on those rare occasions when we legislatively recognize a tribe—as we did with the Pascua Yaqui—we mean that acknowledgement to be full recognition unless we explicitly provide otherwise. I hope that the solicitor's office at the BIA will keep that in mind in the future.

In closing, I would like to recognize all the hard work my predecessor, former Congressman John J. Rhodes III of Arizona, did in working closely with the tribe to move this bill in the last Congress. Much of the credit for passage of this bill should go to him.

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

Mr. RICHARDSON. Mr. Speaker, I yield 5 minutes to the author of this legislation, the distinguished gentleman from Arizona [Mr. PASTOR], whose jurisdiction encompasses this issue and this tribe.

Mr. PASTOR. Mr. Speaker, I would like to thank my friend and colleague, the gentleman from Mexico, the distinguished chairman of the Native American Affairs Subcommittee for yielding to me and pursuing this legislation with a great deal of interest and feeling.

Mr. Speaker, this is a modest bill. It does not propose radical change. It does not seek to amend a major public law. While simple in its scope, H.R. 734 is profoundly important for the Pascua Yaqui people. As the gentleman from New Mexico noted, this legislation will clarify the status of the Pascua Yaqui Tribe of Arizona and enable the people of the tribe to receive the full benefits of sovereignty to which they are rightfully entitled.

Let me point out, Mr. Speaker, so that there is no mistake in this Chamber, that this legislation does not circumvent the tribal recognition process. The tribe was recognized by this Congress in 1978, through Public Law 95–375. The Bureau of Indian Affairs, however, has established a distinction among tribes asserting that some tribes are historical and possess all sovereign rights and some tribes are created and have limited sovereign rights. This distinction cannot be found in the statutes; it is the creation of the BIA bureaucracy based on one 1936 Solicitor General's opinion.

Currently, the Pascua Yaqui people receive all the benefits of a federally recognized tribe. The BIA, however, has labeled the tribe created and has, therefore, denied the Pascua Yaqui people the full benefits of sovereignty. This bill simply seeks to establish the Pascua Yaqui Tribe as a historic tribe and end the years of injustice to which the Pascua Yaqui people have been subjected.

The Yaqui people have had a long and proud history in what is now the United States. It is a history of clans, villages, self-government, and the struggle of a collective people. It is time, Mr. Speaker, to acknowledge this history and the full sovereignty of the tribe.

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

Mr. Speaker, again, my colleague from Arizona has eloquently explained the reason why we need to deal with this matter. An injustice has been done to the Pasqua Yaqui Tribe.

Let me also say that there are a number of other tribes that we need to deal with their status in the days and years ahead. We need to reform the system at the Bureau of Indian Affairs that deals with federally recognized tribes. It is a very slow progress but one that we hope, with the gentleman from Wyoming, we can reform in the days ahead.

Mr. Speaker, I want to emphasize the outstanding work done by the gentleman from Arizona [Mr. PASTOR] and also from our colleague, the gentleman from Arizona ENGLISH], who has inserted a statement in the RECORD but could not be here. She attended many of the hearings and expressed very strong support for this bill.

Ms. ENGLISH of Arizona. Mr. Speaker, I rise today in strong support of H.R. 734, a bill to clarify the legal status of the Pascua Yaqui Tribe of Arizona as a historic tribe. Importantly, H.R. 734 would recognize the inherent sovereign status of the Pascua Yaqui Tribe and I urge my colleagues to vote in favor of this legislation.

The Pascua Yaqui Tribe is a federally recognized sovereign entity that has existed as a formal tribal government since time immemorial and yet an arbitrary classification by the Bureau of Indian Affairs would seek to limit their sovereign authority. By reaffirming the Pascua Yaqui Tribe's status as a historic tribe, H.R. 734 would dispel the misconception perpetuated by the BIA that the Pascua Yaqui Tribe has limited powers of self-government delegated by the Federal Government. The notion of delegated authority is inconsistent with settled principles of basic Indian law; namely that federally recognized tribes retain any inherent sovereign authority which has not specifically been divested by Federal law. There is no legal support for the BIA's created versus historic tribe distinction and the distinction must not be tolerated. The Pascua Yaqui Tribe is either sovereign or not sovereign; there is no middle ground.

The Pascua Yaqui Tribe currently exercises all functions of a sovereign tribal government, including the power to tax and otherwise regulate on its reservation, the power to establish tribal courts to govern Indians on the reservation and civil governance of Indians and non-Indians engaging in activities of the reservation, the power to contract with the Federal Government to assume primary responsibility under various health, education, and welfare programs, and the power to establish its own government, constitution, bylaws, and tribal codes. In other words, the tribe wants nothing more than to be treated as any other federally recognized tribe in the United States.

I urge my colleagues to vote in favor of H.R. 734.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 734.

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

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, August 2, 1993, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2535, by the yeas and nays; and

H.R. 2668, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PRIORITY VA HEALTH CARE FOR PERSIAN GULF VETERANS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2535, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2535, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22.

[Roll No. 388]

YEAS—411

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—22

Bacchus (FL)
Becerra
Bonior
Chapman
Clinger
Coleman
Deal
DeFazio
Fields (LA)
Ford (MI)
Ford (TN)
Gephardt
Hochbrueckner
Hunter
Lambert
Lewis (FL)
McDermott
Packard
Porter
Rush
Sabo
Washington

□ 1634

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MORAN). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

COMMUNITY INVESTMENT DEMONSTRATION ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill (H.R. 2668) as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 2668, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 309, nays 106, not voting 18, as follows:

[Roll No. 389]

YEAS—309

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Holden
Horn
Houghton
Hoyer
Hughes
Hutto
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce

Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McHale
McHugh
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zimmer

NAYS—106

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Everett
Ewing
Fawell
Fields (TX)
Fowler
Gekas
Gingrich
Goodlatte
Goss
Grams
Gunderson
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Hoke
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lewis (CA)
Linder
Livingston
Manzullo
McCollum
McCrery
McKeon
Meyers
Mica
Michel
Miller (FL)
Moorhead
Myers
Paxon
Pombo
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Roberts
Rogers
Rohrabacher
Royce
Schaefer
Sensenbrenner
Shaw
Shuster
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Vucanovich
Walker
Wolf
Young (FL)
Zeliff

NOT VOTING—18

Bacchus (FL)
Becerra
Bliley
Chapman
Clinger
Coleman
Deal
DeFazio
Ford (MI)
Ford (TN)
Hochbrueckner
Lambert
Lewis (FL)
McDermott
Packard
Porter
Rush
Washington

□ 1654

The Clerk announced the following pair:

On this vote:

Mr. Bacchus of Florida and Mr. DeFazio for, with Mr. Porter against.

Messrs. KYL, YOUNG of Florida, and HOKE changed their vote from "yea" to "nay."

Mr. GALLEGLY changed his vote from "nay" to "yea."

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was out of town and missed two recorded votes. I would like the RECORD to reflect that if I had been present I would have voted "yea" on Priority VA Health Care for Persian Gulf Veterans, H.R. 2535, rollcall No. 388 and "yea" on Community Investment Demonstration Act of 1993, H.R. 2668, rollcall No. 389.

PERSONAL EXPLANATION

Mr. HOCHBRUECKNER. Mr. Speaker, due to being unavoidably detained, I was unable to record my vote on two bills. Therefore, I would like to take this opportunity to submit for the RECROD how I would have voted had I been present:

Rollcall No. 388, "aye."
Rollcall No. 389, "aye."

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unavoidably detained in my district and missed Roll No. 388, H.R. 2535, the Priority VA Health Care for Persian Gulf Veterans Act, and Roll No. 389, H.R. 2668, Community Investment Demonstration Act of 1993. Had I been present, I would have voted for Roll No. 388 and against Roll No. 389.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 2348, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1994

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, August 2, 1993, to file a conference report on the bill (H.R. 2348) making appropriations for the legislative branch for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore (Mr. MORAN). Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT OF OFFICIAL DEMOCRATIC OBJECTORS FOR PRIVATE CALENDAR, 103D CONGRESS

Mr. GEPHARDT. Mr. Speaker, I am pleased to announce that the official objectors for the majority side for the Private Calendar for the 103d Congress are as follows: The gentleman from Virginia [Mr. BOUCHER]; the gentleman from Maryland [Mr. MFUME]; and the gentlewoman from Connecticut [Ms. DELAURO].

ANNOUNCEMENT OF REPUBLICAN OFFICIAL OBJECTORS FOR PRIVATE CALENDAR, 103D CONGRESS

Mr. MICHEL. Mr. Speaker, for the Private Calendar, the Republican official objectors for the 103d Congress will be: the gentleman from Wisconsin [Mr. SENSENBRENNER]; the gentleman from North Carolina [Mr. COBLE]; and the gentleman from Virginia [Mr. GOODLATTE].

LEGISLATIVE SCHEDULE

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I would like to engage the minority leader in a short colloquy to explain to Members the schedule for tomorrow.

I am about to ask for unanimous consent to adjourn to meet at 1 p.m. tomorrow.

Obviously, a number of Members will be traveling to Michigan for the funeral of our colleague, the gentleman from Michigan [Mr. HENRY].

I want to tell Members that we do not expect votes will be held here until about 3 o'clock in the afternoon, so that everyone can return, and I would think that we should be finished tomorrow about 6 o'clock.

Mr. MICHEL. Mr. Speaker, if the distinguished gentleman will yield, it is my understanding that the bus will leave in the morning around 7:30 or so and that we should be back by 2:30 at Andrews. That comports with the other things that we will be doing.

Any intelligence on when we might be dealing with the tax bill, the reconciliation bill? It was Wednesday when we talked last. Has it been delayed, or does the gentleman know?

Mr. GEPHARDT. I think we are targeting for a vote here on Thursday. We would like, if we can, if everything works in terms of the paperwork arriving on time, we would like to have a rule up and then a vote. There would be probably a couple of hours of debate. I would say the whole transaction could occur on Thursday, say between 10 in the morning and 4 in the afternoon.

Mr. MICHEL. Will the schedule for tomorrow be roughly the same as it was originally scheduled, except for appearing later in the day?

Mr. GEPHARDT. That is correct.

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

HOUR OF MEETING ON TUESDAY, AUGUST 3, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. tomorrow.

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

There was no objection.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–125)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of February 16, 1993, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. member states temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq. These funds finance Iraq's obligations for U.N. activities with respect to Iraq, including expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. The funds placed in the escrow account are to be returned, with interest, to the member states that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the United Nations Security Council. No member state is required to fund more than half of the total contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive Orders"). The report covers events from February 2, 1993, through August 1, 1993.

1. There have been no amendments to the Iraqi Sanctions Regulations during the reporting period.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On May 18, 1993, following the payment of $1,492,537.30 by the Government of the United Kingdom to a special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $1,492,537.30 from the blocked account it holds to the United Nations-controlled account. Future transfers from the blocked Federal Reserve Bank of New York account will be made on a matching basis up to the $200 million for which the United States is potentially obligated pursuant to United Nations Security Council Resolution 778.

5. Since the last report, there have been developments in two cases filed against the Government of Iraq. Another ruling was issued in *Consarc Corporation* v. *Iraqi Ministry of Industry and Minerals et al.*, No. 90–2269 (D.D.C., March 9, 1993), which arose out of a contract for the sale of furnaces by plaintiff to the Iraqi Ministry of Industry and Minerals, an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit with an Iraqi bank in favor of Consarc, which was advised by Pittsburgh National Bank, with the Bank of New York entering into a confirmed reimbursement agreement with the advising bank. Funds were set aside at the Bank of New York, in an account of the Iraqi bank, for reimbursement of the Bank of New York if Pittsburgh National Bank made a payment to Consarc on the letter of credit and sought reimbursement from the Bank of New York. Consarc received a down payment from the Iraqi Ministry of Industry and Minerals and substantially manufactured the furnaces. No goods were shipped prior to imposition of sanctions on August 2, 1990, and the United States asserted that the funds on deposit in the Iraqi bank account at the Bank of New York, as well as the furnaces manufactured for the Iraqi government or the process of any sale of those furnaces to third parties, were blocked. The district court ruled on December 29, 1992, that the furnaces or their sales proceeds were properly blocked pursuant to the declaration of the national emergency and blocking of Iraqi government property interests. However, according to the court, due to fraud on the part of the Ministry of Industry and Minerals in concluding the sales contract, the funds on deposit in an Iraqi bank account at the Bank of New York were not the property of the Government of Iraq. The court ordered the Office of Foreign Assets Control to unblock these funds, and required Consarc to block the proceeds from the sale of one furnace and to hold the remaining furnace as blocked property. On January 27, 1993, the Office of Foreign Assets Control complied with the court's order and licensed the unblocking of $6.4 million plus interest to Consarc. On March 9, 1993, the court

affirmed its ruling in response to Consarc's motion to clarify the December 29 order and the Office of Foreign Assets Control's motion to correct the judgment to conform to the December 29 opinion. The Office of Foreign Assets Control and Consarc have each appealed the district court's ruling.

In *Brewer* v. *The Socialist People's Republic of Iraq*, No. 91-5325 (D.C. Cir., 1993) the United States Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling denying appellant's motion to attach U.S.-located assets of the Government of Iraq and its state tourism organization. Following the holding of *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981), the court upheld the power of the President to freeze foreign assets and prevent their attachment by private litigants in times of national emergency.

6. The Office of Foreign Assets Control has issued a total of 391 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 54 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, for legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes.

7. The expenses incurred by the Federal Government in the 6-month period from February 2, 1993, through August 1, 1993, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at about $2.5 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

8. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions, including those calling for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, and the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Discussions on implementing these resolutions resumed at the United Nations on July 7, 1993.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. Because of Iraq's failure to comply fully with United Nations Security Council resolutions, the United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1993.*

VACATING SPECIAL ORDER AND GRANTING REQUEST FOR SPECIAL ORDER

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that my 60-minute special order for today be vacated and that I instead be granted a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

□ 1700

TRANSFER OF SPECIAL ORDER TIME

Mr. FARR. Mr. Speaker, I ask unanimous consent that on Wednesday, August 4, 1993, the gentleman from Michigan [Mr. DINGELL] be allowed to take the 60-minute special order previously granted to the gentleman from Illinois [Mr. LIPINSKI].

The SPEAKER pro tempore (Mr. BISHOP). Is there objection to the request of the gentleman from California?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that on Wednesday, August 4, 1993, that I, the gentleman from Oklahoma [Mr. INHOFE], be allowed to take the 60-minute special order previously granted to the gentleman from Indiana [Mr. BURTON].

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

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that on Wednesday, August 4, 1993, the gentleman from Michigan [Mr. UPTON] be allowed to take the 60-minute special order previously granted to the gentleman from New York [Mr. SOLOMON].

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

There was no objection.

WORRIED CITIZENS TACKLE NAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, people around the country are beginning to respond to the extension of remarks on the NAFTA issue. My office is receiving calls and letters from across the country expressing dismay at how comprehensive the agreement is—at the impact it will have upon our every day lives.

As an example, I want to share with you a news article sent to me by Ann Purcell from Topeka, KS, from the Topeka Capital-Journal of July 17, 1993: "Worried Citizens Tackle NAFTA."

In April, Nancy Purcell, a retired Topeka schoolteacher, sat down with a copy of the North American Free-Trade Agreement.

The pact is 3 inches thick and comprised of two volumes. The first is 600 pages, the second 500.

She had seen a newspaper advertisement about the treaty. It cost $30 a copy and arrived in a brown cardboard box.

"The first week I just thumbed through it and tried to figure out what it was talking about," Purcell said.

"The next 2 weeks, I began to understand it and, I started studying it all day long."

Signing NAFTA was one of George Bush's last actions as President. Drawn up over several years, NAFTA is designed to place fewer restrictions in

trade among the United States, Mexico and Canada. The ratification process was held up a few weeks ago when a Federal judge ruled that the possible environmental effects of the treaty must be studied, which could take several months.

The endless paragraphs of legalese slowly began to come into focus for Purcell, painting a disturbing picture for her.

She continued studying the text through May and June, and was joined in the task by friends, many of whom are retired teachers.

"If I wasn't retired, I would never be able to find the time for it," she said.

"It's been a great time commitment. But I'm the type of person who has to continue to learn all through life. I can't just sit and watch soaps all day."

Each of her friends focused on a particular section and tried to gain a firm understanding of it.

Purcell's final assessment of the treaty was grave.

"It's giving our country away," Purcell said.

"I'm not concerned about myself; I'm worried about my grandchildren. If this becomes law, there won't be any jobs and the ones there will be won't pay enough to live on."

"The treaty clearly forces American employers to recognize foreign diplomas and hire foreign workers. And if they don't, they'll be tried by a multinational judicial board. We would be tried by foreigners."

To better understand the players involved and parties discussed in the treaty, Purcell began looking at news magazines and listening to radio programs. Her friends—including Janet Bisnette, Marge Bradshaw and Elizabeth Wilson—all became equally troubled and wrote their congressional representatives.

"I've got a whole box full of letters they've sent me," Purcell said. "(My Congressman) has a form letter he sends out—he has sent me five copies of the same, identical letter. I don't think many of our Representatives have read NAFTA."

"If it was such a good thing, they'd all be taking credit for it," Bisnette said. "As it is, they won't tell us anything."

The net effect of the treaty, the women said, is to open United States, Mexican, and Canadian markets to the extent that each country sacrifices regulatory control to unelected, multinational councils.

"This is a treaty which will effect every man, women and child in this country," Wilson said.

"People need to find out what it is about and how it will change their lives."

Purcell said she is going to continue writing her representatives to sway their opinions."

Ms. Purcell and her friends have discovered an issue which could become a major bone of contention—were enough people to become aware of it—that is the importation of skilled labor from Mexico, taking jobs away from Americans.

The model of the NAFTA on jobs creation seems to be blue-collar jobs will be exported, professional workers imported. Heads Mexico wins, tails we lose.

People like the Purcell sisters in Topeka are legion in every State in this Nation. If this House, this Congress thinks that the people who vote us into office have the wool pulled over their eyes on the cost of the NAFTA to them and their families, be warned.

The Purcell sisters and their friends convince me that they know more about the details of the NAFTA agreement—and its consequences—than many of the people walking around on this Hill.

And good for them. They are taking their responsibilities as American citizens very seriously. We should all be indebted to them—as I am—for their studious efforts and for the devotion they have shown to their country.

POLITICALLY CORRECT PAYZANT IS OUT IN LEFT FIELD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, one of the most important areas of Federal and State government, and local government, is education, and toward that end it is very important that the people who are nominated to positions of leadership and authority in education be the kind of people that we can entrust our children to, and I became very concerned today when I received some correspondence about a gentleman who is going to be nominated, or has been nominated, to the position of Assistant Secretary of Education for Primary and Secondary Education. His name is Dr. Tom Payzant, and he has been a controversial figure during this tenure as superintendent of the San Diego public schools. Some of Dr. Payzant's administrative decisions and views on such issues as gay rights and the Boy Scouts indicate that he is a very dangerous man for American parents who believe schools should be involved in education instead of social engineering, and the document that I am reading came from the Traditional Values Coalition that did the research on this.

In the spring of 1992, Dr. Payzant formed a task force "to look at issues that were of concern to members of the gay and lesbian community in San Diego,"—School Board Meeting, January 12, 1993. The group included members from radical homosexual groups such as Parents and Friends of Lesbians and Gays [PFLAG] and the Lesbian and Gay Men's Community Center. The task force recommended that a clause banning discrimination against students and public school employees because of their sexual orientation be added to the school district policy. Dr. Payzant brought this to the school board in November 1992, which passed the recommendation unanimously in December, thereby granting special minority status to public school employees and students who choose to engage in homosexual behavior.

□ 1710

The Boy Scouts in San Diego ran programs for disadvantaged children in some inner-city schools. They worked with the children during the school day instead of after school because as one school board member asserted, "It was very difficult to get the kids to come after school or on Saturday," because of the violent environments in which they live—School Board Meeting, December 15, 1992. Boy Scout national policy does not allow homosexuals to be in leadership positions—(that is den leaders)—in order to provide positive male role models for many children who do not have one at home, as well as to protect the children from being victims of child molestation. This is understandable considering that in 1989 alone, 195 homosexual troop leaders were banned for sexually abusing boys—The Washington Times, June 15, 1993.

Dr. Payzant then stretched the new policy barring discrimination against homosexual employees and students to apply to private organizations that work with the public schools in order to advance another recommendation of his gay and lesbian friends. Dr. Payzant recommended that the Boy Scouts be barred from providing services during the school day, but be allowed, like other groups, to hold meetings after school. This would in effect, destroy the Boy Scouts' work by denying inner-city youth a safe environment in which to receive much needed remedial education. The board members passed the resolution with reservation. One board member felt that they had no choice because the Boy Scout policy conflicted with the previous policy Payzant had inflicted upon them, but conceded that "this hurts me because it hurts the boys." Dr. Payzant effectively promoted the gay rights agenda at the expense of the education of inner-city youth.

Dr. Payzant's own comments reflect his unabashed hostility toward the Boy Scouts:

> Growing up in the late 1940's and early 1950's as a Boy Scout, I was taught the values of tolerance and inclusiveness and I find it rather ironic some 40 to 50 years later, that I am using what I learned as a Scout to challenge an organization that in the 1990's apparently doesn't understand that you can't

have values in conflict and mixed signals to send * * * we can't tolerate an organization with that kind of policy working with young people."

What he is saying in effect is that if you do not want homosexual scoutmasters because of the record that has been alluded to previously, that there were 159 homosexual troop leaders that molested kids in 1989 alone, that you are out of step with society. I think he is dead wrong.

To read further, what sort of organization does Dr. Payzant endorse? During the same board meeting where he lobbied for his non-discrimination clause, Dr. Payzant responded to a question concerning future diversity training and curriculum by saying, "I think it was maybe two or three years ago where we did a workshop and some resource people from Project 10 in Los Angeles, and it become an event. And one of the things that I think is very clear now with this policy statement, it really gives credibility to the intent and seriousness of the School District with respect to this issue, and it will make it more possible for the staff and others to go forward in a "pro-active" way with this kind of training."—School Board Meeting, November 11, 1992.

Project 10 is a radical-homosexual group which endorse pro-gay material like that of the infamous Rainbow Curriculum in New York City under then Superintendent Joe Fernandez, which was loudly rejected by parents in New York. Project 10 is based on the incorrect claim by the homosexuals that they make up 10 percent of the population. As of late, several scientific studies by the National Opinion Research Corp. and the Guttmacher Institute have revealed that in fact only about 1 percent of the population is exclusively homosexual. At a later meeting Dr. Payzant again showed his activist leanings for the gay rights agenda. Because of what happened to Joe Fernandez—he lost his job during the NYC Rainbow controversy—Dr. Payzant was hesitant to move too quickly on diversity issues but said, "I will be willing to take one step at a time * * * I think it's going to take a little more time here in this community for people to take on that issue * * *. But as we get the opportunity to provide more help and support for gay and lesbian students we'll do that,"—San Diego Human Relations Commission, February 17, 1993.

During the same meeting, Dr. Payzant revealed further anti-Christian bigotry and prohomosexual philosophy when discussing the response he has received from members of the San Diego community who disagreed with his homosexual and Boy Scout policy. "This kind of thing kind of brings you up and says there's a lot left to be done and there are a lot of folks out there who have got some pretty crazy ideas about the world and how it works and in a perverse kind of way it kind of reinforces you and gives you a little more determination to push forward, and we've got a lot of work to do on that one in this community and in this country, and the various phobias that are out there are very, very strong indeed * * *. I have had problems with people who can't even begin to acknowledge that there are differences in sexual orientation and that that's not just a matter of choice,"—San Diego Human Relations Commission, February 17, 1993).

Dr. Payzant's statements certainly indicate that moral, Christian Americans who believe that the Boy Scouts are an upstanding institution that provide a valuable service to the youth of this Nation and that homosexuality is a dysfunctional behavior which should be discouraged instead of promoted have "some pretty crazy ideas about the world." Even more frightening is that his twisted view of traditional Americans motivates him to challenge the values of America and move us away from our Judeo-Christian ethic which our great Nation was founded upon.

How does the nominee of what a 1992 U.S. News & World Report article stated to be one of the four most important positions to fill in the Nation, propose to induce this value-changing of America? Dr. Payzant has said of his approach, "What it all boils down to is attitude, and how willing people are to have their own attitudes confronted by others, who open their minds to the possibility of perhaps changing. I mean that you've got a group of people that have a very positive attitude about diversity and dealing with it and they know how to do it and they do it well, they're not uncomfortable about it. You've got another group of folks that think it's silly and crazy and they're not going to change, if they can help. And you've got a lot of folks, I think, in the middle who are willing to be educated and change learn, as long as you don't club them over the head and say, 'do it right now on my terms' that can be brought along. And that's the group that I'm optimistic about * * *. But we've always got that rear guard out there that's fighting us every step of the way. And I don't know of anybody who's figured out a way to get them yet."—San Diego Human Relations Commission, February 17, 1993).

Dr. Payzani has also promoted school-based birth control centers and expressed more of this anti-Christian bias when commenting about Christian schools, "You don't learn science, history and government through an entirely religious background. It is not effective."—The Daily Oklahoman, March 29, 1982. Additionally, Dr. Payzant's administrative decisions conflict with his belief that, "Out society has * * * to impress upon young people that they really have to work hard to do well,"—LA Times, December 22, 1991. For instance, Dr. Payzant instituted a policy which banned the F grade and promoted elementary students who previously would have been held back, because he thought the traditional policies were harmful to their self-esteem. In other words, Dr. Payzant believes we should pass students not because of merit or hard work, but out of fear of hurting their feelings. A man with such a flawed philosophical base like Dr. Payzant should not fill a position that is considered to be one of the four most important in the Nation. It would be disastrous for American parents who send their children to school to be educated, not to be undermined by the politically correct philosophy of the education elite.

Mr. Speaker, I just want to say to my colleagues and anybody else that may be paying attention, that I was a Boy Scout, and I was a Cub Scout, and I know a lot of people who have been in Cub Scout dens and Boy Scout troops, and the traditional values and the Judeo-Christian ethic that we learned of God and country was very important to the foundation laid in many of our lives. Many of us came from broken homes, many of us came from very tough neighborhoods where there was a lot of crime and a lot of opportunity for getting in trouble, and the Boy Scouts of America in large part saved us from a fate that might have taken us into prison or worse.

Mr. Speaker, I just would like to say that to put somebody in as an Assistant Secretary of Education at the Federal level who believes that we ought to have homosexuals as Boy Scout leaders and Cub Scout leaders, when we know that there have been all kinds of violations perpetrated upon kids by the troop leaders across this country and in violation of what the Boy Scouts stand for, I think is a travesty. It is a travesty.

Some people have even banned the Boy Scouts. Some of the major corporations in this country have banned the Boy Scouts from getting contributions from their firms, even though they have given in the past, because they do not allow homosexuals to be troop leaders and have God in their creed. I say we are going a long way in the wrong direction when we start taking on the Boy Scouts of America because of their attitude of God and country and their moral attitudes.

So I would just say to the President, if he were here, Mr. Speaker, that I think this is a bad choice, a very bad choice for Assistant Secretary of Education, and he should withdraw it as soon as possible.

□ 1720

APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE OF THE LATE HON. PAUL B. HENRY

The SPEAKER pro tempore. Pursuant to House Resolution 232, and on behalf of the Speaker, the Chair announces as members of the funeral committee of the late PAUL B. HENRY the following Members on the part of the House:

Mr. DINGELL of Michigan;
Mr. MICHEL of Illinois;
Mr. BONIOR of Michigan;
Mr. GINGRICH of Georgia;
Mr. CONYERS of Michigan;
Mr. FORD of Michigan;
Mr. KILDEE of Michigan;
Mr. CARR of Michigan;
Mr. LEVIN of Michigan;
Mr. UPTON of Michigan;
Mr. CAMP of Michigan;
Miss COLLINS of Michigan;
Mr. BARCIA of Michigan;
Mr. HOEKSTRA of Michigan;
Mr. KNOLLENBERG of Michigan;
Mr. STUPAK of Michigan;
Mr. SMITH of Michigan;
Mr. MCDADE of Pennsylvania;
Mr. REGULA of Ohio;
Mr. GOODLING of Pennsylvania;
Mr. MARKEY of Massachusetts;
Mr. WALKER of Pennsylvania;
Mr. LIVINGSTON of Louisiana;
Mr. LEWIS of California;
Mr. ROTH of Wisconsin;
Mr. SENSENBRENNER of Wisconsin;
Ms. SNOWE of Maine;
Mr. THOMAS of California;
Mr. PETRI of Wisconsin;
Mr. EMERSON of Missouri;
Mr. GUNDERSON of Wisconsin;
Mr. SMITH of New Jersey;
Mr. WOLF of Virginia;
Mr. OXLEY of Ohio;
Mr. BOEHLERT of New York;
Mrs. JOHNSON of Connecticut;
Ms. KAPTUR of Ohio;
Mr. BARTON of Texas;
Mr. CALLAHAN of Alabama;
Mr. DELAY of Texas;
Mr. FAWELL of Illinois;
Mr. GALLO of New Jersey;
Mr. KOLBE of Arizona;
Mr. MCMILLIAN of North Carolina;
Mrs. MEYERS of Kansas;
Mr. BALLENGER of North Carolina;
Mr. GRANDY of Iowa;
Mr. HASTERT of Illinois;
Mr. HOUGHTON of New York;
Mrs. MORELLA of Maryland;
Mr. PRICE of North Carolina;
Mr. MCNULTY of New York;
Mr. PAXON of New York; and
Mr. FIELDS of Louisiana.

MEDIA COVERAGE OF THE ARAB COMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, after seeing this week's cover of the New Yorker magazine, I feel I must speak out. The magazine portrays three young children at the beach building a sand castle of Manhattan. A fourth boy wearing an Arab headdress and sunglasses is shown pouncing on their version of the World Trade Center.

A number of organizations and individuals have expressed outrage over this damaging depiction of the Arab community. And they are right to do so.

The New Yorker issued a statement saying, "This is not a joke at the expense of Arab Americans. It's a joke about cultural stereotypes and about how children absorb them from television." This statement shows how little sensitivity the magazine has to this problem.

Mr. Speaker, this is no joking matter. Anti-Arab bias is very real—it is prevalent in our television programs, newspapers, and, yes, our magazines. A magazine claiming that it is "probably the best magazine ever" should do better than this.

It is my understanding that Albert Mokhiber, president of the American-Arab Anti-Discrimination Committee has requested a meeting with the editor of the New Yorker. I hope this meeting takes place to open what is obviously a much-needed dialog between the magazine and the Arab-American community.

The New Yorker cover is just one example of an increasing trend of media bias since the World Trade Center bombing.

Recently, the Washington Post reprinted a cartoon from the Palm Beach Post titled "Let's Play Where's Abu." The cartoon continues, "in the crowd of immigrants below, the terrorist Abu Ben Fotwa El Fadwa El Fatweh is carrying a huge bomb strapped to his waist, Can you find Abu?"

Cartoons such as these are anything but funny to Arab-Americans. New York Transit policeman Mahamoud Tamer became the target of repeated slurs and humiliating jokes by his colleagues. Earlier this month, he took his own life with his service revolver.

Recently, there was one important exception to this trend of anti-Arab bias. A New York Times editorial called on Disney to remove offensive liens from a song in its movie "Aladdin." I ask permission to include in the RECORD, at the end of my statement, a copy of the editorial and commend it to the attention of my colleagues.

We have seen shameful periods of discrimination in our Nation's history. We saw it during World War II when Japanese-Americans were indiscriminately detained in concentration camps. We saw it during the gulf war when the FBI interrogated and harassed Arab-Americans solely on the basis of their ethnic background.

The overwhelming majority of the Arab-American community deplores violence of any kind, and particularly the World Trade Center bombing. Like most, Arab-Americans work hard to build a better future for themselves and their children, and believe deeply in our Nation's democratic principles. Like the Japanese-Americans, during World War II, there is no evidence that they as a community are involved in acts of terrorism.

It is during times such as these that our national character and conscience is tried. I urge my colleagues to work against these insidious prejudices that only serve to divide our society. And I call upon our Nation's editors, publishers, and producers to take responsibility for the products they sell—products which have an enormous influence on how we, and our children, form cultural stereotypes.

We must each do all we can—and the media has a special responsibility to ensure that all people are treated with dignity.

Mr. Speaker, I include for the RECORD the editorial to which I referred:

[From the New York Times, July 14, 1993]

IT'S RACIST, BUT HEY, IT'S DISNEY

Most Americans now know better than to use nasty generalizations about ethnic or religious groups. Disparaging stereotypes—the avaricious Jew, the sneaky Chinese, the dumb Irishman, the lazy black person—are now so unacceptable that it's a shock even to hear them mentioned.

Thanks to current international politics, however, one form of ethnic bigotry retains an aura of respectability in the United States: prejudice against Arabs. Anyone who doubts this has only to listen to the lyrics in a song from the animated Disney extravaganza "Aladdin":

Oh, I come from a land
From a faraway place
Where the caravan camels roam.
Where they cut off your ear
If they don't like your face
It's barbaric, but hey, it's home.

Understandably, Arab-Americans are upset. They find it difficult enough that Saddam Hussein is the villain *du jour* and that terrorists from Arab countries have recently threatened New York. The difficulties mount when policemen in Iran imprison women for showing their hair, or mullahs issue death warrants against authors they consider blasphemous. But the ayatollahs of Iran don't represent all Arabs, nor all Muslims—just as sleazy televangelists don't represent all Christians, or all Americans.

Bowing to pressure from the American-Arab Anti-Discrimination Committee, the Walt Disney Company has agreed to change two lines—the ones about cutting off ears—in the home video version of the movie, which will come out in October. The line "It's barbaric, but hey, it's home" will remain.

That's progress, but still unacceptable. To characterize an entire region with this sort of tongue-in-cheek bigotry, especially in a movie aimed at children, borders on barbaric.

Mr. DINGELL. Mr. Speaker, I wish to commend my good friend and our distinguished majority whip, DAVID BONIOR, for arranging today's special order on a topic of great importance to many people from my district.

I have the distinct pleasure to serve what is commonly recognized as the largest community of Arab-Americans in the United States. Like every other person I represent in my congressional district, Arab-Americans are busy raising children, running their businesses, getting involved in local civic, cultural, and religious organizations, and trying to make the most of the American dream.

Throughout the history of our Republic, the American dream has represented the sum of our citizens' hopes, ambitions, and struggles to build a better life for ourselves and our children. That is why I find it so tragic when a single ethnic group, already victimized by unfounded stereotypes, is subjected to ethnic slurs which punish an entire group for the acts of few.

What does it mean to be an American? For most of us, it means sharing the common bonds of tolerance, understanding, and compassion, rooted in ethnic diversity which has provided people the opportunity to make the most of their abilities—no matter what their roots. For most Arab-Americans, the struggle to enter the mainstream culture and add their talents to the community-at-large remains inhibited. I am concerned that anti-Arab bias is fortifying a wall of intolerance, with comments in both the print and broadcast media giving ammunition to those who wish to keep alive unwarranted prejudices.

Our democratic society places great emphasis on the freedom and self-reliance of the individual, as well as tolerance for those whose ancestry, culture, and religion is different than one's own. It is my hope that all who speak about any ethnic group remember the many accomplishments those groups have contributed to the American dream. Particularly at a time when the world is witnessing so much needless bloodshed based on age-old hatred and prejudice, our culture diversity stands as a symbol to the world that people can live together in peace.

Let us all work together to promote it.

IN OPPOSITION TO THE CLINTON TAX AND ECONOMIC PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON. Mr. Speaker, I rise tonight and will probably not take the full hour, but I rise on the occasion of the week where we begin deliberating this massive tax and economic plan being proposed by President Clinton and to focus on an effort that I have been conducting for the last month to focus on specific concerns that have been brought to my attention by constituents in my congressional district back in Pennsylvania as well as from others around the country.

I have come out publicly and said that I cannot support the President's economic plan. In many areas, I have been supportive of the President.

The first major bill out on the House floor this year, the family and medical leave bill, I was a major supporter of. I worked hard for the passage of that compromise legislation and, in fact, in a previous session of the Congress was the Republican coauthor of that bipartisan bill.

When the President is right, I will support him; when he is wrong and takes a wrong-headed approach, I will stand up, as I did back in 1990, when President Bush lobbied Members on our side very heavily to support what we said would be a misguided attempt at trying to bring the budget deficit under control and, along with that, contained a massive tax increase. I voted against President Bush back in 1990 in what was one of my most difficult votes and, as it turned out, one of my most correct votes.

I will vote against President Clinton this week as we bring the economic plan to the House floor for consideration.

I cannot support it for a number of reasons. It is not just because there are tax increases contained inside of the plan. I spent 10 years in local government before coming to Washington, 5 years as a local mayor and 5 years as a member and then chairman of a large county in Pennsylvania of some 600,000 individuals.

□ 1730

During my 10 years in local government, frequently we had to raise taxes to keep up with the increasing demands on service. I am not one that is going to stand in this body or in this well and say that I would just oppose this because it increases taxes on the American people. From time to time or when we have to increase services or when the cost of government increases beyond the revenues coming in, we have to raise additional revenues, but we should not be doing that until we have brought the size of this government under some type of control, as well as resolving the budget process in a way that makes sense. Neither of those two things have happened, and this plan will not accomplish either of them.

Contrary to all the rhetoric we are hearing, both out of the White House and from those people who are supporting the President's economic plan, we all know in this body that this will be a repeat of the 1990 fiasco. The taxes will increase. In fact, the plans that are being worked out now will retroactively increase those massive taxes to January 1 of this year, so the American people will pay the additional revenues for us to use here in Washington.

Unfortunately, as has been the case in the past, the budget cuts will never come. In fact, anyone who tears apart and takes away all of the rhetoric and looks at the substance of this plan understands that the largest cuts proposed in the President's economic plan come in the out years, the third, fourth, and fifth years of this economic plan. In fact, in some cases they come after the next Presidential election.

It is great for us to be talking about what we are going to do after the next Presidential election, but, as in the past, those cuts never come about. In fact, if we look at this plan, what worries us the most is that one of the strongest underpinnings to make this program successful is to cut defense spending by $117 billion. That is one area where real cuts are being proposed over 5 years, and in fact, those cuts are taking place beginning in this year's defense bill which we are about ready to bring to the House floor.

Being a member of the Committee on Armed Services, I think we are moving too fast in terms of downsizing the military. I worked hard with our new chairman, the gentleman from California [Mr. DELLUMS], who I think did a commendable job in this year's markup process, and we did reach agreement on cutting a substantial number of defense spending for 1994 fiscal year.

However, if we listen to the leaders on both sides of the aisle, in the out years, if we listen to key Democrats who work defense issues day in and day out, people like the gentleman from Pennsylvania [Mr. MURTHA], and Senator SAM NUNN, they are saying publicly what many of us are saying, that these projected $117 billion in cuts over 5 years will never materialize.

If leaders of the President's own party who are very well respected on defense issues are not really confident that we can achieve the level of cuts that the President is saying are necessary, then not having those cuts will totally undermine the President's 5-year economic plan, because he will then have to cut other areas of entitlement

My feeling is that because of the proposed level of defense cuts and the fact that I do not think they are going to take place, the economic plan is doomed to failure. What also bothers me is if we look at and analyze these cuts in detail, many of them are nothing more than smoke and mirrors. That has been done very well by the national media.

I look at the fact if we take away the defense cuts which are going to occur in the 1994 defense bill, the only other significant cuts that will occur in this first fiscal year in terms of the 5-year plan are actually obtained by using an accounting gimmick to shift the reimbursement dates for hospitals from a fiscal to a calendar year basis. Everyone knows that in fact is not a cut, it is simply an accounting game, the kind of thing we have done so frequently here in Washington in the past.

However, what has frustrated me most about this debate are my colleagues who come to the well and even in the administration that constantly talk about how this plan is in fact going to create jobs and how it is going to be a job stimulator in terms of new job creation. What is interesting is the

fact that the administration claimed initially that the Clinton budget would result in 8 million jobs, which is actually 1 million below what the Congressional Budget Office said would be the job creation over the next 5 years under our current policies.

The Clinton economic plan, in using its estimate of 8 million jobs created, is actually 1 million jobs lower than what the Congressional Budget Office has said would occur anyway, even without the Clinton plan being proposed by President Clinton.

Many of my colleagues have stood in the well here and in the other body and they have talked about how this plan is going to stimulate small business and how it is going to help companies grow and expand.

I think instead of listening to the rhetoric here in Washington, we should be listening to those people who are out there running the small businesses and providing the jobs for the American people. That is what I have done over the last month in a series of special orders that began several weeks ago. I have focused on individual companies who have written to me about the real impact of the Clinton economic plan if it were passed on their business and on the jobs they have created and the jobs they would like to create.

I can say, Mr. Speaker, the sentiments coming from the constituents both in my district and those in Pennsylvania and the tristate region who have written to me, have all been negative. In fact, it is kind of interesting to look at one Member's mail coming into his office. In my office, the mail since the President first announced his economic plan back in January has generated over between 3,000 and 4,000 individual contacts, both in the form of letters,

For the first 2 months after the President spoke here in our joint session, the numbers are running 3 to 1 against the President's economic plan. In some parts of the country they are running neck-and-neck, but in my district the communications were running 3 to 1 against the plan.

Then the reconciliation bill came to the House floor. Since the reconciliation bill came to the House floor and constituents and business leaders have had a chance to analyze the reconciliation package in detail, the mail has shifted coming into my office so it has been running approximately 20 to 1 against the President's economic plan.

I have held a number of town meetings throughout my district over the past several months. On one Saturday afternoon I had joint meetings with our colleague, the gentleman from Pennsylvania [Mr. WALKER] in West Chester, where we had 200 people come out for that town meeting, and then in media, where I was joined by my colleagues, JIM SASSER and the gentleman from Delaware [Mr. CASTLE], to speak with about another 250 people. Not one person in either of those town meetings came out to say they were in favor of the President's economic proposal and economic plan. In fact, there were some very hostile comments from people who were very upset with what was being proposed.

Over the last several weeks, in looking at the specific letters and cards and phone calls coming to the office, I thought it important to pull some of those out and submit them into the CONGRESSIONAL RECORD, because these are real people. These are not politicians inside the beltway here in Washington who want to get a certain political plan passed. These are people who are taxpayers, and in many cases, people who have created and provided jobs for thousands and tens of thousands of people, not just in my congressional district but throughout Pennsylvania, throughout the tristate, New Jersey, Delaware, Pennsylvania, area, and really throughout America.

I want to go back and review some of those letters and some of that correspondence, because these are in fact from real people. I received a letter from Spike Yoh, the chairman of the board of Day & Zimmerman, one of the largest engineering firms in America. Day & Zimmerman has 12,000 employees around the country, and they focus on doing the engineering work for companies that want to expand and provide new buildings, put in new machine lines, a new operating line. They oftentimes are brought in for the expansion activities planned by companies.

Spike Yoh wrote to me back in June. He talked about how they started out this year feeling as though it was going to be a positive year, that there were many orders for the consultant services that D & Z provides, that would indicate to him that there was going to be economic growth throughout America.

Then he said the prospects of higher taxes came into play with the President's State of the Union Address. As a result of that, there has been a total halt to economic growth in the companies that Day & Zimmerman consults for and consults with.

□ 1740

And what that means is that the jobs that were going to be created by those companies who had planned to expand their operations, to put up new buildings, and to grow their own individual companies are now not going to take place.

I would like to read some of the quotes from Spike Yoh's letter. Here is what he said to me in that letter that he wrote to me just a month or so ago, and I quote, "Orders were starting well this year, but they've now been put on hold while clients have taken a wait-and-see attitude about the impact of the President's economic plan and soon-to-be-announced health care program. Those of you in the Congress may not be aware of the breaking effect that these two huge unknowns are having on the willingness of business leaders to commit to investment right now. Capital projects in the private sector have all but stopped. Expansion, improvement, and modernization projects seen as essential to keeping American business competitive in world class markets have been shelved."

Then he goes on to say later on in his letter where he talks about what we are attempting or the Congress is going to do in cooperation with President Clinton, and he said, "The simple truth is that jobs are not created through the transfer of capital from the private sector to the public sector. Let us not follow the lead of New Jersey," he says, "which is now suffering terribly. History has repeatedly proven that economic growth is not fueled by higher taxes."

Now this is Spike Yoh, the chairman of a company that is oftentimes on the cutting edge of businesses growing and expanding, who is telling us in Washington that this plan that President Clinton is going to go on national TV tonight and talk about impacting jobs and economic growth is going to have the reverse impact on the economy. And in fact, is already costing us jobs.

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

Mr. WELDON. I am happy to yield to my friend and colleague, the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I would like to congratulate him on taking out this special order. I would like to make a couple of comments.

First of all, it was rather strong in the letter from Mr. Yoh that clearly he has an understanding of what it is going to take to create jobs and get this economy moving. My State of California is suffering greatly. Defense and aerospace cuts and a wide range of other things that have happened to our State have had a very, very negative effect on our economy.

It seems to me that as we have looked at this we have had proponents of the President's plan argue, as we would in behalf of growth. They say they want to put into place a growth component to ensure that the private sector plays a key role in creating jobs, and yet, based on every shred of empirical evidence that we have, this proposal will move us in the opposite direction.

There are a couple of people who have said, and it has come out in the media over the last several months that those of us on this side of the aisle have simply tried to block the proposal that President Clinton and the majority has made, and I have said here time

and time again that nothing could be further from the truth. I have introduced H.R. 1885, and I think my friend from Pennsylvania is a cosponsor of that legislation, which does four very simple and basic things designed to address the problem to which Mr. Yoh referred in his letter.

First, it brings about a reduction in the capital gains tax from 28 percent down to 15 percent. Second, it puts into place a moratorium on new regulations to be imposed on the business sector of the economy. We all recall when under the Bush administration a 90-day moratorium on new regulations was put into place. I have yet to hear of any tragedies that came about because of that 90-day moratorium on new regulations. Those new regulations obviously play a big role in hindering job creation and economic opportunity.

The third component is a freeze on Federal spending, basically the 2-percent solution, which would allow us to increase at only a 2-percent rate present programs. And we have been told time and time again on this floor about the budgeting process here whereby you can have a 3-percent increase, and yet have that is interpreted as a spending cut based on the budgeting process that we have. So that is the third aspect of it.

The fourth aspect is one which reinstates and expands individual retirement accounts so that people can put dollars aside, plan for retirement and utilize them, withdraw in instances of first-time buyers of a new home, or medical payments, or for education, and those three exceptions are provided.

It seems to me that H.R. 1885 addresses the kinds of concerns, and is a positive Republican-based alternative to this issue which we have before us. And as I say, my friend is correct in pointing this out. But tragically, many people like to argue that we are simply trying to block this plan, and we are not. We are offering positive alternatives in the area of spending cuts and economic growth. The American people should be aware of that. Our colleagues on both sides of the aisle should be aware of it.

In just a few minutes I am going to be specifically addressing the issue of capital gains differential and the role that that will play in creating the kind of economic growth which Mr. Yoh and others of your constituents and my constituents want to see put into place. And I thank my friend for yielding.

Mr. WELDON. I thank my colleague for those very important points. And I am a cosponsor of that initiative.

My colleague has brought up a very important point, and that is this plan does nothing to address the need to encourage the private sector to save money, to provide the capital for new investment. And our colleague's plan would in fact do that, especially through the use of the IRA's, as he outlined to us, as well as the changes in the capital gains, and most significantly in controlling the size and growth of the Government.

The thing I hear most frequently from my constituents is control the Government. Now we look across America and we have seen private corporation after corporation downsize, and shrink the fat, and try to save money to make it leaner and tougher in terms of doing business. But we in the Federal Government have never downsized our operation. The beltway is filled with career bureaucrats, many of them making salaries far higher than what private sector managers make. And we have never attacked the issue in an aggressive way of downsizing the growth of this Government, and that has got to be a key part of anything that we do.

I would say to my colleague, following up on his comments about people criticizing us as Republicans for not providing alternatives, we have done that. We have done it repeatedly. And this is nothing new, the initiative we are talking about in opposing President Clinton. And it is not because he in fact is a Democrat. As I started out my comments I said the toughest decision for me was in 1990 when I opposed my Republican President because the approach he was taking was wrong. I told him at that time that the leadership in this institution would not agree to the deficit-cutting provisions that were contained in that 5-year plan, and in fact that is exactly what happened.

What is kind of ironical, however, is that I understand that $44 billion of the cuts that President Clinton is counting in his current 5-year plan program were actually contained in the Bush program from 1990. They have just been pushed out further in terms of time period.

Let me go to a second letter that is very telling. We have heard frequently that the economic plan, the tax increases that have been proposed will not hurt middle-income Americans. They are really only going to hurt the wealthiest of the wealthy. I pointed out last week that Money magazine, the August issue which came out had the front page headline, on the front cover, the bold headline which was "How To Avoid the Largest Tax Increase," and it had eight pages of very specific things that wealthy Americans could do in terms of their portfolios to shift their money and their investments so that they would not be hit by the massive tax increases proposed by the Clinton economic plan.

Unfortunately, middle-income Americans do not have that opportunity. Senior citizens cannot run away from the income tax increase, or the tax increase that they are going to see which is being called a cut, by the way, in the Clinton plan. Small businesses cannot run away by sheltering their investments and their income. So middle-income America is in fact going to be hit in a very severe way.

But I think one key way that middle-America is going to be hit is summed up by the president, James Pinciotti, of the Fleming Companies. The Fleming Companies are headquartered in King of Prussia, PA. Mr. Pinciotti wrote to me on May 28 of this year. I summed up this letter in a previous 1-minute, but I want to go through it again, because I think he points up another way that the American middle-income taxpayer is going to pay the bill for this plan, contrary to what we are going to hear tonight on the national broadcast when President Clinton goes before the American people.

Fleming happens to be America's leading food distributor. I quote, "We purchase, warehouse and distribute a full line of groceries, meat, fruits, vegetables, dairy products, delicatessen items, frozen food, and nonfood items to more than 4,800 food stores in 36 States.

□ 1750

"We are the supplier to 1 in every 10 supermarkets in the country." So this company, based in King of Prussia, PA, supplies the food to 1 in every 10 food stores in America, and he goes on to say that their industry as a whole is very competitive, characterized by high gross sales and minuscule net margins. Net margins in 1992, Fleming's sales, totaled $13 billion with net earnings of just over $113 million, or less than .09 cents per dollar of sales.

He goes on to talk about the American food distribution system, how efficient and effective it is, and then he comes back to talk about what the proposed increase in taxes will do in terms of his company, but more importantly, on those people who shop in those supermarkets where his company supplies the food, and that is the important part of his letter. Because what he says is that the costs are simply going to be passed on to the American consumer.

He goes on to talk about the Btu tax, which may or may not be a part of the President's plan. He said that if that were passed, it would cost Fleming 9.2 percent of their reported net earnings. An increase in the corporate tax rate would be over and above that number.

He then goes on to talk about if this proposed Clinton tax plan is in effect passed this week and becomes law, he says that the retail establishments that he supplies will be forced to increase the costs associated with these hidden energy taxes and other taxes directly onto the American consumer.

So an important thing for us to talk about here on the House floor is that it is not just the cost of direct taxes that the American people will be paying for

it is the indirect costs such as those that are going to be borne by Fleming Industries in supplying all of those food markets that are going to cause the prices of those food items to be increased on the shelf to the American consumers. So it is a hidden cost in terms of increased outlays for the American family to be paid as a result of this Clinton tax plan.

Another area that is important for us to understand, and it is also a hidden area where this tax will be felt, is in local government. I mentioned earlier that for 10 years I served as a local mayor and a county commissioner in a rather large county. One of my township managers from Haverford Township, Tom Banner, wrote to me on May 27 of this year. He talked about the hidden cost of any energy tax contained in this plan on local governments, because one of the things that many of our colleagues are not aware of is that local government will not be exempted from the energy costs that are passed along in this tax plan.

There was a study done by the Joint Committee on Taxation that estimated State and local government will pay 13 percent of the new Federal revenues generated by energy taxes. Now, who pays for that energy tax provided in the amount of 13 percent of the total amount raised? It is the taxpayer again.

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

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

Mr. DREIER. I would like to underscore that once again, so it seems to me that based on the analysis my friend has just provided of this proposed tax increase, the American people will be actually paying twice, because they first pay themselves for this burden, and then they pay taxes to their local and State governments, and then those State and local governments are shouldering the burden of paying those taxes on top of that.

Am I correct?

Mr. WELDON. That is exactly right. They are not exempt. So we are not just talking about cities and towns and townships and counties. We are talking about school districts. We are talking about authorities. We are talking about all of those public entities that are able to charge levies on American taxpayers as well as those taxing bodies that are able to charge property taxes and earned income taxes on the American taxpayer who is already going to be burdened by this additional tax included in the Clinton tax plan.

One of the things you will not hear President Clinton talk about tonight is the double taxation, taxes that are passed along to local government that also cause local property taxes to be raised to help pay this added amount.

Mr. DREIER. I do not know if the State of Pennsylvania is undergoing the same kind of fiscal constraint the State of California is, but I know that the State and the local governments in my area are extraordinarily strapped.

We have just had members of a city council recalled because they imposed a utility tax, and there is a high level of frustration and a concern about this level of expenditures, and this double-taxation proposal is something which obviously is going to really hit home if it is implemented.

Mr. WELDON. And the gentleman is absolutely correct. That is why it is so unfair, when supporters of this plan talk about how it is only going to tax the wealthy. It is not going to only tax the wealthy. It is going to tax directly and then indirectly and then indirectly again every American consumer, every middle American and lower income American who buys food in the grocery store, not just drives their car, but who pays property taxes, who pays income taxes, and all of those things have to be considered, because that is what is going to be included when we vote on this measure this week in this body.

I want to refer to another letter. This one is from Thomas French, and this was written on June 29 to me. Thomas French is president of the Owosso Group, a conglomerate of 12 small manufacturing firms headquartered in West Conshohocken, not in my district, but in the neighboring district of my good friend and colleague, the gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY].

Most of the firms in this group are small subchapter S corporations that file personal tax returns. It is important for us to understand what the Clinton tax plan will do in terms of impact on subchapter S corporations. He goes on to say, "They will be hit with a new top marginal rate of 42.5 percent up from the current rate of 31 percent." That is a dramatic increase. He goes on to say that it should be noted that these subchapter S corporations employ 800 people and have created more than 200 jobs since 1989, yet what the President wants to do is raise the taxes on these companies that have created new jobs, 600 jobs in the last 4 years, and what he goes on to say is, and this is George Lemon, the chief financial officer of the Owosso Group, is, "These taxes will mean that we will take fewer risks. We will make fewer investments, and we will have less working capital. This tax package now under consideration will kill this fragile economic recovery."

Another consumer, another taxpayer, another individual who has been creating jobs, putting in his feelings in terms of this economic plan.

And then I have another letter that came from a growth firm in Exton, PA, not in my district, but in the district of my colleague and neighbor, the gentleman from Pennsylvania [Mr. WALKER], in Chester County, in his district, in Exton. Mr. Kronenberg formed the ECS Group back in 1979. At that time he had 13 employees in his company. Today that same company has 218 employees, one of the fastest growing firms in Pennsylvania, focusing on environmental restoration, hazard mitigation, and environmental cleanup.

He talks about the extensive health care package and benefits plan that he has for his employees, all 218 employees. What he said to me in his letter, and this is Bill Kronenberg, the president and CEO of ECS, is that if this plan is passed, "What we will do is rethink our benefits package. It will force us to diminish the amount of benefits that we provide to our employees and will cause us to put a hold on hiring any new employees." Then he goes on to talk about even beyond this plan the negative impact that health care taxes and the cost of health care reform could have beyond what is contained in the Clinton economic plan that we are going to vote on this week.

Another letter comes from a John Lieberman, president of Lieberman Realtors in Wayne, PA. He talks about individuals that he works with. He talks about the challenges facing small business, health care costs, Federal and State overregulation. Here is his quote in his letter to me dated July 20, 1993, "Raising taxes will not solve this problem, only aggravate it." He goes on to talk about some of the clients that he has worked with and how they have told him they will not be expanding their operations, will not be creating new jobs if and when this Clinton tax plan is passed and becomes law.

And another one I did last week is from one of the board members of the largest small-business advocacy groups in the tristate Philadelphia region, over 5,000 small businesses. This is the same group of individuals and people that President Clinton talks about so frequently that he is going to help. The Small Business Association of Delaware Valley has over 5,000 members in Delaware, southern New Jersey, and Pennsylvania. One of their board members and leaders is Steve Markowitz. He wrote to me recently about the impact that this plan will have on the 5,000 small businesses that belong to the SBADV, and he writes, and I quote, as follows:

□ 1800

"Our members need to convey to you the distressed state of the entrepreneurial segment of this country." The cause of this distress? The soak-the-capitalist mentality of the Clinton administration.

He goes on to describe the impact of these tax hikes which they are going to have on small businesses in the region. These are members of the group, "a small business in Wayne will offset the anticipated corporate tax increase by reducing payroll 18 percent. A physician in Montgomery County will be reducing staff. Our own organization has

made a decision to have a zero increase in payroll for at least 12 months, this after increasing from 21 to 37 employees in just 19 months."

Mr. Speaker, these are real companies, real employers. These are not Members of Congress trying to score political points. These are people who employ real Americans, who are saying that if this plan goes through, these are the steps they are going to take.

Then, Mr. Speaker, I have some letters that I would like to put into the RECORD this evening.

The first is from the Hale Fire Pump Co. in Conshohocken, PA. This is from Joe Bruckner, director of human resources, Hale Fire Pump Company.

He talks about the impact that these taxes, tax increases, are going to have on their company. He cites a number of examples:

The Clinton Administration frightens businesses and has a negative effect on business expansion. Specific issues that concern me are: municipality and government organizations that have severely restricted discretionary spending, impacting on the demand for rescue equipment and related accessories by local rescue service agencies; the impending threat of an expanded energy tax, which increases the costs of doing business, in domestic as well as international markets; the lack of control on Federal Governing spending for social entitlement and pork-barrel-type programs. This will continue to stifle business expansion and exert a negative influence on new job creation; the impending fear of rampant inflation, so well controlled under the presidencies of Ronald Reagan and George Bush, is another concern due to the substance and direction of Clinton's proposals; the lack of any real improvements in the balance-of-trade deficits, despite Clinton's widely touted "successful trade talks;" and the reluctance to hire. We at Hale, and many other businesses, now avoid hiring additional people until absolutely necessary, pending positive direction to the economy.

Then he asks me:

Congressman Weldon, whatever actions you and your colleagues in the Congress can do to minimize the negative impacts of Clinton's progressive liberal economics on the business community and to help protect and sustain the industrial base that has made this Nation so great will be appreciated by all Americans.

This is another business chiming in with their concerns over this plan.

I go on to talk about IMPAC, a company located in Exton, PA, Precision Media Duplication and Software Packaging. He writes and says,

On behalf of small business everywhere, I urge you to vote "no" on the Clinton tax-and-spend economic proposal. I agree completely that we need to significantly reduce the deficit, but I think that objective can best be achieved through a program of deep spending cuts and by providing stimulus through growth incentives to encourage business development and growth, not by increasing our tax burdens during these most difficult of times.

This letter is signed by James Freed, president.

Mr. Speaker, in fact, I would say most of our colleagues would want us to cut spending first and then look at any revenues that we might have to raise to allow the budget to come into balance, but not put the taxes first and increase the revenues and put off the difficult spending cuts until 3, 4, 5 years down the road.

Another company, Gallagher Fluid Seals. He says,

Dear Mr. Weldon: As a small-business owner, I am opposed to the President's "deficit reduction proposal." I feel the tax increases that are a part of the bill will have a negative impact on our business. It could jeopardize our current work force in addition to eliminating the need for additional personnel for the foreseeable future. I urge you to vote "no".

This is signed by Joseph W. Gallagher, president of Gallagher Fluid Seals.

Next we have a letter from the Chemical Leaman Tank Lines in Exton, from John Kilcullen, president and chief officer:

I urge you to oppose the fuel tax proposal, in the President's economic plan because of the impact on the trucking industry and the impact on the businesses they provide nationwide in terms of transporting chemicals from one corporation to another.

He goes into detail talking about the negative impact that these taxes will have on the ability of Leaman Tank Lines to be able to provide cost-effective service for these corporations to use.

I also have a letter from Garvin R. Kissinger, vice president of Mid-Atlantic Keystone AAA. He says in his letter, which is dated July 29:

Dear Congressman Weldon: As you know, budget talks between congressional and White House officials are now talking place. It appears that a new 9-cent Federal tax on gasoline could be part of the reconciliation package. It is our belief that such a gas tax increase—

Is not warranted, and he goes on to cite the reasons.

This new tax will represent a 64 percent increase, if it was raised the 9 cents per gallon, although we are now talking about 4.5 cents, over the current 14.1 cent Federal gas tax. This deficit reduction gas tax is on top of a 56 percent increase in the tax that occurred in 1990. Combined with expected increases for Federal oxygenated and reformulated gasoline mandates and other State and local taxes, pump prices may be 20 cents higher per gallon by 1995.

And our President has the audacity to go to the American people and say it is only going to cost the average family about $30 per year. I do not know where the White House is getting its numbers from.

He goes on to say in this letter:

A recent AAA survey indicates over 70 percent of the voting public rejects the notion that fuel taxes should be used for deficit purposes.

My next letter is provided by Libby Beatty, president of Pinton-Kelley Co. in Philadelphia. She says:

I am writing to you regarding the President's tax reconciliation bill. As president of a small commercial printing company in Philadelphia, I have experienced the following: The confusion over the eventual effects of the proposed energy tax has inhibited and delayed expansion decisions; the perceived increase in cost structure to be brought on by the proposed tax increases has resulted in further preemptive staff reductions to maintain already-shrinking profitability. Congressman Weldon, please direct your efforts toward minimizing the negative effects of tax increases on the small-business owner.

Now, Mr. Speaker, we have heard time and again Members come to this well and say small business is going to benefit from this package. Yet what I am giving you today is example after example, in fact I have no examples of small business owners writing to me saying they want this plan to be passed; everyone who has written to me has said it is going to hurt them. In fact, most of them, as I have reported here, that even the possibility or the potentiality of having tax increases is already costing jobs.

Another letter from Anthony J. Ferrante, president of Durant Medical, Inc., from Malvern, PA:

Dear Congressman Weldon, I own a small business in Malvern, Pennsylvania, and I am writing this letter to bring to your attention concerns that I have with the future of the economy. I have found it increasingly difficult to maintain proper bank and vendor relationships due to the Government budgetary problems. These problems filter down and directly affect my company, and in turn, my employees.

He goes on to say:

We have got to take the tax burden off the small business, not put more on them.

Mr. Speaker, I include here a letter from the vice president of the Rose Brier Inn, Inc., in Philadelphia, PA, in the northeast section, a letter from Chuck Lewis. He is vice president of the Rose Brier Inn Restaurant. As we know, the plan proposed by President Clinton is not just going to affect large corporations; it is going to affect small business; it is going to affect restaurants and the hospitality industry very substantially.

Mr. Speaker, I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding.

Is that the same Chuck Lewis who worked diligently here in the Capitol in both my friend's office and my office?

Mr. WELDON. The same, that is the same Chuck Lewis.

Mr. DREIER. I just wanted to make sure. I am sure it is a great letter. He is out making an honest living.

Mr. WELDON. He is writing—and I know the gentleman from California [Mr. DREIER] will be interested in this because I know that they were good friends—he is also writing in his capacity as the chairman of the Philadelphia and Delaware Valley Restaurant Association Legislative Committee. That committee has 500 members of the restaurant and hospitality industry in the

Delaware Valley area. Chuck is their legislative committee chairman. He writes to us to talk about the status of the restaurant industry and how they have been hurt so dramatically by the stagnation of our economy.

□ 1810

Chuck's Restaurant, 1 year ago employed 88 people. Today he says that they employ 64.

He said, "Quite frankly, if we didn't have such a loyal group, we could cut another 5 employees with no difficulty."

I go on to quote Chuck:

I say this not to "belly-ache" but to let you know this is not the time to take up the cost of doing business or pass legislation which will inhibit sales.

Our members by and large do not look to the federal government for public assistance, but we do not expect our government to put up obstacles to our success either. Measures like the current tax plan are killing initiative.

Let me repeat that line again.

Measures like the current tax plan are killing initiative.

We should be looking to limit government not expand its hold on our economic lives. No one is eager to incur the anxiety of new growth or expansion when our economic future is so in doubt. As a result, the industry is less able to employ those in our society least able to afford losing their jobs: women, often single mothers, and minorities.

Estimates we have compiled show 165,000 people will lose their jobs if the meal deduction is dropped from 80% to 50%. For many of the remaining small businesses in Philadelphia, the meal deduction is the only remaining reasonable marketing tool.

Additionally, please be aware that the federal government is not the only government entity erected obstacles to economic growth. This year we in Philadelphia have experienced an additional 1% sales tax. We have been fighting a 10% sales tax on liquor, beer and wine here in Philadelphia City Council. We narrowly defeated the measure by a vote of 9–8. We have incurred increases of 38% in worker compensation costs. Our business taxes have increased as well. The President's health care initiative will destroy what is left of our bottom line.

Mr. Speaker, I include the letter from Charles G. Lewis, as follows:

ROSE BRIER INN, INC.,
Philadelphia, PA, July 22, 1993.

Hon. CURT WELDON,
House of Representatives, 2452 Rayburn House Office Building, Washington, DC.

DEAR CURT: I wanted to contact you on the President's tax plan to let you know how damaging I feel it would be for the economy and, in particular, the restaurant industry. I also write in my capacity as the Chairman of the Philadelphia Delaware Valley Restaurant Association (PDVRA) Legislative Committee. The PDVRA has 550 members in the Delaware Valley.

The restaurant industry has been flat in almost every measurement of industry health. We in the Northeast, have been experiencing the decline even more so than in other quadrants of the United States. Many of the most productive and substantial of our members have experienced significant declines in sales and certainly in profitability. My restaurant operation one year ago today employed 88 employees; today we employ 64 employees. Quite frankly, if we didn't have such a loyal group, we could cut another 5 employees with no difficulty.

I say this not to "belly-ache" but to let you know this is not the time to take up the cost of doing business or pass legislation which will inhibit sales.

Our members by and large do not look to the federal government for public assistance, but we do not expect our government to put up obstacles to our success either. Measures like the current tax plan are killing initiative. We should be looking to limit government not expand its hold on our economic lives. No one is eager to incur the anxiety of new growth or expansion when our economic future is so in doubt. As a result, the industry is less able to employ those in our society least able to afford losing their jobs: women, often single mothers, and minorities.

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Additionally, please be aware that the federal government is not the only government entity erected obstacles to economic growth. This year we in Philadelphia have experienced and additional 1% sales tax. We have been fighting a 10% sales tax on liquor, beer and wine here in Philadelphia City Council. We narrowly defeated the measure by a vote of 9–8. We have incurred increases of 38% in worker compensation costs. Our business taxes have increased as well. The President's health care initiative will destroy what is left of our bottom line.

On that note, restaurant industry profit margins under any measurement are at their historical low point. My father who retired in 1979 would close a restaurant which did not return a net profit of at least 15% for all the hours and commitment required. Today, the most profitable among us boast of a profit margin of 2–4%.

For many of us, the government suggests that we who have succeeded in employing largely unskilled labor must be punished and have what little is left over confiscated and redistributed through a central government. Government by deed tells us we are evil and only government is honorable and interested in our community. Government under this plan is telling us raising taxes is a much more noble and desirable decision then cutting non-essential programs and perks. Many of our members are disheartened and feel relegated to a position of economic slavery. Daniel Webster's lament comes to mind: "Now is the time that men work quietly in the fields, and women weep softly in the kitchen; the legislature is in session and no man's property is safe."

Thank you for taking the time to read this lengthy letter. I hope you will keep us in your thoughts and vote NO on the President's plan.

Sincerely,

CHARLES G. LEWIS,
Vice President.

Mr. Speaker, another example of another business leader telling us that this plan that we are going to vote on this week is not going to help create jobs, and in fact it is going to take jobs away from this fragile economy.

But it is not just businesses, it is individuals. Many of those 3 to 4,000 constituents who have written to me are individual citizens. Many of them are senior citizens who have said to me, "Why are you penalizing us who saved our money when we were working? We had a small nest egg we put aside. We were very frugal. We didn't go out and waste the money that we made, and we are now entitled to Social Security and what little savings we have set aside, and what you want to do is increase our taxes."

So what the seniors have said to me is that we want to impose costs to them basically because of their being so frugal while they were working. That is completely outrageous and unfair.

Many of the communications I have received, Mr. Speaker, are from individuals, individuals like Joseph Dimaio from Strafford, PA, who wrote to me on July 1 of this year. He talks about the examples set for us by most European countries over the past 40 years as stated by the enclosed article from the Wall Street Journal. He talks about those countries that implemented higher taxes to support State-controlled businesses, health care and ever-higher levels of social support services, and talks about what was in the Wall Street Journal article, and I will include it in the RECORD so my colleagues can share that, and he talks about the problems that European countries are having because of these costs that have been passed along to the taxpayers.

He goes on to cite the lessons learned. He says we must reduce the size and influence of the Federal Government at all levels. We must lower Federal taxes, not raise them, especially on investment and capital gains, which my colleague is going to talk about following this special order.

He talks about where higher taxes are necessary, tax consumption, including nonrenewable energy and nonessential personal consumption.

He talks about reducing the size of Washington governmental agencies, the White House and congressional staff.

Mr. Speaker, you and I both know that we are not cutting the size of the Federal Government. It is false and wrong to tell the American people that we are doing that, because that is not in fact what is occurring today.

The fifth thing he talks about is to slow the increase of all entitlement programs across the board to the rate of inflation, less 1 or 2 percent in that area.

The sixth thing is to apply the savings to gradually but methodically reduce the Federal budget deficit.

Mr. Speaker, I will include his letter and the accompanying article from the Wall Street Journal in the RECORD at this point.

STRAFFORD, PA,
July 1, 1993.

Representative CURT WELDON,
Rayburn Building, Washington, DC.

DEAR REPRESENTATIVE WELDON: Let's not forget the examples set for us by most European countries over the past 40 years as stated by the enclosed article from the Wall Street Journal, July 1, 1993. Those countries that implemented higher taxes to support state controlled business, health care and ever higher levels of social support services demonstrated that these social systems only encourages citizens to work less, become less competitive internationally and demand ever higher social support systems. All of these problems are now finally coming home to roost in each of the major western European countries that attempted these socialist experiments.

What are the lessons learned?

1. Reduce the size and influence of Federal Government in individual, state and local governmental decisions. Including less Federal regulation of employer provided benefits such as family leave and health care. Employee and unions are capable of negotiating with their employers, the benefits which are most important to them and their families. Reduce overall Federal regulation of business and commerce including international trade with more agreements such as NAFTA.

2. Lower Federal taxes on investment and capital gains. Provide more incentive for savings & investment, research and development by private industry which will encourage higher levels of individual and economic productivity.

3. Where higher taxes are necessary, tax consumption, including non-renewable energy and non-essential personal consumption.

4. Reduce the size of Washington governmental agencies, the White House and congressional staff by 10 to 15% across the board. Private industry has done this for the past 3 years and while painful, has positioned American industry to be more competitive for the next two decades. The Federal Government must follow this example in order for our country to prosper and remain competitive internationally.

5. Slow the increase of all entitlement programs across the board to the rate of inflation less 1 to 2%.

6. Apply these savings to gradually but methodically reducing the Federal budget deficit.

We still have a chance to avoid, in our country, the structural problems created by the high tax, socialist spending, and big government examples of our European counterparts. However, I am afraid that we are failing to face the reality the even the most determined European Socialists now understand—high tax, big government with unnecessary regulation and non-productive social programs do not work.

Very truly yours,

JOSEPH J. DIMAIO, Jr.

EUROPE'S SAFETY NETS BEGIN TO TEAR
(By Terence Roth)

Hard times are eating away Europe's social-market economies.

Germany's Non-Denominational Welfare Association was stunned when it learned that its funding for caring for the elderly and infirm could be cut by $7 million, or roughly half. Many of the thousands whom the social workers bathe, cook and clean for may now have to pay more, or be dropped off the lists.

"Nobody in Bonn told us. We read it in the newspapers," complains Ulrich Schneider, the group's social-policy director. "It was so abrupt we don't have time to find other funding. But this is the new style in these days of the eroding social state," says Dr. Schneider. "For 40 years we had a social consensus in this country, but now even the last net is falling away."

That's still far from true. However, after decades of seemingly smooth running, Western Europe's social-market economies are beginning to indicate that regaining competitiveness could mean a wrenching overhaul.

Reversing the social-market trend means paring decades of support programs covering most facets of European life, from child allowances and generous pensions to job guarantees, industrial subsidies and cheap health care.

It won't be easy. German Economics Minister Guenther Rexrodt lowered the boom with a proposed hit list of social programs in May, declaring that Germany "increasingly exports more jobs than products."

Europe's most advanced welfare state, Sweden, has led the reverse trend since launching in 1991 the biggest assault ever on the country's social programs as part of a deficit-reduction plan. Britain is whittling down state health services, and Italy has suspended its rigid wage-indexation system and is expecting bigger changes.

Dutch riot squads clashed violently with 20,000 students in the center of The Hague in May. The students were protesting planned cuts in the availability of free transport and automatic unemployment payments beginning on graduation day.

Spain sparked a general strike last year when the government cut unemployment benefits. France is turning further from its costly tradition of state ownership with planned sell-offs of government-held companies beginning later this year.

To be sure, much isn't changing immediately. But some economists predict that reforms could gain momentum as pressure builds to tighten bloated government deficits and get industries moving again.

"When these models snap, you cannot put them back together again," says David Roche, global strategist for Morgan Stanley in London. "The Italian model snapped, the Swedish model snapped and now the German model has snapped, and they don't know what happened."

There are several reasons why the crunch is hitting now. A deepening recession has exacerbated the drag of structural deadweight piling up over decades, most visibly in the steady climb in long-term unemployment. At the same time, new competition from the Pacific Rim, a revitalized U.S. industry and cheaper producers in work-hungry Eastern Europe are cutting into European producers' profits.

The result: trimming government spending, cutting taxes and scraping the keels of industry by deregulating labor markets and cutting social contributions that are added to employee paychecks. Policy makers are conceding now what was unutterable only a few years ago; Europeans will either have to lose benefits or lose jobs.

"I with everyone in the community would accept that the first goal in 1993 and for the next 10 years has to be to improve the competitiveness of European industry." Martin Bangemann, vice president for industrial policy at the European Community Commission, warned earlier this year. "You can only support higher labor costs if you have higher productivity. And that isn't the case today the way it was years ago."

European labor is as much as 50% more expensive than its major competitors; not because hourly wages are that much higher, but because the social benefits paid by employers have exploded. The average German manufacturing worker, the highest paid in Europe, received $26.89 an hour in wages and benefits last year, of which $12.47 came in the form of social benefits such as health insurance and pension funding.

Italian workers receive more benefits than wages in their $21.09 hourly compensation. By contrast, only $4.44 of a U.S. worker's average hourly compensation of $15.89 an hour comes as benefits.

Europeans also take longer vacations and work shorter weeks. In 1992, the average German worker clocked 1,519 hours and took 40 days of paid vacation. The average French worker put in 1,646 hours. Meantime, their U.S. and Japanese competitors worked and average 1,857 and 2,007 hours last year, respectively.

European employers complain this factor goes right into higher operating costs that either squeeze profits or propel their prices out of the market. Unit labor costs have been rising faster in Europe than in any of the Continent's economic rivals since the early 1970s. In 1992 alone, average EC unit labor costs grew 4.1%, rapidly outpacing rises of 1.4% in the U.S. and 2.4% in Japan, according to the Organization for Economic Cooperation and Development.

Business leaders say it's time to begin sacrificing Europe's holy cows. "We have arrived at a point where we have to tell employees that they have to begin insuring themselves," says Peter-Ruediger Puf, chief economist of Daimler-Benz AG. "Self-responsibility is the watchword."

Curt Engelhorn, supervisory-board chairman of Boehringer Mannheim GmbH, says the big German pharmaceuticals concern is an example of a company struggling under rising costs and bureaucratic red tape. His remedy: "For us it is simple: Return to a free-market economy."

Already jeopardized by overseas competitors, Germany and France now are threaten by cheaper exports from countries whose currencies have been devalued since last September: Britain, Italy, Spain, Portugal and Ireland.

"Before the realignments, all of Europe was uncompetitive but traded 60% with themselves. That worked before it went bust with competitive devaluations in September-October." says Mr. Roche of Morgan Stanley. The currency realignments redoubled pressure on companies to become lean and make operations profitable.

If EC governments take the Maastricht treaty for European monetary union seriously, they have no choice but to cut social spending. Of the 12 EC countries, only Luxembourg meets Maastricht convergence criteria on public-sector debt and deficits.

Public spending amounted to nearly 495 of the EC's gross domestic product last year, up from 37% in 1970, according to the EC Commission. That compares with 37% in the U.S. and 32% in Japan last year. In 1990, the latest figures available, social-security outlays accounted for 25% of GDP in the EC, compared with 15% in the U.S. and 11% in Japan.

In Italy, deficits in social programs accounted for half of its 1992 budget deficit, amounting to a whopping 10% of GDP. Other countries face growing deficits in coming years as their populations age—and especially if European economies remain sluggish.

The generous public sector helps explain why the corporate tax burden is 61% in Germany and 52% in France, but 45% in the

U.S., according to calculations by the Institute of German Industry. In Britain, which began dismantling its social systems in the 1980s, public spending as a percentage of GDP was 41% last year at the bottom of the EC list, while its corporate tax rate was only 33%.

Mr. Speaker, these are but a few examples of the countless letters that I have received from ordinary people. No one has written to me as a small business owner asking me to vote for this plan, although I do admit that initially the mail was running 3 to 1, I did have about 800 constituents who wrote to me in favor of the President's economic plan, but the bulk of those letters and phone calls came within the first 5 days after the President's State of the Union speech.

Since the reconciliation package was passed on the floor and citizens have had a chance to look at it, the mail is running 20 to 1 against that package.

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

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

Mr. DREIER. Mr. Speaker, I would like to just shed a little light on the point that my friend raises.

I, too, got some mail in my office that was in support of this plan initially. I was struck with several letters, I do not have the raw numbers in front of me, but I was struck by the number of people who wrote back and said basically the following:

I have written to you, Mr. DREIER, saying that I urge you to support President Clinton's package. I regret having sent that letter.

One person, and this letter sticks in my mind, said:

Please disregard the letter that I sent to you. It is obvious that this plan does not cut spending first before it looks to impose a greater tax burden on those of us who are working Americans.

And they urge me to disregard the letter that had been sent. I suspect that of the 800 letters of which my colleague has referred, a number of those people probably today would write and urge that they disregard the letter that they sent initially.

Mr. WELDON. Mr. Speaker, I thank my colleague for that point. In fact, that is exactly what has happened. I have had people who told me initially after the President's speech, because as we both I think would agree, he did a good job in delivering the State of the Union speech, but once the rhetoric was aside, and as Ross Perot said, "We have a chance to look at the devil in the details" and saw what was actually in there, the American people realized this is not what is best for this country at this point in time.

People have in fact changed their opinions dramatically. What really scares me is that again tonight this President is going to go on national TV and have access to a forum to which we do not have access, to command the attention of the American people and attempt to put the right spin on this economic plan.

Mr. Speaker, I am not here to put a spin on this plan. I am here to give you the detailed information given to me by my constituents. I have given you their names, their addresses, their company titles. I have talked about their history. I am inserting it into the RECORD, as I have done for the past month, countless examples of people who are going to be hurt by the approach that we are about to take if we pass this plan.

I want to say in closing, Mr. Speaker, that this is not a Republican versus Democrat fight here that we are about to undertake in this body. As I said before back in 1990, I was a Republican opposing my Republican President at a similar point in time because I thought he was taking the wrong approach. I am not one who is going to demagogue the issue of tax increases. As I said earlier, as a local official, I have raised taxes and would do it again if I were confident the system worked and we had done everything to cut spending.

But what is important for the American people and our colleagues to understand is that there are many Members, and our colleagues of the other side, Democrats, who had the guts to stand up on this and vote no. I know how difficult that is. When I voted no against President Bush in 1990, I knew the price I would have to pay for that. I was never invited to a State dinner at the White House, never called to the White House for any special meetings or any special trips. While that did not hurt, that is only one part of the price to bear.

What our Democrat colleagues have had to bear in this body who voted no is far worse than what I had to bear back in 1990 when I voted no against President Bush.

So to all my Democrat colleagues who voted no on the Clinton plan when it came up on the House floor for a vote, I applaud you, because you have done not just what I think is the right things, but you have also stood up to tremendous pressure. A lot of these things do not come out in the RECORD, but my colleagues have talked to me about the offerings that were made, the pieces of paper that were slipped, the offers by the White House and the administrative staff to take care of certain priorities. We know the pressures that can be brought to bear.

For those of our colleagues who stood up and voted no, they really are the heroes in this fight and they will be the heroes for the American people if we win this battle on the floor this week.

While the Republican Members can take credit for standing up as they did during the votes on the Bush budget back in 1990, the real heroes this week if we are able to defeat this plan and go back and start over again by reducing the size of the government, and I will be glad to work with them in that regard, the real heroes will be those Democrat Members who stand up to their leadership, not just in the White House, but the leadership in this body and in the other body and say, "No, I am not going to do this because it is the wrong approach for the American Government to be taking at this point in time in trying to get our economy back on track."

□ 1820

Mr. Speaker, I deliver this special order because I think it is important that we look at the real impact on real people of the Clinton tax, and that is what I have tried to do today.

I will continue to speak out this week in 1-minute speeches, Mr. Speaker, and I ask all of my colleagues, some of whom may be back in their offices, and all of our constituents who, in fact, are all across America, to use the next couple of days to contact Representatives here in Washington and to let them know that this is the wrong approach for America at this time.

We know there is going to be a ton of calls tonight following the President's speech, and I ask America to respond in kind.

Mr. Speaker, I ask to submit for the RECORD the following letters:

HALE FIRE PUMP CO.,
Conshohocken, PA, July 22, 1993.

Hon. CURT WELDON,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE WELDON: As the Director, Human Resources, in a medium sized manufacturing company in Southeastern Pennsylvania, I am writing to you to applaud your efforts to identify the Clinton economic agenda for what it is and its negative impact on prosperity and expanding the economy.

The Clinton Administration frightens businesses and has a negative affect on business expansion. Specific issues that concern me are:

Municipality and government organizations that have severely restricted discretionary spending, impacting on the demand for rescue equipment and related accessories by local rescue service agencies.

The impending threat of an expanded energy tax which increases the costs of doing business, in domestic as well as international markets.

The lack of control on federal government spending for social entitlements and pork barrel type programs. This will continue to stifle business expansion and exert a negative influence on new job creation.

The impending fear of rampant inflation—so well controlled under the presidencies of Ronald Reagan and George Bush—is another concern due to the substance and direction of Clinton's proposals.

The lack of any real improvements in the balance of trade deficits, despite Clinton's widely touted "successful" trade talks.

Reluctance to hire. We at Hale, and many other businesses, now avoid hiring additional people until absolutely necessary, pending positive direction to the economy.

Congressman Weldon, whatever actions you and your colleagues in the Congress can

do to minimize the negative impacts of Clinton's progressive liberal economics on the business community and to help protect and sustain the industrial base that has made this Nation so great will be appreciated by all Americans.

Very truly yours,

JOSEPH F. BRUCKNER,
Director, Human Resources.

PRECISION MEDIA DUPLICATION AND SOFTWARE PACKAGING EXPERTS,
Exton, PA, July 13, 1993.

Congressman CURT WELDON,
Rayburn Building, Washington, DC.

DEAR CONGRESSMAN: On behalf of small business everywhere, I urge you to vote no on the Clinton tax and spend economic proposal.

I agree completely that we need to significantly reduce the deficit, but I think that objective can best be achieved through a program of deep spending cuts and by providing stimulus through growth incentives to encourage business development and growth—not by increasing our tax burdens during these most difficult of times.

Sincerely,

JAMES FREED,
President.

CHEMICAL LEAMAN TANK LINES, INC.,
Exton, PA, July 23, 1993.

Congressman CURT W. WELDON,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WELDON: I urge you to oppose the fuel tax proposal for the following reasons:

The current proposals are grossly unfair to trucking. Highway users are being asked to pay for deficit reduction because Congress is unwilling to make the politically hard decision to cut spending.

Higher fuel taxes are not needed to cut the deficit, since lower deficit estimates mean the federal government could save about $100 billion over the next five years due to lower long-term interest rates.

A fuel tax increase would be too little to significantly reduce the deficit, but large enough to do harm to a fragile economy, and to an industry with a 2% profit margin.

The trucking industry is fighting to create and preserve jobs, while a fuel tax increase would do the opposite: it would eliminate jobs.

Thank you.

Sincerely,

JOHN J. KILCULLEN,
President and CEO.

AAA MID-ATLANTIC,
Philadelphia, PA, July 29, 1993.

Hon. CURT WELDON,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WELDON: As you know, budget talks between top Congressional and White House officials are now taking place. It appears that a new 9 cent federal tax on gasoline could be part of the reconciliation package.

It is our belief that such a gas tax increase for deficit reduction is not warranted for the following reasons:

This new tax will represent a 64 percent increase over the current 14.1 cent federal gas tax. This deficit reduction gas tax is on top of a 56 percent increase in the tax that occurred in 1990. Combined with expected increases for federal oxyenated and reformulated gasoline mandates and other state and local taxes, pump prices may be 20 cents higher per gallon by 1995.

A recent AAA survey indicates over 70 percent of the voting public rejects the notion that fuel taxes should be used for deficit purposes.

It is unfair to ask motorists who don't have a political action committee to foot a new tax, while other energy users with PACs are exempted.

Thank you for your consideration on this issue.

Sincerely yours,

GARVIN R. KISSINGER,
Vice President, Public Affairs.

PENTON-KELLEY CO.,
Philadelphia, PA, July 20, 1993.

Congressman CURT WELDON,
Upper Darby, PA.

DEAR CONGRESSMAN WELDON: I am writing to you regarding the President's tax reconciliation bill. As President of a small commercial printing company in Philadephia I have experienced the following:

The confusion over the eventual effects of the proposed energy tax has inhibited and delayed expansion decisions.

The perceived increase in cost structure to be brought on by the proposed tax increases has resulted in further pre-emptive staff reductions to maintain already-shrinking profitability.

Congressman Weldon, please direct your efforts toward minimizing the negative effects of tax increases on the small business owner who, as you know, is responsible for fueling much of our hoped-for economic recovery.

Sincerely,

LIBBY BEATTY,
President.

DURANT MEDICAL INC.,
Malvern, PA, July 20, 1993.

Congressman CURT WELDON,
Member of Congress, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN WELDON: I own a small business in Malvern Pennsylvania and I am writing this letter to bring to your attention concerns that I have with the future of the economy. Although it may not be apparent to you at this point in time I have been experiencing difficulty in maintaining my business goals and objectives. The specific concerns I have relate directly to current operations and expansion.

I have found it increasing difficult to maintain proper bank and vendor relationships due to the government budgetary problems. These problems filter down and directly affect my company, and in turn, my employees.

In closing, if the economy continues on this downward track, I feel that I will not be able to sustain this company that I have worked so hard for during the past five years. It would alarm me to think that if nothing is changed, other small businesses may be left with the same alternative.

If you would like to discuss this matter, please feel free to contact me at your earliest convenience.

Sincerely,

ANTHONY J. FERRANTE,
President.

GALLAGHER FLUID SEALS, INC.,
King of Prussia, July 8, 1993.

Hon. CURT WELDON,
Upper Darby, PA.

DEAR MR. WELDON: As a small business owner, I am opposed to the President's "deficit reduction proposal."

I feel the tax increases that are a part of the bill will have a negative impact on our business. It could jeopardize our current work force in addition to eliminating the need for additional personnel for the foreseeable future.

I urge you to vote no.

Very truly yours,

JOSEPH W. GALLAGHER,
President.

CREATE JOBS, STIMULATE ECONOMIC GROWTH, AND LOWER THE DEFICIT

The SPEAKER pro tempore (Mr. BISHOP). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, I have, for the past several weeks and months, stood in this well to support an initiative that President Clinton is wholeheartedly behind. That is the North American Free-Trade Agreement. I happen to believe very strongly that it is going to be one of the greatest job-creating mechanisms that we can possibly put into place.

Mr. Speaker, following along the lines of what was just offered by the gentleman from Pennsylvania [Mr. WELDON], I would like to say that I stand here once again with a very bipartisan spirit. That bipartisan spirit is a desire to try to implement a job-creating mechanism in this economy over and above the North American Free-Trade Agreement.

Now, Mr. Speaker, I like to pride myself on, first, being an American and, second, a Republican, and I was not a supporter of President Clinton's when he was a candidate last fall, but I was, frankly, very impressed with more than a few things he said in his campaign, and I would like to spend this evening talking about one of those items which he referred to in his campaign. I want to talk about the fact that we, unfortunately, are not utilizing that campaign promise in this reconciliation package which we are going to be considering later on this week.

Mr. Speaker, I happen to believe that President Clinton's statement last year, that a capital gains differential was very important to job creating and economic growth, was a correct one. It is one which I have subscribed to all along, and, based on every bit of evidence that we have seen, it is clearly going to play a key role in creating job opportunities in this country.

Now, as has been said earlier, the President is going to be going on television this evening, and he is going to be bringing forth, urging the American people to contact those of us, Members of the Congress, to support his plan. I will say here that, while I am a strong supporter of many of President Clinton's initiatives, I will do everything that I possibly can to defeat his plan that he is going to be talking about

later this evening because, even though he talks about an economic growth component and stimulating small business, this plan does anything but that based on the evidence that we have seen in the past.

Now, I happen to believe, and I made this statement earlier, that we in the minority clearly have to offer a very positive economic growth component, and in fact, shortly after we defeated, or after I voted against, the initial budget package that the President had, and many in the media were saying that Republicans were simply trying to block President Clinton's initiatives, they were not offering any positive alternative, I introduced H.R. 1885, a basic 4-point plan designed to create jobs, stimulate economic growth, and bring down the deficit.

The 4 points include, first, and I am going to be talking about it in just a couple of minutes, a capital gains differential, taking the 28 percent capital gains tax rate, reducing that to 15 percent.

Second, imposing a moratorium on the promulgation of new regulations on the business sector of the economy. We know full well that many of the problems that are created in this country come about, in large part, due to the burden of Federal regulations that are imposed on the private sector. And under the Bush administration we opposed a 90-day moratorium on new regulations for the business sector of the economy, and there were no catastrophes as a byproduct of that. So, the second part of the proposal that I have in H.R. 1885 extends that moratorium on new regulations for the business sector of the economy.

The third thing that it does, very importantly as we look at the deficit and the national debt, it imposes what is called the 2 percent solution, which is close to a freeze on Federal spending, and we all know that trying to bring about a freeze in the area of Federal spending could go a long way toward turning the corner on that debt.

And the fourth point is, as I said earlier, establishment or expanding of individual retirement accounts. In the 1981 tax bill, which was the only tax bill that I voted for, it was known as the Economic Recovery Tax Act, and we established individual retirement accounts. Those individual retirement accounts were designed to encourage people to plan and save for retirement, put dollars aside so that they would not have to be totally relying on the social security system or other Government programs for their survival.

So, what I have in H.R. 1885 is an expansion of individual retirement accounts allowing for a spousal contribution to that individual retirement account and withdrawals from that individual retirement account for three basic uses: First, a new home purchase, which, obviously, is very important, as we know that the housing industry has historically played a key role in pulling us out of recession.

Second, the purchase of very needed health care. We are looking at health care reform, and it seems to me that being able to withdraw form an individual retirement account would be very beneficial as we look at health care reform.

And the third thing is education. We know that many people are decrying the very sorry state of the educational system in this country, and one of the things that I call for in H.R. 1885 is a withdrawal for education purposes, for postsecondary education.

So, Mr. Speaker, it seems to me that this 4-point economic package would go a long way toward dealing with the challenges that we have and, Mr. Speaker, it is contrary to what many in the media, and some on the other side of the aisle, have said: A positive alternative to the one that has been brought forward and the one which most on our side of the aisle strongly oppose.

Now I want to take a few minutes to talk specifically about the issue of capital gains and the effect that a capital gains tax cut has had in the past and will continue to have.

First of all, if we look at the overall tax rates, since 1946 tax rates, marginal tax rates have fluctuated from 91 percent at a high to 28 percent, and revenues have basically, as a percentage of the gross national product, remained constant at 19.5 percent. We have clearly demonstrated that the only way to increase revenues to the Federal treasury is to expand the economy.

Now, my friend, the gentleman from Pennsylvania [Mr. WELDON] has talked about the fact that this gasoline tax increase and other taxes that are in this proposal which the President is going to be talking about in a couple of hours is one which will lead the economy to constrict.

Now, how we can possibly expect to deal with the national debt and the Federal deficit if we have not an expanding economy but a shrinking economy is really beyond me, because most every small businessman and woman, and many, many others, even in big business, not withstanding those who went down to the White House the other day to support the plan, have indicated to me and to others of our colleagues that we must have growth components there, and, according to the date that we have gathered from the Joint Economic Committee and from the Internal Revenue Service, one of the very best ways for us to gain tax revenues to the Federal Treasury so that we can turn the corner on the $4.5 trillion national debt and the hundreds of billions of dollars in deficits that we run up each year would be to put into place a meaningful capital gains tax stimulus.

□ 1830

Now, in 1978 the top capital gains tax rate was lowered from 50 percent to 28 percent. As a result of that tax rate reduction in 1978, we saw at that point an increase in revenues to the Treasury from $51 billion to $326 billion in 1986.

Mr. Speaker, I would like to ask you to focus your attention, if you could, on this chart here, which basically deals with the level of revenues that have been gained from a capital gains tax reduction versus the level of revenues when we have seen an increase in the capital gains tax cuts.

Now, I referred a few minutes ago to the capital gains tax cut which was known as the Steiger amendment, which in 1978 saw a reduction in the capital gains rate from 50 percent down to a 28-percent rate. That capital gains tax reduction which started then actually did create an increase in revenues to the Treasury.

Mr. Speaker, I refer to the 1981 Economic Recovery Tax Act, known as the Reagan tax cut. We saw the rate reduction take place, and we saw a further increase in revenues to the Federal Treasury.

This has taken place for a wide range of reasons, Mr. Speaker. Primarily the fact that we have eliminated the so-called lock-in effect, whereby people who have a tremendous appreciation hold on to it because the rate of taxation is so high, when we have a rate reduction, they sell off those items which have a capital gains appreciation, and therefore those dollars are going back into the economy, the tax revenues come into the Treasury, and the dollars that the individual investors have been able to accrue are reinvested.

Well, in the 1986 Tax Reduction Act, known as the TRA, which happened to oppose, there was a 40-percent increase in the capital gains tax rate. That 40-percent increase in the capital gains tax rate created a tremendous disincentive for those who had capital appreciation.

What happened was we saw a tremendous drop in revenues to the Treasury because of that so-called lock-in effect which went into play, and at that point we lost a tremendous amount of revenue, tragically.

Now, there are many that say that the loss in revenue to the Treasury which has come since 1986 has been because of the economic slowdown which has taken place. But, Mr. Speaker, you can see on this chart here that there is a tremendous dropoff which takes place in 1987 when we were still seeing economic growth take place, long before the economic recession began.

This played a role in creating the economic recession. That increase in the capital gains tax rate of 40 percent, which was incorporated in the 1986 Tax Reform Act, actually decreased revenues to the Treasury and laid the

groundwork for the economic recession which has been so devastating. So it seems to me as we look at tax rates, especially in the area of capital gains, the best thing that we can possibly do is reduce them to stimulate the economy.

Now the Joint Commission on Taxation has come to the conclusion that any capital gains tax rate which is beyond 28.5 percent actually decreases the flow of revenue to the Federal Treasury. Mr. Speaker, as we look at that, and this is evidence which has come from a wide range of economists, and not just information from economists but empirical evidence which we have gleaned from the activities of investors here in the United States, what we found is that we are going to decrease revenue to the Treasury if there is any kind of increase in the capital gains tax rates, and what we need to do to increase revenue to the Treasury is actually see a meaningful cut in the capital gains tax rate.

Mr. Speaker, this is a bipartisan issue. As I said, President Clinton talked about it in his campaign last fall. I wish he had taken that capital gains rate reduction plan that he talked about as a candidate and put it into place as part of his budget package. Unfortunately, he did not, and it is not the only promise that he has turned his back on, and many of us have recognized that on both sides of the aisle.

When I say the capital gains tax reduction is not simply a partisan issue, it is not just the fact that President Clinton talked about it as a candidate. We saw here in the House a vote on the capital gains issue two years ago, and that vote saw 43 Democrats join with us to pass the package.

Tragically, the capital gains tax reduction designed to stimulate economic growth died in the Senate because of the filibuster that was brought about by the Senate majority leader Mr. MITCHELL.

We now today have a bipartisan coalition of Democrats and Republicans who would very much like to see us put into place a capital gains tax differential which could stimulate economic growth. In fact, the United States is one of the very few developed nations in the entire world without that capital gains differential.

Mr. Speaker, one of the arguments that is constantly thrown out is that the capital gains tax is simply a tax on the very wealthy in this country. We know that nothing could be further from the truth. In fact, 40 percent of capital gains are realized annually by people with incomes of less than $50,000.

Mr. Speaker, let me underscore that again. While many people like to say that the capital gains tax is simply a tax on the very rich, 40 percent of the capital gains each year that are received, are received by people who earn less than $50,000.

We also know that this capital gains differential is something that needs to be addressed to affect the small business component. President Clinton obviously has talked about the need to stimulate the small business sector of our economy and encourage a level of growth there. Clearly the best thing that we could do would be to create this much needed capital gains tax differential if we are going to stimulate the jobs creation mechanism of the small business sector of our economy.

Clearly, if you look at this lock-in effect that I was talking about earlier, a lock-in is very simply the fact that people have seen appreciation in an investment, and they say, "My gosh, the tax rate is so high. I don't want to sell that item right now because it has appreciated. I am very hesitant to sell it."

They say, "Why should I, having worked so hard on this investment, see a large percentage of it go to the Federal Treasury?" So instead, what they do is hold on to it. That is what is referred to as the lock-in effect.

If we were to see a reduction in the capital gains tax rate, Mr. Speaker, clearly that would create the incentive for that American investor, who has actually seen an increase in his or her investment, they would have the incentive to turn that over and actually take that item and sell it. The Federal Government would then see a flow of billions of dollars to our Treasury, as has been shown by this chart here, if you look from 1978 to the present.

What we would do is we would also see that individual take those dollars and reinvest them in another private sector investment which will create jobs, and, in keeping that rate down, when that investor sees an appreciation of his or her holding, they will, with a lower rate, be inclined to sell that item and reinvest and look at another item.

So clearly, Mr. Speaker, we have a tremendous opportunity here in a bipartisan way to put together the kinds of incentives that are needed to encourage economic expansion.

Mr. Speaker, I hope very much for and want President Clinton to succeed. I want President Clinton to see the economy grow, because my State of California has been devastated because of the tremendous tax and regulatory burden which exists at the Federal level in the State of California, the cuts in the defense and aerospace industry, and a wide range of other areas.

So it seems to me that we need to take what President Clinton talked about as a candidate last year and put it into place. If he really wants to stimulate economic growth, if he really wants to increase the level of revenues to the Federal Treasury so that we are not passing on to future generations the responsibility of shouldering the burden of the spending which this Congress continues to increase, we should put into place a capital gains differential. And I hope very much that we will continue to have bipartisan support for this kind of initiative, which will go a long way toward dealing with many of the problems that we have here.

CONFERENCE REPORT ON H.R. 2348

Mr. FAZIO submitted the following conference report and statement on the bill (H.R. 2348) making appropriations for the legislative branch for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-210)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2348) "making appropriations for the Legislative Branch for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 6, 15, 19, 26, and 28.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 9, 11, 14, 17, and 18, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,344,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,315,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,453,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$202,250,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

Restore the matter stricken amended to read as follows:

SEC. 206. Effective for fiscal years beginning with fiscal year 1995, obligations for any reimbursable and revolving fund activities performed by the Library of Congress are limited to the total amounts provided (1) in the annual regular appropriations Act making appropriations for the legislative branch, or (2) in a supplemental appropriations Act that makes appropriations for the legislative branch.

And the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *level, other than those supported by gift and trust funds,* ; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 7, 10, 12, 20, 22, 23, 24, 25, and 27.

VIC FAZIO,
JAMES P. MORAN,
DAVID OBEY,
JOHN P. MURTHA,
BOB CARR,
WILLIAM H. NATCHER,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOE MCDADE,
Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2348) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1994, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Amendment No. 1: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, will move to recede and concur in the Senate amendment which appropriates $443,314,700 for Senate operations and includes several administrative provisions.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

Amendment No. 2: Appropriates $3,980,000 for the Joint Economic Committee as proposed by the House instead of $3,626,000 as proposed by the Senate.

JOINT COMMITTEE ON PRINTING

Amendment No. 3: Appropriates $1,344,000 for the Joint Committee on Printing instead of $1,377,000 as proposed by the House and $1,311,000 as proposed by the Senate.

CAPITOL POLICE BOARD

The conferees agree that the number of take-home motor vehicles for use by the Capitol Police should be limited to three, one for the Chief, who is on call continuously as the need arises, and two more for assignment at the discretion of the Chief.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

Amendment No. 4: Makes technical correction as proposed by the Senate.

Amendment No. 5: Appropriates $21,315,000 for salaries and expenses, Office of Technology Assessment instead of $20,815,000 as proposed by the House and $21,815,000 as proposed by the Senate. The conferees direct that the additional funds above the House bill are to be utilized for purposes directed by the Technology Assessment Board but not to duplicate workload or legislative responsibilities of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

Amendment No. 6. Appropriates $22,317,000 for salaries and expenses, Congressional Budget Office as proposed by the House instead of $22,442,000 as proposed by the Senate.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that authorizes the disposal of surplus or obsolete personal property.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

Amendment No. 8. Appropriates $8,453,000 for salaries, Office of the Architect of the Capitol instead of $8,762,000 as proposed by the House and $8,144,000 as proposed by the Senate.

CONTINGENT EXPENSES

Amendment No. 9: Deletes authority contained in House bill for funds to remain available for contingent expenses, Office of the Architect of the Capitol as proposed by the Senate.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides an increase of $220,000 in the cost limitation established in H.Con. Res. 550.

Amendment No. 11: Provides that $4,413,000 of Capitol buildings funds shall remain available until expended as proposed by the Senate instead of $4,663,000 as proposed by the House. The conferees agree with the Senate project allocations, providing additional funds for the conservation for wall paintings, $50,000, and security x-ray machines, $200,000, while reducing by $50,000 the funds allocated by the House for plumbing renovations, and by $200,000 the funds allocated for elevator modernization.

SENATE OFFICE BUILDINGS

Amendment No. 12: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, will move to recede and concur in the Senate amendment which provides $47,339,000 for the maintenance, care, and operations of Senate office buildings.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

The practice of assigning Government Printing Office staff to assist House and Senate Committees and other Congressional offices needs to be reviewed. There are, as pointed out in a letter from the Chairman of the House Committee on Energy and Commerce, legitimate needs to have professional assistance from GPO to prepare and publish hearings, reports, and other printed material for the Congress. The conferees believe the Joint Committee on Printing must review this issue, including the suggestions in Chairman Dingell's letter. The fiscal year 1995 GPO budget request, therefore may contain funds for such detailees, but the Committees on Appropriations believe that significant changes are needed in this practice. The GPO is directed to seek guidance from the Joint Committee on Printing and to include an appropriate proposal with the fiscal year 1995 budget.

TITLE II—OTHER AGENCIES

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

Amendment No. 13: Provides $202,250,000 for salaries and expenses, Library of Congress instead of $201,231,000 as proposed by the House and $202,304,595 as proposed by the Senate. Funds for the staff assistance for the Librarian Emeritus should be taken from available funds, and the conferees remind the Library of Congress that Public Law 100-83 provided that the Librarian Emeritus "may receive incidental administrative and clerical support through the Library of Congress." The conferees have provided $1,019,000 for the final year of funding to complete the American Memory pilot test, although Library of Congress promotional material describing this project indicates "the evaluation concluded in June 1993 and the findings will be presented in a final report by autumn 1993." The American Memory staff who are performing cataloging functions should be reassigned to the overall arrearage project, where their expertise is needed, and where vacant and funded positions are available.

It is expected that the American Memory technology will be made available to the educational community for further exploitation, perhaps by the private sector or in whatever fashion it may be put to beneficial use, but that the Library of Congress will not extend its role in the creation or assembly of educational material beyond making the collections available for use by such technology users as they are generally to the American public and other users of the Library's extensive collections.

The conferees believe that the current location of the first draft of the Gettysburg Address at the Gettysburg National Military Park is fitting. The environmental and security conditions of the display seem entirely satisfactory and are in accord with stipulations set by the Library of Congress. Over one-half million visitors view this inspirational document each year at the current site. The Library of Congress has the second draft in its archives for safekeeping and rarely used research purposes. The conferees encourage the Librarian of Congress to reopen discussions with the National Military Park for the purpose of extending the loan for an indefinite period. As long as it is treated with the care needed to preserve the original, which appears to be at least equal, if not superior, to that provided within the permanent storage vault, this loan would appear to be an excellent tradeoff for the additional exposure to the public that this priceless artifact receives in its more historically compatible setting.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

Amendment No. 14: Appropriates $42,713,000 for salaries and expenses, books for the blind

and physically handicapped as proposed by the Senate instead of $43,144,000 as proposed by the House.

Amendment No. 15: Provides that $10,377,000 shall remain available until expended as proposed by the House instead of $9,946,000 as proposed by the Senate.

ADMINISTRATIVE PROVISIONS

Amendment No. 16: Amends a provision proposed by the House and stricken by the Senate regarding reimbursable programs. The conference agreement exempts gift and trust funds, and makes a technical change from a "disbursement" control to an "obligation" control.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

Amendment No. 17: Appropriates $9,974,000 for structural and mechanical care, Library buildings and grounds, Architect of the Capitol as proposed by the Senate instead of $9,543,000 as proposed by the House. The Madison security funds, $150,000, are for a project that appears duplicative of a combined House-Senate-Library of Congress effort for buildings and office access technology. The Library of Congress and the Office of the Architect of the Capitol are directed to consult with House Information Systems, and House and Senate Sergeants at Arms to determine the extent to which these projects may beneficially be coordinated and the advantages and disadvantages of requiring compatibility between the technologies of each project. A coordinated report shall be submitted to the House and Senate Committees on Appropriations before these funds are committed.

Amendment No. 18: Provides $1,341,000 shall remain available until expended as proposed by the Senate instead of $1,060,000 as proposed by the House.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

Amendment No. 19: Deletes language proposed by the Senate regarding the use of reimbursements under 31 U.S.C. 9105.

TITLE III—GENERAL PROVISIONS

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that deletes House language and restores the identical language regarding retirement incentives, amended to prohibit backfilling and to prevent the funds saved to be used for other purposes.

Amendment No. 21: Amends House language to exempt gift and trust funds positions from the full-time equivalent reduction.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate regarding mileage payments.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate regarding a transfer of funds that may be used to replace the roof of the Thomas Jefferson Building at the Library of Congress.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides a date change in Public Law 101-302 regarding Senate artwork.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that amends 2 U.S.C. 130c(a) to adjust the level for waivers of claims that may be decided by the Secretary of the Senate.

Amendment No. 26: Deletes Senate provision regarding awards or payments under Public 102-166.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will move to recede and concur with the amendment of the Senate regarding the establishment of an intergovernmental center.

Amendment No. 28: Deletes language proposed by the Senate regarding the procurement or production of printing. The conferees agree that the economies and operations of government printing and high volume duplicating require more scrutiny, caused by technological change, and the proliferation of these services within Federal agency workplaces and the extensive capabilities of the private sector. The House Committee on Appropriations has recently commissioned a thorough study of this issue by the General Accounting Office and the conferees encourage the appropriate authorizing and oversight Committees (the Joint Committee on Printing, Committee on House Administration, and the Senate Committee on Rules and Administration and possibly the House Committee on Government Operations and Senate Committee on Governmental Affairs) to undertake a review of the matter in consultation with the executive branch.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the Committee of Conference, with comparisons to the fiscal year 1993 amount, the 1994 budget estimates, and the House and Senate bills for 1994 follow:

New budget (obligational) authority, fiscal year 1993	$2,302,923,700
Budget estimates of new (obligational) authority, fiscal year 1994	2,641,945,500
House bill, fiscal year 1994	1,777,727,246
Senate bill, fiscal year 1994	2,269,541,541
Conference agreement, fiscal year 1994	2,269,557,946
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1993	−33,365,754
Budget estimates of new (obligational) authority, fiscal year 1994	−372,387,554
House bill, fiscal year 1994	+491,830,700
Senate bill, fiscal year 1994	+16,405

VIC FAZIO,
JAMES P. MORAN,
DAVID OBEY,
JOHN P. MURTHA,
BOB CARR,
WILLIAM H. NATCHER,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOE MCDADE,
Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEAL (at the request of Mr. GEPHARDT), for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. REGULA, for 5 minutes, on August 3.

Ms. DUNN, for 30 minutes, on August 3.

Mr. WELDON, for 60 minutes each day, on today and August 3, 4, 5, and 6.

Mrs. BENTLEY, for 5 minutes, today in lieu of previously approved 60 minutes.

(The following Members (at the request of Mr. FARR) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, on August 3.

Mr. JOHNSON of Georgia, for 30 minutes each day, on August 4 and 5.

Mr. HINCHEY, for 5 minutes, on August 3.

Mr. POSHARD, for 60 minutes each day, on August 3, 4, 5, and 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. CRAPO.

(The following Members (at the request of Mr. FARR) and to include extraneous matter:)

Mr. MILLER of California.
Mr. ENGEL.
Mrs. LLOYD.
Mr. HAMILTON in two instances.
Mr. MINETA.
Mr. STOKES.
Mr. SWETT.
Mr. MANN.
Mr. JOHNSON of Georgia.
Ms. SHEPHERD.
Mr. GLICKMAN.
Mr. RICHARDSON.
Mr. KLEIN in four instances.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. PORTER.
Mr. HALL of Texas.
Mr. SKELTON.

Mr. KOPETSKI.
Mr. TOWNS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1274. An act to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes; to the Committee on Small Business.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On July 30, 1993:

H.R. 63. An act to establish the Spring Mountains National Recreation Area in Nevada, and for other purposes, and

H.R. 2683. An act to extend the operation of the migrant student record transfer system.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, pursuant to House Resolution 232, I move that the House do now adjourn in memory of the late Honorable PAUL B. HENRY.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.) pursuant to House Resolution 232, the House adjourned until tomorrow, Tuesday, August 3, 1993, at 1 p.m., in memory of the late Honorable PAUL B. HENRY of Michigan.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them for official foreign travel during the second quarter of 1993, pursuant to Public Law 95-384, as well as the consolidated report of the Speaker of the House concerning funds utilized for official foreign travel authorized by him during the second quarter, and various reports by miscellaneous groups of the House concerning funds utilized by them for official foreign travel during the second quarter of 1993, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dr. Sydney Key	4/24	4/28	England		1,016.00		917.45				1,033.45
Mr. Raymond Almeida	5/8	5/15	Cote D'Ivoire		1,289.00		1,697.45				2,986.45
Committee total					2,305.00		2,614.90				4,919.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HENRY GONZALEZ, Chairman, July 12, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Richard Durbin	4/3	4/7	Mexico		893.50						893.50
	4/7	4/8	United States		90.00						90.00
Commercial air transportation							729.28				729.28
Hon. Norman Dicks	6/3	6/7	France		1,190.00						1,190.00
Commercial air transportation							780.55				780.55
Hon. Thomas Foglietta	4/3	4/6	Italy		728.00						728.00
	4/6	4/8	Turkey		498.00						498.00
	4/8	4/9	Syria		215.00						215.00
	4/9	4/11	Morocco		376.00						376.00
Military air transportation											
Hon. Thomas Foglietta	4/29	5/3	South Korea		729.00						729.00
Commercial air transportation							5,020.45				5,020.45
Hon. John Murtha	4/23	4/24	Italy								
Military air transportation							3,561.65				3,561.65
Hon. Ed Pastor	4/3	4/7	Mexico		893.06						893.06
	4/7	4/8	United States		90.00						90.00
Commercial air transportation								730.28			730.28
Hon. Joe Skeen	4/3	4/7	Mexico		893.06						893.06
	4/7	4/8	United States		90.00						90.00
Commercial air transportation							725.28				725.28
John Blazey	5/28	5/30	Denmark		507.00						507.00
	5/30	5/32	Germany		693.00						693.00
	6/1	6/4	France		822.00						822.00
Commercial air transportation							3,094.35				3,094.35
Robert Foster	4/3	4/7	Mexico		824.55						824.55
	4/7	4/9	United States		180.00						180.00
Commercial transportation							887.36				887.36
John Plashal	4/23	4/24	Italy		147.00						147.00
Military transportation							3,561.65				3,561.65
Carol A. Novak	4/3	4/7	Mexico		824.55						824.55
	4/7	4/8			90.00						90.00
Commercial transportation							860.28				860.28
Kevin Roper	4/23	4/24	Italy		147.00						147.00
Military transportation							3,561.65				3,561.65
Timothy Sanders	4/3	4/7	Mexico		824.55						824.55
	4/7	4/9	United States		180.00						180.00
Commercial transportation							807.28				807.28
Total					11,925.27		24,320.06				36,245.33
Appropriations, surveys, and investigations staff:											
G. Carter Baird	4/25	4/28	Croatia		445.00		4,128.97		78.95		4,652.92
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		474.00						474.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
T. Keith Baker	5/1	5/7	Germany		839.75		3,219.28		328.67		4,387.70
	5/7	5/12	Italy		1,102.50						1,102.50
Roger T. Castonguay	6/8	6/12	Germany		665.50		3,798.46		169.45		4,633.41
	6/12	6/16	Ukraine		727.50						727.50
	6/16	6/19	Poland		533.00						533.00
	6/19	6/23	Russia		1,080.00						1,080.00
	6/23	6/26	Austria		816.00						816.00
Michael P. Downs	4/25	4/28	Croatia		445.00		4,897.85		165.33		5,508.18
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
	6/4	6/11	Kenya		765.00		5,951.45		113.50		6,829.95
	6/11	6/13	South Africa		288.00						288.00
	6/13	6/17	Mozambique		746.25						746.25
Alfred L. Esposito	4/25	4/28	Croatia		445.00		4,897.85		104.50		5,447.35
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
	6/4	6/11	Kenya		765.00		5,951.45		66.00		6,782.45
	6/11	6/13	South Africa		288.00						288.00
	6/13	6/17	Mozambique		746.25						746.25
Roger B. Feldman	6/8	6/12	Germany		665.50		3,798.46		150.00		4,613.96
	6/12	6/16	Ukraine		727.50						727.50
	6/16	6/19	Poland		533.00						533.00
	6/19	6/23	Russia		1,080.00						1,080.00
	6/23	6/26	Austria		816.00						816.00
Michael O. Glynn	6/2	6/5	Tunisia		228.00		5,602.25		136.72		5,966.97
	6/5	6/9	Italy		1,008.00						1,008.00
	6/9	6/14	Kenya		540.00						540.00
	6/14	6/17	Egypt		429.00						429.00
	6/17	6/19	Cyprus		254.00						254.00
Charles V. Gorsey	4/24	4/26	England		458.00		5,609.45		109.00		6,176.45
	4/27	4/30	Pakistan		416.00						416.00
	4/30	5/1	England		357.00						357.00
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/6	Thailand		147.25						147.25
Jay K. Gruner	6/2	6/5	Tunisia		228.00		5,602.25		67.72		5,897.97
	6/5	6/9	Italy		1,008.00						1,008.00
	6/9	6/14	Kenya		540.00						540.00
	6/14	6/17	Egypt		429.00						429.00
	6/17	6/19	Cyprus		254.00						254.00
Carroll L. Hauver	5/14	5/18	Scotland		557.00		4,131.45		225.44		4,913.89
	5/18	5/23	England		814.50						814.50
Walter C. Hersman	4/24	4/26	England		458.00		5,609.45		116.38		6,183.83
	4/27	4/30	Pakistan		416.00						416.00
	4/30	5/1	England		357.00						357.00
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/6	Thailand		147.25						147.25
	6/6	6/9	France		510.00		6,510.45		98.00		7,118.45
	6/9	6/11	Angola		747.50						747.50
	6/11	6/13	Portugal		514.00						514.00
	6/13	6/14	West Sahara		64.00						64.00
	6/14	6/16	Morocco		283.50						283.50
	6/16	6/17	Germany		209.50						209.50
Robert G. Loftis	4/30	5/2	Thailand		169.00		4,028.45		44.00		4,241.45
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/7	Thailand		310.25						310.25
Vincent J. Pistolessi	4/25	4/28	Croatia		445.00		4,897.85		636.11		5,978.96
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
Christopher J. Richard	4/25	4/28	Croatia		445.00		4,897.85		125.55		5,468.40
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
Edwin J. Sharp	5/1	5/7	Germany		839.75		3,219.28		172.85		4,231.88
	5/7	5/12	Italy		1,102.50						1,102.50
R.W. Vandergrift	4/30	5/2	Thailand		169.00		4,031.45		220.90		4,421.35
	5/2	5/5	Cambodia		773.50						773.50
	5/5	5/6	Thailand		203.75						203.75
L. Michael Welsh	4/24	4/27	England		458.00		5,609.45		114.93		6,182.38
	4/27	4/30	Pakistan		416.00						416.00
	4/30	5/1	England		357.00						357.00
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/6	Thailand		147.25						147.25
	6/6	6/9	France		510.00		6,510.45		95.73		7,116.18
	6/9	6/11	Angola		747.50						747.50
	6/11	6/13	Portugal		514.00						514.00
	6/13	6/14	West Sahara		64.00						64.00
	6/14	6/16	Morocco		283.50						283.50
	6/16	6/17	Germany		209.50						209.50
Kennedy L. Wilson	5/14	5/18	Scotland		557.00		4,131.45		254.68		4,943.13
	5/18	5/23	England		814.50						814.50
H.C. Young	6/18	6/23	Russia		1,155.00		3,482.99		57.52		4,695.51
Committee total					44,629.00		110,518.29		3,651.93		158,799.22

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM H. NATCHER, Chairman, July 23, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
P. Berkowitz	4/4	4/6	Burma		150.00						150.00
	4/6	4/8	Thailand		426.00						426.00
	4/9	4/13	India		642.00						642.00
	4/13	4/17	Pakistan		712.00		35.33				747.33
Commercial transportation							5,872.15				5,872.15
G. Cannon	4/4	4/7	United Kingdom		762.00				5.03		767.03
	4/7	4/10	France		816.00						816.00
Commercial transportation							3,968.55				3,968.55
Hon. E. Faleomavaega	4/6	4/8	Indonesia		546.00						546.00
	4/8	4/10	Taiwan								
Commercial transportation							5,988.00				5,988.00
	6/20	6/25	Tahiti, F.P.		1,350.00						1,350.00
Commercial transportation							6,687.05				6,687.05
K.F. Gilley	4/4	4/7	United Kingdom		[3] 709.00				5.03		714.03
	4/7	4/10	France		[3] 770.00						770.00
Commercial transportation							3,968.55				3,968.55
A.M. Griffin	4/3	4/10	South Africa		1,580.00						1,580.00
Commercial transportation							5,937.85				5,937.85
	5/22	5/29	Gabon		2,104.00						2,104.00
Commercial transportation							4,101.75				4,101.75
R. Hathaway	4/4	4/6	Burma		150.00						150.00
	4/6	4/8	Thailand		426.00						426.00
	4/8	4/13	India		760.00						760.00
	4/13	4/17	Pakistan		712.00		35.33				747.33
Commercial transportation							5,827.15				5,827.15
G. Kapen	4/20	4/25	Eritrea		700.00						700.00
Commercial transportation							4,427.45				4,427.45
Hon. T. Lantos	2/24	2/28	Turkey		1,101.00				384.20		1,485.20
Commercial transportation							938.85				938.85
Hon. F. McCloskey	6/19	6/21	Croatia		450.00						450.00
Commercial transportation							3,204.85				3,204.85
J. McCormick	4/4	4/6	Burma		150.00						150.00
	4/6	4/8	Thailand		426.00						426.00
	4/9	4/13	India		716.00						716.00
	4/13	4/17	Pakistan		712.00		35.33				747.33
Commercial transportation							5,827.15				5,827.15
R. Nuccio	4/23	4/25	United Kingdom								
Commercial transportation							3,968.45				3,968.45
A. Pandya	4/4	4/7	United Kingdom		762.00				5.03		767.03
	4/7	4/10	France		816.00						816.00
Commercial transportation							3,968.55				3,968.55
K. Peel	4/4	4/7	United Kingdom		762.00				5.03		767.03
	4/7	4/10	France		816.00						816.00
Commercial transportation							3,968.55				3,968.55
M. Poloyac	5/21	5/23	Germany		586.00						586.00
	5/23	5/24	Belgium		328.00						328.00
Commercial transportation (one-way)							860.00				860.00
Commercial transportation (one-way)							1,720.05				1,720.05
J.W. Roberts	5/21	5/23	Germany		586.00						586.00
	5/23	5/24	Belgium		328.00						328.00
Commercial transportation (one-way)							860.00				860.00
Commercial transportation (one-way)							1,559.80				1,559.80
Hon. D. Rohrabacher	4/5	4/7	Thailand		426.00						426.00
	4/7	4/9	Cambodia		578.00						578.00
	4/9	4/12	Thailand		551.00						551.00
	4/12	4/13	Taiwan		267.00						267.00
Commercial transportation							5,904.45				5,904.45
K. Timmerman	6/11	6/26	France				134.00		78.00		212.00
Commercial transportation							3,218.65				3,218.65
P. Weir	5/6	5/10	Paraguay								
Commercial transportation							3,028.45				3,028.45
Grand total for 2d quarter				110,204.61							

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

LEE H. HAMILTON, Chairman, July 29, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Dan Rostenkowski	6/11	6/14	Poland		492.00		[3]				492.00
Charles M. Brain	6/11	6/14	Poland		492.00		[3]				492.00
Deborah G. Colton	6/11	6/14	Poland		492.00		[3]				492.00
Janice Mays	6/11	6/14	Poland		492.00		[3]				492.00
Charles Mellody	6/11	6/14	Poland		492.00		[3]				492.00
S. Bruce Wilson	6/11	6/14	Poland		492.00		[3]				492.00
Committee total					2,952.00						2,952.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation by military aircraft.

DAN ROSTENKOWSKI, Chairman, July 14, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO POLAND AND ALBANIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 23 AND APR. 2, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Cathy Brickman	3/23	3/26	Poland		483.00						483.00
	3/26	3/29	Switzerland		483.00						483.00
	3/29	4/1	Albania		561.00						561.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,912.15				3,912.15
William Freeman	3/23	3/26	Poland		483.00						483.00
	3/26	3/29	Switzerland		483.00						483.00
	3/29	4/1	Albania		561.00						561.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,885.15				3,885.15
Committee total					3,602.00		7,797.30				11,399.30

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, May 12, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ALBANIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 28 AND APR. 2, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kristi Walseth	3/29	4/1	Albania		543.00						543.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,902.45				3,902.45
Henry Collins	3/29	4/1	Albania		543.00						543.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,902.45				3,902.45
Committee total					1,634.000		7,804.90				9,438.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, May 12, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO RUSSIA, ESTONIA, LATVIA, AND LITHUANIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 9, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Sam Johnson	4/7	4/9	Moscow, Russia	Rubbles	1,000.00		1,650.70				2,650.70
Shannon Smith	4/4	4/5	Tallinn, Estonia		1,000.00		(3)				1,000.00
	4/5	4/6	Riga, Latvia								
	4/6	4/7	Vilnius, Lithuania								
	4/7	4/9	Moscow, Russia								
Committee total					2,000.00		1,650.70				3,650.70

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

SAM JOHNSON, June 7, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO AZERBAIJAN, ARMENIA, AND TURKEY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 2 AND APR. 7, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Richard H. Lehman	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
Al McCandless	4/3	4/4	Azerbiajan		200		(3)				127
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
James Bilbray	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
James Moran	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
Michael Moore (staff)	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
Mark Gage (staff)	4/3	4/4	Azerbaijan		200.00		(3)				200.00
	4/4	4/6	Armenia		300.00		(3)				300.00
	4/6	4/7	Turkey		127.00		(3)				127.00
Committee total					3,762.00						3,762.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military Air.

RICHARD H. LEHMAN, Chairman, May 5, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO RUSSIA AND UKRAINE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 10, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Spratt	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Robert Michel	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Newt Gingrich	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Henry Hyde	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Floyd Spence	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Bob Livingston	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Gerald Solomon	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Richard Gephardt	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Howard Berman	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. David Obey	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. David Bonior	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Steny Hoyer	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Tom Lantos	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Nita Lowey	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Ben Gilman	4/4	4/6	Russia		1,750.00		1,642.00				3,392.00
Tom O'Donnell	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Margarette Sullivan	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Craig Hanna	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Gardner Peckham	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
William Pitts	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
William Gavin	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Christopher Koim	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
William Schuerch	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Laura Nichols	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
James Billington	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
David Roth	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Committee total					45,500.00		1,642.00				47,142.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
Note.—Travelers were issued and spent $1,750.00 U.S. per diem prior to departure. Travel was completed on military aircraft except for Hon. Ben Gilman, who flew commercial one way.

RICHARD A. GEPHARDT, Chairman, May 4, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO AFRICA AND EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 12 AND APR. 19, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bill Richardson	4/12	4/14	Africa		252.00						252.00
	4/14	4/19	Europe		701.00						701.00
David Gillette	4/12	4/14	Africa		252.00						252.00
	4/14	4/19	Europe		701.00						701.00
Committee total					1,906.00						1,906.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL RICHARDSON, June 24, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 29 AND MAY 3, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Marcy Kaptur	4/29	5/3	Mexico		166.50		[3] 1,837.00				2,003.50

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 29 AND MAY 3, 1993—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Helen Delich Bentley	5/1	5/3	Mexico		166.50		[4] 733.00				899.50
Hon. Eva Clayton	5/1	5/3	Mexico		166.50						166.50
Hon. Leslie Byrne	4/29	5/3	Mexico		166.50						166.50
Hon. Nydia Velazquez	4/29	5/3	Mexico		166.50						166.50
Hon. Cardiss Collins	4/29	5/3	Mexico		166.50						166.50
Hon. Karan English	4/29	5/3	Mexico		166.50						166.50
Hon. Pat Danner	4/29	5/3	Mexico		166.50						166.50
Roberta Jeanquart	4/29	5/3	Mexico		166.50						166.50
Marc Hammerlund	4/29	5/3	Mexico		166.50						166.50
Patricia Wait	4/29	5/3	Mexico		166.50						166.50
Mimi McGee-O'Hara	4/29	5/3	Mexico		166.50						166.50
David Schooler	4/29	5/3	Mexico		166.50						166.50
Committee total					2,164.50		2,570.30				4,734.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air (delegation ground transportation).
[4] One way commercial.

MARCY KAPTUR, June 3, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO PANAMA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 9 AND MAY 12, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
N.H. Collins III	5/9	5/12	Panama		174.90						174.90
Sandea E. Latta	5/9	5/12	Panama		179.65						179.95
John Holloman	5/9	5/12	Panama		174.90						174.90
Committee total					529.45						529.45

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

N.H. COLLINS, June 17, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CZECH REPUBLIC AND SLOVAKIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 18 AND MAY 28, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Cathy Brickman	5/19	5/23	Czech Republic		1,400.00						1,400.00
	5/23	5/26	Slovakia								
			Commercial transportation				2,937.05				2,937.05
Henry (Bud) Collins	5/19	5/23	Czech Republic		1,400.00						1,400.00
	5/23	5/26	Slovakia								
			Commercial transportation				2,937.05				2,937.05
William Freeman	5/19	5/23	Czech Republic		1,400.00						1,400.00
	5/23	5/26	Slovakia								
			Commercial transportation				2,937.05				2,937.05
Committee total					4,200.00		8,811.15				13,011.15

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 19, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SOMALIA AND SWITZERLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 28 AND JUNE 3, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Donald M. Payne	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Dorthy Jackson	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Richard Thigpen	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Frank Kiehne	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Donald M. Payne	6/1	6/3	Switzerland	200	140.20						280.40
Dorthy Jackson	6/1	6/3	Switzerland	200	140.20						280.40
Richard Thigpen	6/1	6/3	Switzerland	200	140.20						280.40
Frank Kiehne	6/1	6/3	Switzerland	200	140.20						280.40
Donald M. Payne	5/28	6/3	Kenya, Somalia, and Switzerland				7,517.45				
Dorthy Jackson	5/28	6/3	Kenya, Somalia, and Switzerland				7,517.45				
Richard Thigpen	5/28	6/3	Kenya, Somalia, and Switzerland				7,517.45				
Frank Kiehne	5/28	6/3	Kenya, Somalia, and Switzerland				6,539.45				

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SOMALIA AND SWITZERLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 28 AND JUNE 3, 1993—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Committee total					2,721.60		29,091.80				31,813.40

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD M. PAYNE, July 15, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO VIETNAM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 30 AND JUNE 3, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Lane Evans	5/30	5/31	Thailand		120.08		(3)				120.08
	5/31	6/1	Vietnam		70.89		(3)				70.89
	6/1	6/2	Hong Kong		166.64		(3)				166.64
Hon. Pete Peterson	5/30	5/31	Thailand		163.00		(3)				163.00
	5/31	6/1	Vietnam		142.00		(3)				142.00
	6/1	6/2	Hong Kong		243.00		(3)				243.00
Hon. Dana Rohrabacher	5/30	5/31	Thailand		150.00						150.00
	5/31	6/2	Vietnam		393.00		(4)				393.00
	6/2	6/3	Taiwan		70.00		2,514.45				2,584.45
Thomas A. O'Donnell	5/30	5/31	Thailand		148.35		(3)				148.35
	5/31	6/1	Vietnam		56.23		(3)				56.23
	6/1	6/2	Hong Kong		166.64		(3)				166.64
Suzanne F. Farmer	5/30	5/31	Thailand		163.00		(3)				163.00
	5/31	6/1	Vietnam		142.00		(3)				142.00
	6/1	6/2	Hong Kong		243.00						243.00
Paul Bearends	5/30	5/31	Thailand		315.86		(5)				315.86
	5/31	6/2	Vietnam		535.00		(5)				535.00
	6/2	6/3	Taiwan		70.00		[4] 1,246.45				1,316.45
Committee total					3,358.69		3,760.90				7,119.59

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military.
[4] Commercial one way.
[5] Military one way.

LANE EVANS, June 29, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ESTONIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 1 AND JUNE 6, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
William Holmes Brown	6/2	6/6	Estonia		700.00						700.00
Commercial transportation							3,297.45				3,297.45
Kristi Walseth	6/2	6/5	Estonia		550.00						550.00
Commercial transportation							3,305.45				3,305.45
Committee total					1,250.00		6,602.90				7,852.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 1, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO IRELAND, NORTHERN IRELAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 31 AND JUNE 7, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Frank McCloskey	6/1	6/7	Ireland, North Ireland	906.37	1,368.00		3,005.45				4,373.45
Frederick Boucher	6/1	6/7	Ireland, North Ireland	906.37	1,368.00		3,005.45				4,373.45
Paul Weber	6/1	6/7	Ireland, North Ireland	906.37	1,368.00		3,005.45				4,373.45
Committee total					4,104.00		9,016.35				13,120.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRANK McCLOSKEY, June 24, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO POLAND, FINLAND, AND ESTONIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 14 AND JUNE 24, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Cathy Brickman	6/15	6/18	Poland		1,300.00						1,300.00
	6/18	6/20	Finland								
	6/20	6/24	Estonia								
Commerical air transportation							3,214.15				3,214.15
William Freeman	6/15	6/18	Poland		1,300.00						1,300.00
	6/18	6/20	Finland								
	6/20	6/24	Estonia								
Commerical air transportation							3,214.15				3,214.15
Committee total					2,600.00		6,428.30				9,028.30

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 20, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, RONALD LASCH, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 4 AND MAY 7, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ronald Lasch	5/4	5/7	Poland		406.00		2,871.15				3,277.15
Committee total					406.00		2,871.15				3,277.15

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RONALD LASCH, May 27, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NANCY A. PANZKE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 11 AND JUNE 15, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Nancy A. Panzke	6/12	6/15	Poland		492.00		(3)				492.00
Committee total					492.00		(3)				492.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Via military aircraft.

NANCY A. PANZKE, July 13, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PETER ABBRUZZESE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 20 AND JUNE 24, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter Abbruzzese	6/20	6/23	Ukraine		576.00						576.00
	6/23	6/24	Germany		174.00						174.00
Commercial transportation							3,364.00				3,364.00
Committee total					750.00		3,364.00				4,114.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER ABBRUZZESE, July 15, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO 89TH INTERPARLIAMENTARY CONFERENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 8 AND APR. 17, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Barbara Rose Collins	4/10	4/16	India		1,140.00		[3] 7,407.45				8,547.45
Hon. Eni Faleomavaega	4/10	4/15	India		950.00		[4] 3,441.15				4,391.15
Michele Manatt	4/8	4/17	India		1,330.00		[5] 1,820.85				3,150.85
Elizabeth Bergere	4/8	4/17	India		1,330.00		[5] 1,820.85				3,150.85
Delegation expenses:											
Control room									1,063.72		1,063.72
Embassy personnel (American and FSN) and office supplies for control room.									400.88		400.88
Committee total					4,750.00		14,490.30		1,464.60		20,704.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial—Washington/New Delhi/Detroit.
[4] Commercial—Taiwan/New Delhi/Washington.
[5] Commercial—Washington/New Delhi/Washington.

ENI FALEOMAVAEGA, June 5, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NORTH ATLANTIC ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 21 AND MAY 24, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Charlie Rose	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Ronald Coleman	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Cardiss Collins	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Tom Lewis	5/21	5/24	Germany		879.00		(3)				879.00
Hon. J. Alex McMillan	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Jan Meyers	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Marge Roukema	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Doug Bereuter	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Tom Bliley	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Jack Brooks	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Ralph Regula	5/21	5/23	Germany		586.00		[3] 1,624.43				2,210.43
Peter Abbruzzese	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Gerald Solomon	5/21	5/24	Germany		879.00		(3)				879.00
Josephine Weber	5/21	5/24	Germany		879.00		[3] 1,624.43				2,503.43
Mike Ennis	5/21	5/24	Germany		879.00		(3)				879.00
Ron Lasch	5/21	5/24	Germany		879.00		[3] 1,624.43				2,503.43
Heidi Pender	5/21	5/24	Germany		879.00		(3)				879.00
Michael Poloyac	5/21	5/24	Germany		586.00		1,624.43				2,210.43
J. Walker Roberts	5/21	5/23	Germany		586.00		1,624.43				2,210.43
Robert Shea	5/21	5/24	Germany		879.00		(3)				879.00
Kurt Abendschein	5/21	5/24	Germany		879.00		(3)				879.00
Committee total					17,580.00		8,122.15				25,702.15

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

CHARLIE ROSE, July 23, 1993.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1675. A letter from the President and Chairman, Export-Import Bank of the United States transmitting a report involving United States exports to India, pursuant to 12 U.S.C. 635(b)(3)(1); to the Committee on Banking, Finance and Urban Affairs.

1676. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Departments of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council of North American Affairs for defense articles and services (Transmittal No. 93-25), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1677. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council of North American Affairs for defense articles and services (Transmittal No. 93-26), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1678. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by James T. Laney, of Georgia, to be Ambassador to the Republic of Korea and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1679. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by Richard Holbrooke, of New York, to be Ambassador to the Federal Republic of Germany, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1680. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1681. A letter from the Acting General Counsel, U.S. Arms Control and Disarmament Agency, transmitting the English language texts of eight threshold test ban treaty implementing agreements negotiated by the Bilateral Consultative Commission during its first four sessions; to the Committee on Foreign Affairs.

1682. A letter from the Chairman, Administrative Conference of the United States, transmitting for consideration a proposal to amend the Administrative Conference Act; to the Committee on the Judiciary.

1683. A letter from the National Commission on Judicial Discipline and Removal, transmitting the findings and conclusions of the Commission, pursuant to Public Law 101-650, section 415 (104 Stat. 5127; 106 Stat. 1118); to the Committee on the Judiciary.

1684. A letter from the Secretary of Transportation, transmitting a report on the surface transportation research and development plan, pursuant to Public Law 102-240, section 6009(b); to the Committee on Science, Space, and Technology.

1685. A letter from the Chairman, United States International Trade Commission, transmitting the 44th report for 1992 on the operation of trade agreements program, pursuant to 19 U.S.C. 2213(a); to the Committee on Ways and Means.

1686. A letter from the Chairman, U.S. International Trade Commission, transmitting its 74th quarterly report on trade between the United States and China, the successor States to the former Soviet Union, and other title IV countries during January-March 1993; to the Committee on Ways and Means.

1687. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report describing efforts to encourage the Arab League countries to abandon formally and renounce publicly their boycott policies, pursuant to Public Law 102-391, section 598(b)(2)(c); jointly, to the Committees on Foreign Affairs and Appropriations.

1688. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Hazardous Materials Transportation Act, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

1689. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the principal financial statements of the U.S. Customs Service for 1992, pursuant to Public Law 101-576, section 304(a) (104 Stat. 2853); jointly, to the Committees on Ways and Means and Government Operations.

1690. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the principal financial statements of the Internal Revenue Service for 1992, pursuant to Public Law 101-576, section 304(a) (104 Stat. 2853); jointly, to the Committees on Ways and Means and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 704. A bill to regulate fishing in certain waters of Alaska (Rept. 103-201, Pt. 1). Ordered to be printed.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2134. A bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and

for other purposes; with an amendment (Rept. 103-202). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2495. A bill to direct the Secretary of the Interior to convey to the State of Ohio the Senecaville National Fish Hatchery (Rept. 103-203). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California. Committee on Natural Resources. H.R. 734. A bill to amend the act entitled "An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (Rept. 103-204). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California. Committee on Natural Resources. H.R. 1268. A bill to assist the development of tribal judicial systems, and for other purposes; with an amendment (Rept. 103-205). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 454. A bill to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court; with an amendment (Rept. 103-206). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 184. An act to provide for the exchange of certain lands within the State of Utah, and for other purposes; with amendments (Rept. 103-207). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan. Committee on Education and Labor. H.R. 2339. A bill to amend the Technology-Related Assistance for Individuals with Disabilities Act of 1988 to authorize appropriations for each of the fiscal years 1994 through 1998; with amendments (Rept. 103-208). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan. Committee on Education and Labor. H.R. 856. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; with an amendment (Rept. 103-209). Referred to the Committee of the Whole House on the State of the Union.

Mr. FAZIO: Committee of Conference. Conference report on H.R. 2348. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103-210). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VALENTINE:

H.R. 2820. A bill to authorize appropriations for the Federal Aviation Administration for fiscal years 1994, 1995, and 1996 for research, engineering, and development to increase the efficiency and safety of air transport; to the Committee on Science, Space, and Technology.

By Mr. GILMAN:

H.R. 2821 A bill to suspend until January 1, 1997, the duty on Ethambutol hydrochloride; to the Committee on Ways and Means.

H.R. 2822. A bill to suspend until January 1, 1997, the duty on Tazobactam; to the Committee on Ways and Means.

H.R. 2823. A bill to suspend until January 1, 1997, the duty on Leucovorin calcium powder; to the Committee on Ways and means.

By Mr. BLILEY:

H.R. 2824. A bill to modify the project for flood control, James River Basin, Richmond, VA; to the Committee on Public and Works and Transportation.

By Mr. CONYERS:

H.R. 2825. A bill to demonstrate the economy and efficiency of centralizing Federal job training programs; to the Committee on Education and Labor.

By Mr. ENGEL (for himself and Mr. PORTER)

H.R. 2826. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Affairs.

By Mr. HILLIARD:

H.R. 2827. A bill to amend the Appalachian Regional Development Act of 1965 to include in the definition of Appalachian region additional counties in the State of Alabama; to the Committee on Public Works and Transportation.

By Mr. INGLIS of South Carolina:

H.R. 2828. A bill to amend the Federal Campaign Act of 1971 to terminate political action committees in Federal office elections; to the Committee on House Administration.

By Mr. MILLER of California (for himself and Ms. SNOWE):

H.R. 2829. A bill to require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964; and for other purposes; jointly, to the Committees on Education and Labor, Post Office and Civil Service, and House Administration.

By Ms. PELOSI (for herself, Mr. MINETA, Mr. BLACKWELL, and Mr. GUTIERREZ):

H.R. 2830. A bill to grant special immigrant status to immediate relatives of Filipino veterans of World War II, and for other purposes; to the Committee on the Judiciary.

By Ms. SCHENK:

H.R. 2831. A bill to establish the Office of Economic Conversion Information within the Department of Commerce, and for other purposes; jointly, to the Committees on Energy and Commerce and Armed Services.

By Ms. SHEPHERD (for herself, Mr. BROWN of Ohio, Mr. MILLER of California, Mrs. LOWEY, Mr. HUGHES, Mr. FROST, Mr. FILNER, Ms. NORTON, and Ms. ESHOO):

H.R. 2832. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to require clear and concise notification to participants and beneficiaries under a group health plan of the right of the employer to terminate such plan and to otherwise revise the type and amount of benefits provided thereunder, and to provide for civil enforcement of such requirement; to the Committee on Education and Labor.

By Mr. TOWNS:

H.R. 2833. A bill to require the Secretary of the Interior to conduct a survey and investigation of the site containing the graves of American Revolutionary War soldiers and sailors, located on a section of the Brooklyn Navy Yard in the city of New York; to the Committee on Natural Resources.

By Mr. CONYERS:

H. Con. Res. 130. Concurrent resolution expressing the sense of the Congress regarding the formulation of an arms security policy for the United States; to the Committee on Foreign Affairs.

By Mr. DINGELL:

H. Res. 232. Resolution expressing the profound sorrow of the House of Representatives on the death of the Honorable Paul B. Henry, a Representative from the State of Michigan; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. ENGEL.

H.R. 55: Mr. MARKEY, Mr. OLVER, and Mr. MORAN.

H.R. 94: Mr. SCHAEFER.

H.R. 396: Mr. KIM.

H.R. 559: Mr. DEUTSCH, Mr. WAXMAN, Mr. STUPAK, Mr. LEWIS of Georgia, and Mr. VALENTINE.

H.R. 560: Mr. BOEHLERT.

H.R. 711: Mr. JOHNSTON of Florida.

H.R. 741: Mrs. FOWLER.

H.R. 966: Mr. KILDEE, Mr. REYNOLDS, and Mr. CLAY.

H.R. 1078: Mr. CANADY.

H.R. 1080: Mr. GOODLATTE, Mr. JACOBS, and Mr. CANADY.

H.R. 1082: Mr. CANADY.

H.R. 1083: Mr. GOODLATTE, Mr. JACOBS, and Mr. CANADY.

H.R. 1103: Mr. OBERSTAR.

H.R. 1141: Mr. POMEROY, Mr. PACKARD, and Mr. GALLEGLY.

H.R. 1164: Mr. HORN, Mr. FRANK of Massachusetts, and Mr. FARR.

H.R. 1181: Ms. SHEPHERD.

H.R. 1191: Mr. GOODLATTE.

H.R. 1219: Mr. MANTON, Mr. HASTINGS, Mr. ZIMMER, and Mr. SERRANO.

H.R. 1314: Mr. CONYERS.

H.R. 1332: Mr. BLILEY.

H.R. 1493: Mr. OLVER.

H.R. 1534: Mr. WISE and Ms. BYRNE.

H.R. 1583: Mr. SPRATT, Mr. EMERSON, Mr. GOSS, and Mr. APPLEGATE.

H.R. 1604: Mr. CASTLE.

H.R. 1627: Mr. GUTIERREZ, Mr. COLLINS of Georgia, and Mr. DUNCAN.

H.R. 1687: Mr. SANDERS and Mr. PETERSON of Minnesota.

H.R. 1733: Mr. ENGEL.

H.R. 1734: Mr. WYNN, Mr. WAXMAN, Mr. ENGEL, Ms. FURSE, and Mr. JOHNSTON of Florida.

H.R. 1738: Mr. MINETA.

H.R. 1753: Mr. MEEHAN.

H.R. 1755: Mr. MEEHAN.

H.R. 1786: Mr. WASHINGTON.

H.R. 1796: Mr. ZELIFF, Mrs. VUCANOVICH, Mr. RAMSTAD, Mr. REED, Mr. PETERSON of Minnesota, Mr. RAVENEL, Mr. BILBRAY, Mr. ROGERS, and Mr. QUINN.

H.R. 1808: Mr. BERMAN, Mr. DELLUMS, Mr. BLACKWELL, Mr. FILNER, Ms. BYRNE, BRYANT, Mr. HUGHES, Mr. ACKERMAN, Mr. BONIOR, Mrs. COLLINS of Illinois, Mr. FROST, Mr. BEILENSON, Mr. BILBRAY, Mr. BROWN of California, Mr. DE LUGO, Mr. FISH, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MARKEY, Mr. LEHMAN, Mr. MACHTLEY, Mr. MINETA, Mrs. MORELLA, Mr. OWENS, Ms. PELOSI, Mr. SERRANO, Mrs. LOWEY, Mr. MILLER of California, Mr. MORAN, Mr. POSHARD, Mr. RAVENEL, Mr. OLVER, Ms. ROS-LEHTINEN, Mr. SYNAR, Mr. VENTO, Mr. WALSH, Mr. WAXMAN, Mr. WYDEN, Mrs. UNSOELD, and Ms. WATERS.

H.R. 1809: Mr. BERMAN, Mr. DELLUMS, Ms. SLAUGHTER, Mr. VENTO, Mr. FILNER, Mr.

HUGHES, Ms. BYRNE, Mr. BRYANT, Mr. FISH, Mr. ACKERMAN, Mr. BONIOR, Mr. BEILENSON, Mr. BILBRAY, Mr. BROWN of California, Mr. DE LUGO, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MARKEY, Mr. LEHMAN, Mr. MACHTLEY, Mr. MINETA, Mrs. MORELLA, Mr. OWENS, Ms. PELOSI, Mr. SERRANO, Ms. LOWEY, Mr. LIPINSKI, Mr. MILLER of California, Mr. MORAN, Mr. POSHARD, Mr. RAVENEL, Ms. ROS-LEHTINEN, Mr. WALSH, Mr. WAXMAN, Mr. WYDEN, Mrs. UNSOELD, and Ms. WATERS.

H.R. 1810: Mr. SHAYS, Mr. BERMAN, Mr. DELLUMS, Mr. FISH, Mr. LIPINSKI, Mr. OLVER, Mr. FILNER, Mr. BRYANT, Mr. ROMERO-BARCELO, Mr. ACKERMAN, Mr. BONIOR, Mrs. COLLINS of Illinois, Mr. BEILENSON, Mr. BILBRAY, Mr. BROWN of California, Ms. BYRNE, Mr. DE LUGO, Mr. HUGHES, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MARKEY, Mr. LEHMAN, Mr. MACHTLEY, Mr. MINETA, Mrs. MORELLA, Mr. OWENS, Ms. PELOSI, Mr. SERRANO, Ms. LOWEY, Mr. MILLER of California, Mr. MORAN, Mr. POSHARD, Mr. RAVENEL, Ms. ROS-LEHTINEN, Mr. VENTO, Mr. WALSH, Mr. WAXMAN, Mr. WYDEN, Mrs. UNSOELD, Ms. WATERS, and Mr. WYNN.

H.R. 1877: Mr. MCDERMOTT, Ms. MCKINNEY, and Mr. KLINK.

H.R. 1900: Mrs. SCHROEDER, Mr. PETERSON of Minnesota, Mr. ACKERMAN, Mr. COOPER, Miss COLLINS of Michigan, Mr. ENGLISH of Oklahoma, and Ms. BYRNE.

H.R. 1923: Mr. FROST.

H.R. 2088: Mr. BAKER of Louisiana, Mr. CAMP, Mr. EVANS, Mr. FIELDS of Texas, Mr. GOODLING, Mr. HASTERT, Mr. HAYES, Mr. HERGER, Mr. HOBSON, Mr. HOUGHTON, Mr. KLUG, Mr. MCKEON, Mr. MCCOLLUM, Mr. ROBERTS, and Mr. ZELIFF.

H.R. 2121: Mr. CALVERT, Mr. SHAW, Mr. CASTLE, Mr. SMITH of Oregon, Mr. BONILLA, Mr. MARKEY, Ms. SCHENK, Mr. HUNTER, Mrs. MEYERS of Kansas, Mr. PORTER, Mrs. JOHNSON of Connecticut, Ms. LAMBERT, Mr. EDWARDS of Texas, Mr. NEAL of Massachusetts, Mr. QUILLEN, Mr. KOLBE, Mr. FISH, Mr. BACCHUS of Florida, Mr. THOMPSON, Mr. INGLIS of South Carolina, Mr. BLILEY, Mr. TANNER, and Mr. CRAPO.

H.R. 2151: Mr. HAMBURG, Mr. BORSKI, Mr. SOLOMON, Mr. ANDREWS of New Jersey, Mr. MCCLOSKEY, and Mr. HOYER.

H.R. 2253: Mr. GINGRICH.

H.R. 2276: Mr. GUTIERREZ.

H.R. 2292: Mr. ROWLAND, Mr. MORAN, Mr. KINGSTON, and Mr. WELDON.

H.R. 2350: Ms. ROYBAL-ALLARD, Mr. FILNER, and Mr. HASTINGS.

H.R. 2370: Mr. HASTINGS.

H.R. 2417: Mr. WILLIAMS and Mr. TAYLOR of North Carolina.

H.R. 2434: Mr. ROYCE.

H.R. 2447: Mr. EVANS, Mr. COPPERSMITH, Mr. WILSON, and Mrs. UNSOELD.

H.R. 2500: Mr. BOUCHER.

H.R. 2547: Mr. GILCHREST and Mr. FILNER.

H.R. 2597: Mr. EVANS.

H.R. 2602: Mr. BAKER of Louisiana.

H.R. 2640: Mrs. CLAYTON.

H.R. 2655: Mr. MINGE.

H.R. 2668: Mr. KLEIN.

H.R. 2684: Mr. LAUGHLIN, Mr. CASTLE, Mr. BATEMAN, and Ms. ESHOO.

H.R. 2735: Mr. MANN, Mr. GUTIERREZ, and Mr. MAZZOLI.

H.R. 2741: Mr. GALLO, Mr. HOCHBRUECKNER, Mr. WALSH, and Mr. KLEIN.

H.R. 2786: Mr. SMITH of New Jersey and Mr. HYDE.

H.J. Res. 86: Mr. SCOTT, Ms. VELAZQUEZ, Mr. QUINN, Ms. MOLINARI, Mr. RAMSTAD, Mr. ACKERMAN, Mr. STOKES, Mr. HAYES, and Mr. OXLEY.

H.J. Res. 106: Mr. BARTLETT of Maryland and Mr. BEILENSON.

H.J. Res. 129: Mr. GOODLATTE.

H.J. Res. 145: Mr. LIPINSKI, Mr. HUNTER, Mr. SAXTON, Mr. REGULA, Mr. PORTER, and Mr. FAWELL.

H.J. Res. 155: Mr. LEVIN, Mr. TORRICELLI, Mr. PETERSON of Florida, Ms. KAPTUR, Mr. SAWYER, Mr. GREENWOOD, Mr. HASTINGS, Mr. RAVENEL, Mr. BARCA of Wisconsin, Mrs. VUCANOVICH, Mr. APPELGATE, Mr. FAZIO, Mr. KLECZKA, Mr. RANGEL, Mr. BREWSTER, Ms. MOLINARI, Mr. HANSEN, Mr. HUTTO, Mr. SMITH of SKEEN, Mr. CALLAHAN, Mr. CONYERS, Mr. DE LUGO, Mr. STOKES, Mr. CLEMENT, Mr. MINETA, Mr. DE LA GARZA, Mr. CAMP, Mr. NATCHER, Mr. DEFAZIO, Mr. SPENCE, Mrs. MORELLA, Mr. HYDE, and Mr. NEAL of North Carolina.

H.J. Res. 157: Mr. HAMILTON, Mr. ORTIZ, Mr. RANGEL, Mr. MURPHY, Mr. SWETT, Mr. FARR, and Mr. BROWN of Ohio.

H.J. Res. 185: Ms. DANNER, Mr. DEFAZIO, Mr. FRANKS of Connecticut, Mr. HAMBURG, Mr. HAMILTON, Mr. MATSUI, Mr. NATCHER, Mr. POSHARD, Mr. VOLKMER, Ms. WOOLSEY, and Mr. YATES.

H.J. Res. 202: Ms. ESHOO.

H.J. Res. 245: Mr. THOMAS of Wyoming, Mr. KNOLLENBERG, Mr. CONDIT, Mr. STEARNS, Mr. DICKEY, Mr. BALLENGER, and Mr. CAMP.

H. Con. Res. 73: Mr. HINCHEY.

H. Con. Res. 109: Mr. WYNN, Mr. GILCHREST, Mr. COOPER, Mr. SKEEN, Mr. FAZIO, Mrs. VUCANOVICH, Mr. SANDERS, Mr. BILBRAY, Mr. HOUGHTON, Mr. ORTON, Mr. BARCIA of Michigan, Mrs. BENTLEY, Mr. BROWDER, Mr. SAWYER, Mr. SABO, Mr. KINGSTON, Mr. BILIRAKIS, Mr. HEFLEY, Mr. FORD of Michigan, Mr. BOEHLERT, Mr. MOAKLEY, Mr. ZIMMER, Mr. GALLO, Mr. SHARP, Mr. VALENTINE, Mr. HANSEN, Mr. KREIDLER, and Mr. GEPHARDT.

H. Con. Res. 118: Mr. UPTON.

H. Con. Res. 121: Mr. HORN and Mr. GENE GREENof Texas.

H. Res. 174: Mr. GOODLATTE and Mr. GILLMOR.

H. Res. 175: Mr. MICHEL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2330

By Mr. GOSS:

—Page 30, after line, 3, add the following:

SEC. 306. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS.

During the fiscal year 1994, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence related activities of any such element to a Member of the House of Representatives unless and until a copy of the following oath of secrecy has been signed by that Member and has been published in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1994 in the course of my duties as a Member of the United States House of Representatives, except pursuant to the Rules and Procedures of the House.".

EXTENSIONS OF REMARKS

IN SUPPORT OF MENTORING PROGRAMS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. ENGEL. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Judy Mann which appeared in the July 16, 1993, edition of the Washington Post. The article, entitled "The Difference Mentors Can Make" touches on the importance mentoring programs can play in educating children of high risk.

Mrs. Matilda R. Cuomo, wife of the Governor of my home State, is a primary advocate for mentoring programs and has been extremely successful in establishing a mentoring program in New York State. Mentoring is an effective, early prevention strategy to help children in grades K–8 to improve their self-esteem, broaden their vision of opportunities, and apply themselves in school by matching them with caring adult volunteers on a 1-to-1 basis. After only 4 years in existence, the New York State Mentoring Program has reached 2,000 New York children, giving priority to children currently in the foster care system.

I had the opportunity to speak with Mrs. Cuomo a few weeks ago. Her enthusiasm for this worthwhile program was certainly catching. As a former teacher, I have long been aware of the importance that positive role models and adult guidance play in the development of children. That is why I look forward to using New York State's Mentoring Program as a model for the Nation during reauthorization of the Elementary and Secondary Education Act.

I encourage my colleagues to read Judy Mann's article. Clearly, mentoring is a cost efficient and highly successful way to reach our Nation's children who are most at risk of falling through the cracks.

[From the Washington Post, July 16, 1993]

THE DIFFERENCE MENTORS CAN MAKE

(By Judy Mann)

Officials from 15 states met in Michigan last week to discuss ways to improve their systems for adopting children. Matilda R. Cuomo was the only "first spouse" there.

This will come as no surprise to those who have watched the wife of New York Gov. Mario M. Cuomo emerge as a pioneer in state efforts to help families get back on their feet and children stay on the right track for success in life.

As a mother of five, Mrs. Cuomo brings a practiced wisdom to her state's efforts, which are being supported by $1 billion in state funds this fiscal year. The Decade of the Child, as the initiative is known in New York, was launched by Gov. Cuomo in 1988 and so far has received $4 billion in state funding. This is no Band-Aid effort. And like President Clinton, Cuomo has turned to one of his most trusted and high-profile advisers to help him attack one of society's most difficult problems.

From the time a child is born into a high-risk family to the time he graduates from high school, the state has programs to help both him and his parents break cycles of welfare dependency and poverty.

One of the state's success stories is the mentoring program Mrs. Cuomo put together four years ago to match youngsters in kindergarten through eighth grade with adults who were willing to meet with them for a minimum of four hours a month. She has mentored two children herself. The first, Elie Delgado, now is in her second year of high school and has a summer job.

"On both sides of her family, nobody reached the fourth grade," said Mrs. Cuomo. Elie's mother received training in secretarial and computer skills through a state program and is working for Catholic Charities. "Elie said to me, 'My mother has a job!' That severed the tie to public assistance," Mrs. Cuomo said, adding that it gives the child a sense of independence when she can see her parent working.

The mentoring program now serves 2,000 children, and those who are in foster care get priority. Because of the devastating impact of drugs on parents during the last 10 years, the children who are entering foster care and become eligible for adoption often are older than they have been in the past. Mrs. Cuomo is spearheading attempts to speed up adoptions so that those children can get on with their lives without spending years in the limbo of foster care.

There are 1,000 children waiting for adoption. Mrs. Cuomo says the state's goal is to place children in adoptive homes within a year after their own families break down. New York helps adoptive families by providing counseling and subsidies that are based on income. The state recently won a $100,000 grant from the Kellogg Foundation to explore ways to improve the adoption system.

New York state's problems are far more severe and complex than those of many other states. Its 18 million residents come from 131 countries and speak 178 languages, according to Mrs. Cuomo. Many families don't know what help is available. In addition, many of them have a tradition of turning to their extended families for help instead of turning to government agencies.

For these families in particular, the mentoring program can provide a bridge to self-sufficiency. Mentors not only tutor the children, they can serve as an extended family and help point adults in the direction of services and programs. Often, says Mrs. Cuomo, mentors remain attached to the family long after the official mentoring relationship is over. They end up doing things such as helping youngsters fill out applications and work their way through teenage rebellions. "I went through it with five kids," said Mrs. Cuomo. "There is a lot of resentment [within families.] That's when the child needs some hope."

Intern and apprentice programs are being developed so that high school youngsters understand "that there is something for them to do," she adds. "They get tuned out. We lose that thread of enthusiasm. They give up hope. They listen to the wrong party. School absenteeism becomes a bad habit. Once the marks go down, they lose all kinds of enthusiasm and the encouragement to go to school."

Matilda Cuomo understands how hard it is to raise youngsters in the best of circumstances, and she also knows there are no quick fixes, but she also is convinced that there is at least one approach that works. "Mentoring," she said, "is an answer. It is a solution for families that don't have it together. It is going to make a marked difference in the future for children and their families."

UNITED STATES POLICY TOWARD UKRAINE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. HAMILTON. Mr. Speaker, on May 13, 1993, I wrote to Ambassador Strobe Talbott concerning United States policy toward Ukraine. It is my firm view that the United States needs a policy that treats Ukraine as a separate, important country, focuses on support for political and economic reform, and finds creative ways to engage Ukraine on security issues.

On July 27, 1993, I received a reply from the Department of State, and I would like to bring the administration's response to the attention of my colleagues. The text of the correspondence follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 27, 1993.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of May 13 to Ambassador Talbott, in which you propose measures for demonstrating that the U.S. is committed to treating Ukraine as an important international partner. I regret the delay in our reply.

We certainly share your views on the importance of building a better dialogue with Ukraine, and we are trying to demonstrate to Ukraine that our relations do consist of more than START and the NPT. In emphasizing carrots as well as sticks, however, we cannot lose sight of the fact that Ukraine does still have a commitment that it must fulfill. We will do nothing to suggest that Ukraine stands to gain by not taking action on the treaties.

We are working diligently to make clear that our relationship with Ukraine is not derivative of our Russia policy. It would be inaccurate to adopt the notion frequently expressed in Kiev, that the U.S. looks at Ukraine through "Moscow eyes." Nothing could be farther from the truth. Our consulate general, now embassy, in Kiev has been a critical link in giving us the Ukrainian point of view. We look at Ukraine through "American eyes in Kiev."

We established a USAID mission in Ukraine in September 1992. Although it services Moldova and Belarus as well, the mission's primary focus is Ukraine. You know, of course, that the FREEDOM Support Act deliberately created a regional assistance approach for the NIS in order to administer the program as a coordinated whole. The Administration and the Department remain committed to this regional approach.

Ukraine-specific programs, nevertheless, do exist. In all the NIS, we attempt to tailor programs to needs. The U.S. has provided over $16.5 million worth of humanitarian assistance to Ukraine, much of it to assist Chernobyl victims and in response to Ukrainian government requests generated by recent diphtheria outbreaks and shortage of measles vaccine and insulin. This effort represents just a portion of our humanitarian assistance effort.

The size of the U.S. technical assistance program in Ukraine is second only to Russia's among the NIS. All the programs in this substantial assistance effort in some way promote political and economic reform and many are specific to Ukraine.

We have announced plans for the creation of an Enterprise Fund for Ukraine for equity investments and small loans, in part to facilitate the defense conversion process. We are assisting the Government of Ukraine to develop a privatization plan and draft privatization legislation, have funded privatization actions, and have provided financial reform advisors. A multi-sector OPIC country-specific investment mission comprised of 22 U.S. companies visited five Ukrainian cities in May. Our democratization programs have touched all sectors in this area from rule of law to developing an independent media. The Peace Corps is well established and concentrating on small business development. USIA has opened an American House and the Department of Commerce has established a Commercial Office.

Once Ukraine has approved START and NPT, we are prepared to provide them certain security assurances, based on CSCE undertakings and our long-standing positive and negative assurances given to all NPT parties. The UK and Russia will issue similar assurances. We have also informed Kiev that we are prepared to begin work on a bilateral charter that would elaborate the fundamental principles of U.S.-Ukraine relations in the political, economic and security spheres. Such a charter might be signed at the highest level following Ukraine's ratification of START I and accession to the NPT as a nonnuclear state.

During his recent visit to Kiev, Secretary Aspin also described to Ukrainian Minister of Defense Morozov the types of expanded defense and military contacts we want to have with Ukraine—very much along the lines you outlined in your letter. Improved U.S.-Ukrainian defense and military relations will not depend entirely on ratification of START and adherence to the NPT and will begin with Minister Morozov's visit to Washington in July. Nevertheless, we have stressed the importance of fulfilling their commitments to the Government of Ukraine. We firmly believe that a closer, broader partnership with Ukraine will benefit both our countries, and closer defense and military ties will certainly address some of Ukraine's security concerns and may smooth the way for treaty ratification.

Thank you again for your letter and your suggestions; I hope this information is useful to you. If you or your staff should have any further questions, please contact me or my office.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 13, 1993.

Hon. STROBE TALBOTT,
Ambassador-at-Large for the Newly Independent States, U.S. Department of State, Washington, DC.

DEAR MR. AMBASSADOR: I write concerning U.S. policy towards Ukraine. I am concerned that U.S. policy to achieve Ukrainian ratification of START and approval of the Non-Proliferation treaty is not working. I believe that the U.S. must move quickly to reshape a policy towards Ukraine that is better able to protect and promote U.S. and Ukrainian interests. I welcome the reports of your recent trip to the Ukraine and look forward to exchanging views with you on this key issue.

The U.S. has important interests in reversing the current trend in Ukraine away from ratification of the START treaty. We must treat Ukraine as a separate, important country, work harder to support its economic and political reform and find creative ways to engage Ukraine on security issues.

Specifically:

We must make a greater effort to treat Ukraine as a separate and important entity. U.S. officials should speak out publicly and frequently to dispel that notion that our policy is focussed exclusively on Russia. We must make it clear that our policy toward Ukraine is not a derivation of our policy toward Russia;

We must initiate a larger, more effective assistance program for Ukraine that promotes political and economic reform and is country-specific to Ukraine. To start, the U.S. should establish a separate, viable AID mission in Ukraine and develop separate Ukraine-specific foreign assistance figures and programs; and,

We must find new, creative ways to address Ukraine's security concerns. We should expand Ukrainian access to military training courses in the U.S. and at NATO headquarters. We should send training teams to help Ukraine design a strategy and doctrine for its self-defense forces. We should send U.S. ships and planes to make goodwill visits to Ukrainian ports.

The purpose of such steps is to begin to establish a better working dialogue with Ukraine and to begin to address some of its legitimate security concerns. Without appropriate security assurances, Ukraine will not ratify START. In the final analysis, a policy of persuasion on START will require carrots as well as sticks.

I appreciate your consideration on this matter.

With best wishes.

Sincerely,

LEE H. HAMILTON,
Chairman.

A TRIBUTE TO THREE OUTSTANDING NEW JERSEY ATHLETES

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay special tribute to three outstanding men who have excelled in college basketball. Luther Wright and Lennox Dominique "Terry" Dehere were star basketball players at Seton Hall University in New Jersey under the guidance of renowned head coach P.J. Carlesimo.

Luther Wright, of Elizabeth, NJ, was recently drafted by the Utah Jazz NBA Basketball Team. The degree of excellence he achieved was steadily built during a career of New Jersey basketball. Wright had proved to be one of the top high school players in the country, earning All-America honors at Elizabeth High School. He progressed to Seton Hall University where he became a starting center under the coaching expertise of P.J. Carlesimo. Wright's basketball career consists of impressive statistics and honors. In his sophomore year, he was Seton Hall's leading rebounder and shot blocker and was second on the team in both steals and field goal percentage. Over the course of his college career, he was named Player of the Game by CBS–TV and Most Valuable Player in the Seton Hall Meadowlands Tournament. IN 1991, he was also a member of the USA Basketball Team which won a gold medal at the World University Games. All are confident that Luther Wright's abilities will mature and improve throughout his professional basketball career, beginning next season with the Utah Jazz.

Equally as promising is the budding career of Terry Dehere, a former Seton Hall player as well. He was selected by the LA Clippers in the 1993 NBA draft. Due to his outstanding performance in Jersey City's St. Anthony High School, Dehere advanced to college basketball as a guard on Seton Hall's team. His 1992–93 Player of the Year title in the Big East and the Pre-Season Player of the Year title preceding it were well-earned. By his sophomore year, he was already making history, setting a school record of 105 three-pointers and being the first Seton Hall sophomore to reach 1,000 points. During the following season, Dehere was among the Big East's top 10 in scoring, field goal percentage, free-throw percentage, and three-point field goals per game. At the conclusion of his college career, he won the Dave Gavitt Trophy as the Most Valuable Player in the Big East Tournament, he led Seton Hall in scoring for his fourth consecutive year, and became the leading scorer among all players of all time at all Big East institutions. With a record this impressive, it comes as no surprise that he was the first active player to have his uniform No. 24 retired at Seton Hall. Dehere's future is anticipated to be this bright in the NBA this winter as well.

The phenomenal athletic and personal achievements of Wright and Dehere cannot be fully appreciated however, without giving credit to their coach and mentor, P.J. Carlesimo, the head basketball coach at Seton Hall University. Mr. Carlesimo, whose tenure as head coach of the Seton Hall Pirates began in 1982, resides in East Orange, NJ. His achievements to date are reflective of his keen interpersonal and coaching skills that help him to command great respect both on and off the basketball court. During the summer of 1993, Mr. Carlesimo will serve as head coach of Team USA, a squad of exceptional college basketball players. During the 1992–93 season, he guided the Pirates to the status of Big

East Regular Season and Tournament Champions. Prior to this successful season in South Orange, he acted as assistant coach of the 1992 USA Basketball Olympic team. Between 1991 and 1992, Mr. Carlesimo was named N.J. College Basketball Associations Coach of the Year, took the Pirates to the position of Big East regular season tri-champs, and led Seton Hall to the top-seed position as they entered the 1992 Big East Tournament. In 1992, he acted as the head coach of the USA Basketball World University Games Team.

The 1990–91 basketball season proved to be quite memorable for Mr. Carlesimo as well. During this time, Seton Hall rose to the occasion and became the Big East Conference champion and ECAC Division I Team of the Year. To culminate this excellent period, he was also named the assistant coach of the USA Olympic Team. Between 1988–1989, he was named Consensus National Coach of the Year, Big East Conference Coach of the Year, and the Metropolitan Basketball Writers Coach of the Year. Also during the 1988–1989 season, Mr. Carlesimo helped guide Seton Hall to the NCAA Final Four—the first time that the college was ever in this tournament.

Mr. Speaker, I commend Luther Wright, Lennox Dominique "Terry" Dehere, and P.J. Carlesimo for their continuing dedication and excellence to the sport of basketball. This commitment to the sport has been a source of pride to their communities and the State of New Jersey.

INFORMATION ON FINANCIAL BENEFITS ACT OF 1993

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. GLICKMAN. Mr. Speaker, as a member of the House Judiciary subcommittee that is working on the issue of lobbying disclosure, I am introducing a bill today to require lobbyists to specifically disclose the gifts they provide to Members of Congress and their staffs. The bill is identical to legislation introduced by Senator PAUL WELLSTONE of Minnesota. The public has the right to know who is giving what to whom—and with greater specificity than we presently require. We've said it before and it is certainly appropriate here: sunshine is the best disinfectant.

My bill would require lobbyists to report, on an itemized basis, the gifts, meals, tickets, entertainment, and other financial benefits that they give or provide to Members and their staff. The bill includes all gifts over $20 per occasion or a combined amount of $50 in a calendar year. Current law does not require itemized disclosure by lobbyists, although Members of Congress are subject to disclosure of certain gifts under current ethics laws. This bill will insure the public is aware of all gifts.

The time has come for real reform. We must require full and meaningful disclosure of gifts given by lobbyists instead of allowing them to issue a general aggregate sum of all money spent on congressional lobbying. The Judiciary Committee will be considering the Lobbying Disclosure Act soon, and I hope that this bill can be a part of that effort. I know that as a member of this House and of the Judiciary Committee, I will be working to bring about meaningful lobbying reform. I hope my colleagues will join me.

INFORMATION ON FINANCIAL BENEFITS ACT OF 1993

SECTION 1. SHORT TITLE.

This Act may be cited as the "Information on Financial Benefits Act of 1993."

SECTION 2

(1) IN GENERAL—In addition to information required by law to be disclosed by registered lobbyists (herein known as "registrants"), each registrant shall include in its semiannual reports under subsection (a) or in a separate report on financial benefits, subject to the same filing requirements, as set out in lobbying disclosure law, a list of each individual financial benefit provided directly or indirectly by a registrant (including a financial benefit provided by a lobbyist employed by or a lobbyist who is a member of a registrant) to a covered legislative branch official, to an entity that is established, maintained, controlled, or financed by a covered legislative branch official, or to any other person or entity on behalf of or in the name of a covered legislative branch official, disclosing—

(A) with respect to each financial benefit other than one described in subparagraph (B), (C), or (D);

(i) the name and position of the covered legislative branch official or other person or entity to whom or which the financial benefit was provided;

(ii) the nature of the financial benefit;

(iii) the date on which the financial benefit was provided; and

(iv) the value of the financial benefit;

(B) with respect to each financial benefit that is in the form of a conference, retreat, or similar event for or on behalf of covered legislative branch officials that is sponsored by or affiliated with an official congressional organization.

(i) the nature of the conference, retreat, or other event;

(ii) the date or dates on which the conference, retreat, or other event occurred;

(iii) the identity of the organization that sponsored or is affiliated with the event; and

(iv) a single aggregate figure for the expenses incurred by the registrant in connection with the conference, retreat, or similar event;

(C) with respect to each financial benefit that is in the form of an event that is hosted or cohosted with or in honor of 1 or more covered legislative branch officials—

(i) the name and position of each such covered legislative branch official;

(ii) the nature of the event;

(iii) the date on which the event occurred; and

(iv) the expenses incurred by the registrant in connection with the event; and

(D) with respect to each financial benefit that is in the form of election campaign fundraising activity—

(i) the name and position of the covered legislative branch official on behalf of whom the fundraising activity was performed;

(ii) the nature of the fundraising activity;

(iii) the date or dates on which the fundraising activity was performed;

(iv) the expenses incurred by the registrant in connection with the fundraising activity; and

(v) the number of contributions and the aggregate amount of contributions known by the registrant to have been made to the covered legislative branch official as a result of the fundraising activity.

(2) EXEMPTION.—A list described in paragraph (1) need not disclose financial benefits having a value of $20 or less to the extent that the aggregate value of such financial benefits that are provided to or on behalf of a covered legislative branch official or other person or entity during the calendar year in which the semiannual period covered by the report occurs has not exceeded $50.

(3) DEFINITION.—As used in this subsection, the term "financial benefit"—

(A) means anything of value given to, on behalf of, or for the benefit of a covered legislative branch official, including—

(i) a gift;

(ii) payment for local or long-distance transportation, entertainment, food, or lodging, whether provided in kind, by purchase of a ticket, by payment in advance or by reimbursement, or otherwise;

(iii) a contribution or other payment made to a third party in lieu of an honorarium on the basis of a designation, recommendation, or other specification made by the covered legislative branch official;

(iv) reimbursement of an expense;

(v) a loan; and

(vii) an expenditure made for a conference, retreat, or other event benefiting a covered person, but

(B) does not include—

(i) a contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), that is required to be reported under that Act, unless the contribution is in the form of participation in a fundraising activity on behalf of a covered legislative branch official, including the solicitation of contributions, hosting or cohosting of a fundraising event, or service on a campaign steering committee or its equivalent;

(ii) a modest item of food or refreshments, such as a soft drink, coffee, or doughnut, offered other than as part of a meal;

(iii) a greeting card or other item of little intrinsic value, such as a plaque, certificate, or trophy, that is intended solely for presentation;

(iv) financial benefits given under circumstances which make it clear that the benefits are motivated by a family or personal relationship rather than the position of the recipient;

(v) financial benefits which are not used and which are promptly returned to the donor; or

(vi) widely attended receptions to which covered legislative branch officials are invited, other than events described in paragraph (1)(B) of this subsection.

TOWARD A NEW WAY OF DOING BUSINESS IN AMERICA

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. SWETT. Mr. Speaker, if American business is going to succeed in the global marketplace, we need to do everything we possibly can to bolster U.S. competitiveness. Earlier this year, the House took an important step in the right direction by passing the National Competitiveness Act of 1993, legislation to strengthen cooperation between Government and business. If we are truly going to succeed

at reinvigorating American industry, we need not only renewed Government-business cooperation, we also need a new spirit of cooperation between labor and management.

I would like to call to my colleagues' attention a recent op-ed in the Washington Post by Secretary of Labor Robert Reich, entitled "The 'Pronoun Test' for Success." Secretary Reich describes the kind of new thinking which is necessary if American business is going to remain competitive. I commend the article to my colleagues, and I ask that the text of the article follow my comments in the RECORD.

[From the Washington Post, July 28, 1993]

THE "PRONOUN TEST" FOR SUCCESS

(By Robert B. Reich)

For six months now I've been visiting the workplaces of America, administering a simple test. I call it the "pronoun test." I ask front-line workers a few general questions about the company. If the answers I get back describe the company in terms like "they," or "them," I know it's one kind of company. If the answers are put in terms like "we" or "us," I know it's a different kind of company.

It doesn't much matter what's said about the company. Even a statement like "they aim for high quality here" suggests a workplace that hasn't yet made the leap into true high performance. It isn't yet achieving ever higher levels of quality, productivity and service. Only "we" companies can do this.

The L-S Electro-Galvanizing Co. in Cleveland—at the heart of the rust belt—passed the pronoun test with ease. Every front-line worker I talked with recently told me how "we" were meeting the competition, how "our" company was succeeding.

L-S Electro-Galvanizing is succeeding. The company is winning awards for quality. Its customers are loyal, and its profits are mounting. Why the success? At first glance, it's something of a mystery. The company's equipment for putting zinc coatings on cold-rolled steel doesn't give it an advantage over the competition, since the same equipment is available to all, including foreign competitors with cheaper labor. And its customers—big auto companies still reeling from recession—are looking for ways to cut costs.

L-S Electro-Galvanizing's advantage lies in its workers, who are constantly discovering better ways to use the equipment and serve the customers. The galvanized steel emerging from the factory is consistently high quality, tailored exactly to customer specifications and sold at a competitive price. Simply put, L-S Electro-Galvanizing is offering its customers a great deal.

This is a high-performance workplace, organized from the bottom up. You can't tell managers from employees. They wear the same uniforms, park in the same parking lots, eat in the same cafeteria, prosper together when the company does well. They use the same pronouns.

Worker committees do the hiring, decide on pay scales linked to levels of skill and set production targets. One-quarter of workers' take-home pay is based on productivity improvements. They rotate jobs, so that every worker gains knowledge of the entire system. More than 10 percent of payroll is spent on training. And jobs are secure. Even during the recession, when its customers were scaling back, the company kept everyone on board.

High-performance workplaces are gradually replacing the factories and offices where Americans used to work, where decisions were made at the top and most employees merely followed instructions. The old top-down workplace doesn't work any more. That's because the old competitive advantatges—large scale and specialized machines doing the same operations over and over—have been eroded by global competition and by new technologies capable of performing many different operations.

The new competitive advantage comes in using equipment to meet the unique needs of particular customers—and doing it quickly, reliably, efficiently. L-S Electro-Galvanizing's customers want quality and service. And no one in the company has more intimate knowledge of the equipment and the customers, and therefore of how to provide the greatest value at the lowest cost, than L-S Electro-Galvanizing's front-line workers.

Using the "we" pronoun, and feeling responsible for the company's future, L-S Electro-Galvanizing's workers are making the company work. Technically, they don't own the company. It's a subsidiary of LTV Steel, in partnership with Sumitomo Metal. But in a broader sense they do own the company, because they comprise its most important asset, they make the most important day-to-day decisions, and they do well when the company does well.

The jobs in L-S Electro-Galvanizing and in other high-performance workplaces are the kind of jobs that may rebuild America's waning middle class. These jobs offer hope to the 75 percent of Americans who won't graduate from college and whose wages and benefits, adjusted for inflation, have been declining for 15 years.

So why aren't all workplaces like this? First, because many of our non-college workers aren't adequately prepared. L-S Electro-Galvanizing isn't a high-tech company. Its workers don't have engineering degrees. Most don't have college degrees. But they do have enough education and basic training to be able to learn on the job and to take advantage of more specialized training. One worker explained to me how she had come up with an idea for reprogramming a machine for better accuracy. I asked her where she had learned computer programming. "I knew technical math and statistical process control when I got here," she explained. "When I wanted to learn computer programming, our training committee thought it would be a good investment, and I took a course."

A second impediment is the reluctance of top executives to give up control and to entrust front-line workers with day-to-day decisions. Most top executives got to where they are because they are good at exerting authority and control. People who have excelled in the old system are usually among the least likely to lead the way into the new. Their habitual "we" pronouns don't include front-line workers. L-S Electro-Galvanizing's plant manager told me of the initial skepticism of many executives in LTV. "I stuck my neck way out," he said.

No less of a barrier is the distrust felt by many front-line workers for any scheme that requires more responsibility but not necessarily higher wages up front. Unionized or non-unionized, America's front-line workers feel bruised and beaten by years of promises unkept, real wages and benefits reduced, and jobs eliminated. The head of the local steelworkers' union told me that he had been criticized by his brethren for entering into the L-S Electro-Galvanizing flexible agreement. One worker recalled taunting by workers at LTV's steel factory across the road. "They accused us of being scabs, and worse," he said.

Last and perhaps most important is the lack of information about how high-performance workplaces work and why they work well. Much research has been done, but it had not yet been widely disseminated (the Labor Department has just released a compilation). This week in Chicago, several hundred workers and managers who have made the transition shared their experiences with the rest of America.

The president's economic plan will improve the macroeconomy. Better education and skills will prepare Americans for the workplace of the future. But neither of these necessary steps will be enough to restore American incomes without a revolutionary change in how Americans work together.

TRIBUTE TO BOWATER, INC.

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mrs. LLOYD. Mr. Speaker, I would like to take a moment to recognize a project in my district and commend the people who have made it possible. It is a pocket wilderness area near Chattanooga, TN, and it is managed by Bowater, Inc.

The wilderness area sets aside 1,100 acres of forest, streams, waterfalls and other natural attractions. It was recently opened to the public and already is receiving high praise for what it offers to the community. The North Chickamauga Wilderness Area gives the people a place to relax and enjoy the beautiful scenery native to the Tennessee Valley. The miles of walking trails allow visitors to wander through this panorama only a few minutes from a thriving Chattanooga metropolitan area.

Bowater and its work in the community is representative of the balance we can achieve between a productive economy and protection of our natural resources. We can no longer promote one side while overlooking the other. Business and nature must work in balance to be as productive as possible and the Pocket Wilderness Program guided by Bowater is an excellent example of this relationship. We must all look beyond our own neighborhoods to see what we can do to protect our environment.

The North Chickamauga Pocket Wilderness is only one of several positive environmental projects that have been undertaken around the Chattanooga area. It is often mentioned that Chattanooga is becoming the "environmental center" of the Southeast; that it will serve as an example to the country of how dedicated people can make a difference by enhancing their community. This spirit is evident in the work of people like the employees of Bowater and the many others who have made this project possible.

Once again I commend those responsible and look forward to enjoying this wilderness area and passing it onto future generations.

HEALING MUST BEGIN ON EMOTIONAL WOUNDS OF THE VIETNAM WAR

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KOPETSKI. Mr. Speaker, I ask that my colleagues take a few minutes to read the thoughtful piece printed below; written by my friend, constituent, and decorated Vietnam veteran, Don Homuth.

HEALING MUST BEGIN ON EMOTIONAL WOUNDS OF THE VIETNAM WAR

(By Donald J. Homuth)

On a recent CBS show, Gen. Norman Schwarzkopf made two well-taken observations.

First, he said war is crazy: "Imagine killing each other to settle your differences!" The commander of Desert Storm, himself a Vietnam veteran, is in an excellent position to make that statement.

Second, maybe more important, he said that it was not the press nor the folks at home who "lost" the Vietnam war. It was, instead, the utter failure of the leadership of this country ever to have a strategy that included winning. There was never a way to win, regardless of how many "VC" or "NVA" we killed or claimed to kill.

Yet there are still those for whom the bitterness over losing never seems to end, and for whom finding someone—anyone—to blame for the defeat goes on and on forever. Those of us who fought, and I am among them, must finally find a way to end it. Saying that Jane Fonda or Bill Clinton are traitors guilty of "treason" isn't getting anyone anywhere. As we said in Vietnam, "It don't mean nothin'."

Twenty years later, most of us Vietnam vets are in our 40s, trying to get on with our lives. Looking back, it's plain to see that the 52,000 names on The Wall never should have been there. It was a stupid war, fought in the wrong place, for the wrong reasons. Like many young men, I went believing I was doing something worthwhile. After 20 months, I returned, knowing that all who died and who would continue to die were being sacrificed needlessly because we had no strategy to win.

It wouldn't have made any difference if Bill Clinton had gone to Vietnam. We still wouldn't have won. If Jane Fonda had shut up, we still wouldn't have won. If the press had been willing to report only what the "Saigon Follies" press conferences had announced—body counts, bombing Hanoi, search and destroy, hearts and minds of the people, light at the end of the tunnel, and all that other nonsense—we still wouldn't have won. We could have drafted and shaved the head of every so-called hippie peace protester in the nation and sent them over, and we still wouldn't have won.

"Winning" was just never part of the discussion.

I am sad for those, like the recent letter writer, who say they can "never forgive traitors such as Clinton." They, more than anyone, need to find a way to heal. But they should first define precisely at whom they should be angry. It isn't Clinton. It isn't Fonda. It isn't my two high school classmates who went to Canada. It isn't Dan Rather, and it isn't Walter Cronkite.

Instead, it is those who were selected and appointed to high positions and who sent young men and women to war without ever defining what winning would be. And if you don't know what winning is, then you never know when to stop fighting.

In the CBS interview, Schwarzkopf said he probably could not have discussed Vietnam until after Desert Storm. He apparently needed some other experience equal in intensity to counteract the all-too-vivid memories many of us carry from Vietnam, I'm glad he found it. It seems to have given him a way to find his own sense of perspective and humanity about all that Vietnam was and was not.

Like the letter writer, I hold no hard feelings for the North Vietnamese. They knew something about war that we didn't—how to define victory.

Unfortunately, for us, it cost 52,000 lives to learn the lesson. The only good thing to come out of it was that we did learn it, and Desert Storm seems to be the proof.

Unlike the letter writer, I don't need to forgive anyone for what they did or did not do during the Vietnam War. Forgiving is just no longer part of the discussion. We all did what we thought we had to do. Those decisions were different for some folks than for others. At the same time, no one should claim any moral superiority for going or for not going. There is praise and blame aplenty—more than enough to go around.

In the ensuing 20 years, the "domino effect" didn't happen. The Communists didn't take over all of Southeast Asia. We won the Cold War, and the task before us is to hold some uneasy peace until the next bunch of crazies decides that killing other people is the best way to settle differences.

It has been this way through all of human history.

"It don't mean nothin'."

HIGH SCHOOL COACH CREATES NBA PLAYERS

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay special tribute to two remarkable young athletes and their high school basketball coach who helped establish them in their respective colleges and the National Basketball Association. At St. Anthony High School in Jersey City, Bobby Hurley, Sr. used his coaching expertise to sharpen the skills of his son, Bobby Hurley, Jr. and Lennox Dominique "Terry" Dehere. The fine performances and well deserved recognition of these three men serve as an inspiration to all New Jersey basketball hopefuls.

While working hard together as a team from 1985–1989, St. Anthony High School Basketball reached remarkable heights. In these 4 years, their overall record was 115–5. They earned four straight Parochial B State Championships and were number one in the country during Hurley, Jr.'s and Dehere's senior year. Both young men served as two of the teams's tri-captain's that year, earning both scholarships and honors upon graduation.

Bobby Hurley, Jr. acquired a great deal of skill during his 3½ years on St. Anthony's Varsity Basketball Team. He was first team all-state in New Jersey during his junior and senior years and was MVP for every national high school tournament since his sophomore year. In his senior year he was awarded the Gatorade High School Player of the Year title and was Co-MVP of the McDonald's All-American game with Shaquille O'Neill. Hurley's successes were academic as well as athletic. After participating in the honors program, Hurley was salutatorian when he graduated from St. Anthony's in 1989. This combination of brains and braun admitted him to Duke University where he became a guard on its basketball team. At Duke, Hurley was named first team All-America by Associated Press, United States Basketball Writers Association, United Press International, National Association of Basketball Coaches, Basketball Times and Basketball Weekly. Over his college career he became Duke's all-time three point leader and he set the NCAA Career Assists Record of 1,076 assists. Upon graduation from Duke this past year, Hurley became the seventh player in school history to have his number, No. 11 retired and went on to be drafted by the Sacramento Spurs. Terry Dehere played alongside Bobby Hurley, Jr. during their budding high school years. Bobby Hurley, Sr., St. Anthony's basketball coach, described him as "a late developer, someone recruited on potential." He accepted a scholarship to Seton Hall in the fall of his senior year before he had ever started in a high school game! Amazingly, Dehere scored more points per game as a guard during his freshman year of college than his senior year at St. Anthony's. His improvement throughout his college career was outstanding. He was the first Seton Hall sophomore to reach 1,000 points and set the Seton Hall record of 105 three-pointers. At the conclusion of his senior year, Dehere had led Seton Hall in scoring for 4 years, earned the 1992–1993 "Player of the Year" title in the Big East, and was the leading scorer among all players of all time at all Big East Institutions. Similar to Hurley, Terry Dehere had his uniform, No 24 retired, being the first active player at Seton Hall to do so. Dehere's progress is expected to continue this winter as a new player on the Los Angeles Clippers.

The impact that Bobby Hurley, Sr.'s coaching had on these fine players was unmistakable, however success has become traditional for the team at St. Anthony High School. Over the last 21 seasons which Mr. Hurley has coached, the team has an overall record of 546–61 and is the proud owner of 16 State titles. From 1983–1992, his team won nine straight parochial school State championships. Mr. Hurley is neither a newcomer to the sport of basketball or the State of New Jersey. A lifelong resident of Jersey City, he is a graduate of St. Peter's College. Other than St. Anthony High School, Mr. Hurley serves his community in many ways. He is a Senior Probation Officer at the Hudson County Probation Department, a supervisor of an Adult Substance Abuse caseload, and gives drug education lectures at Hudson County schools through the Speakers' Bureau.

Mr. Speaker, I commend Bobby Hurley, Sr., Bobby Hurley, Jr., and Terry Dehere for their dedication towards and record-breaking progress in the sport of basketball. Through team work and diligence, all three men have thrived, enriching the lives of each other and members of their New Jersey communities.

DECISION BY SECRETARY CHRISTOPHER ON PAKISTAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. HAMILTON. Mr. Speaker, several weeks ago the State Department announced that the evidence currently available has led to a judgment that Pakistan should not be designated a state sponsor of terrorism.

I have received a letter from the Assistant Secretary of State for Legislative Affairs, which provides additional information on the decision not to put Pakistan on the terrorism list, and spells out United States expectations with regard to future Pakistani behavior.

The text of the letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 21, 1993.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your July 14 request to John Malott, the Interim Director for South Asian Affairs, for additional information on Secretary Christopher's decision not to name Pakistan as a state sponsor of terrorism.

Although it was a close and difficult question—not entirely free from doubt—the Secretary did decide not to put Pakistan on the terrorism list for the time being. The Secretary reached this conclusion because the evidence currently available to us indicates that Pakistan's policy of ending official support for terrorists in India is apparently now being implemented on the ground.

We have informed former Prime Minister Nawaz Sharif of this decision and indicated that we will continue to monitor developments closely. We explained that we expect progress already achieved to be consolidated so that any remaining official Pakistani support for groups that carry out terrorist acts will be completely and permanently halted. If the positive trends do not continue, or if there is any subsequent resurgence of official support for those who commit terrorist acts against India, either directly or through private groups, the Secretary will not hesitate to name Pakistan a state sponsor of terrorism. We told the Prime Minister that we expect the Government of Pakistan to take vigorous action to prevent private groups from providing support or sanctuary for those who commit terrorist acts.

We are heartened that Pakistan's assurances are now being implemented. We hope that subsequent developments will enable us to put this issue behind us for good and that we can move to address other issues in our bilateral relationship with Pakistan. In any case, the Secretary will review this issue again no later than December, the time of our annual terrorism assessment.

I hope this information is helpful to you. Should you wish a personal briefing on this issue or any other, please do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION [NOAA] ATMOSPHERIC AND SATELLITE PROGRAM AUTHORIZATION ACT OF 1993

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. HALL of Texas. Mr. Speaker, today I am introducing legislation reauthorizing the weather, satellite, and atmospheric research programs of the National Oceanic and Atmospheric Administration [NOAA].

The National Oceanic and Atmospheric Administration [NOAA] Atmospheric and Satellite Program Authorization Act of 1993 authorizes appropriations of $1,083,629,000 for fiscal year 1994 and $1,187,276,000 for fiscal year 1995.

The funding authorizations contained in this legislation, coupled with the authorizations in Public Law 102–567, provide for the continued operation of all National Weather Service offices and for the procurement of new technology to modernize the National Weather Service. Other critical technologies included in this legislation are the Automated Surface Observing System [ASOS]; the Advanced Weather Interactive Processing System [AWIPS]; supercomputers for the National Meteorological Center; and the Polar-Orbiting Environmental Satellite System.

Funding authorizations for the Next Generation Radar [NEXRAD] Program and the Geostationary Operational Environmental Satellite [GOES] Program are not included in this bill because those programs were fully authorized to completion in Public Law 102–567, the National Oceanic and Atmospheric Authorization Act of 1992.

Funding authorizations are also provided for Atmospheric and Climate research activities, including NOAA's contribution to the U.S. Global Climate Change Research Program.

In addition to the authorizations, the bill includes provisions mandating reports to Congress on NOAA's environmental research laboratories, and on taking advantage of new technology to improve the National Weather Services' Flood Forecasting System.

Mr. Speaker, I would like to remind our colleagues about the critical importance of providing the funding authorizations for NOAA and the National Weather Service.

In recent weeks many of us have seen firsthand the utter devastation brought on by the floods in the Midwestern region of the United States. Last year we witnessed the brutality of Hurricanes Andrew and Iniki. Just last winter we saw the "Storm of the Century" pound the Eastern half of the United States and disrupt air transportation throughout the Nation.

In spite of tremendous improvements in our ability to forecast severe weather, the technologies employed by the National Weather Service continued to provide the most troublesome barrier to advancement. The National Weather Service still relies on a number of vacuum tube radars installed around 1957. The communications and data processing equipment used by National Weather Service meteorologists is less capable than the current line of desk top computers. The last remaining U.S. geostationary weather satellite is now operating beyond its 5-year designed lifetime.

Providing the funds necessary to modernize the National Weather Service clearly is an investment in America's future. It is an investment in life-saving equipment. It is also an economic investment.

In fact, a National Institute of Standards and Technology study conducted last year indicated that the economic benefits to the Nation are about eight times greater than the costs. The study also shows that, once the modernized weather system is in place, we will realize benefits of over $7 billion primarily through efficiency gains in key industrial sectors of the U.S. economy, such as commercial aviation, agriculture, construction, communications, electric power generation and manufacturing.

While the total funding authorization provided in this legislation is slightly less than the administration's budget request, I feel it is a good effort to continue these essential life-saving services during very difficult budgetary times. I urge my colleagues to support this important legislation.

INTRODUCTION OF LEGISLATION REGARDING MISSING AMERICANS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. ENGEL. Mr. Speaker, today I rise to introduce—along with my distinguished colleague from Illinois [Mr. PORTER], legislation which calls upon the President to undertake an investigation into the whereabouts of five United States citizens and others who are missing from Cyprus since 1974 as a result of the Turkish invasion. Our distinguished colleagues on the Senate side, Senator D'AMATO and Senator SIMON, have introduced companion legislation.

Mr. Speaker, 2 weeks ago we remembered the 19th anniversary of the Turkish invasion, whose most tragic and inhuman aspect was the large dispersement of the Cypriot population and the arrest and disappearance of more than 2,000 people. The Committee on the Missing Americans in Cyprus, which Mr. PORTER and I cochair, heard the passionate and moving report of Kostas Kassapis, who is searching for his son Andrew, captured by Turkish troops with his American passport in hand.

Nobody has ever heard again of Andrew Kassapis, nor of Christos Libertos, Kyriacos Leontiou, Socrates Kapsouris, or Jack Sofocleus. For nearly two decades their families have relentlessly, but unsuccessfully, tried to find traces of their beloved ones.

The primary goal of the legislation we are introducing today is to help these suffering families to finally get the answers they are longing for. To this end the bill urges all parties concerned to provide the basic facts on the fate of the missing people. Turkey—our NATO ally, and a major recipient of United States foreign assistance—has so far remained silent, and has denied access to important information regarding the fate of these people.

Mr. Speaker, we cannot ignore the endless pain the families of the missing still endure. Their questions cannot remain unanswered. They long for the truth and they deserve a full and honest account of what happened to their beloved ones.

Therefore, we urge our colleagues to support this legislation. After 20 years it is time to finally bring light to this dark chapter in the history of Cyprus and to the fate of the missing Americans.

VETERAN WOMEN'S HEALTH IMPROVEMENT ACT OF 1993

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mrs. LLOYD. Mr. Speaker, I rise today to join with my colleague Representative PAT SCHROEDER, in recognizing a problem that has been ignored for far too long. The lack of attention to women's health needs in VA hospitals.

A little more than a decade ago the General Accounting Office [GAO] determined that veterans hospitals were neglecting the health needs of women veterans. A new study has recently concluded the Veterans Affairs still provides inconsistent and often inadequate care to women. With women veterans accounting for 1.2 million of the Nation's veterans, I find this appalling. Only one of the eight VA medical centers surveyed by the inspector general's staff offered a full range of health services to women.

The results of the VA inspector general's report of inspection of women's health care programs further shows at 75 of 166 Veterans Affairs hospitals surveyed has no women's clinics at all. Many facilities are inadequately staffed and lack the basic supplies for routine health examinations such as no gowns for women and women veterans being assigned to wards with men that afforded no privacy. Specialized medical equipment required for female examination and treatment was not always readily available for use when clinicians needed it, and some gynecological equipment was not always available in the type that ensured patient comfort.

Recently, the VA announced that it was beginning a series of health care initiatives for women. The agency will establish four comprehensive health centers for woman and four stress disorder treatment teams.

In addition, 69 counselors will be hired to treat victims of sexual assault and harassment. While this is an important step in the right direction the VA inspector general report shows that more needs to be done. Obviously, our women veterans are not being accorded the focus of medical and surgical treatment services they are entitled to through the Veterans Affairs health care system.

The legislation Mrs. SCHROEDER and myself are introducing will provide for primary and preventative health care services to women veterans which include mammographies, pap smears, menopause services, and reproductive care. Such health care concerns are unique to women and deserve some sensitivity. The Veteran Women's Health Improvement Act of 1933 corrects this inequity and assures that women veterans' health care is equal to that of men veterans. I urge my colleagues to support this measure.

TRIBUTE TO NORMAN J. VAN NESS: THE VISION AND THE VISIONARY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. MINETA. Mr. Speaker, faced with mounting congestion, lost productivity, and more than 40,000 highway fatalities each year, highway experts know we need a smarter surface transportation system.

Norman J. Van Ness is a visionary who can see a future of safer and better informed travelers, improved traffic control systems, and systems aimed at increasing the efficiency of commercial vehicle and transit operations. All this can be achieved through application of intelligence vehicle highway systems [IVHS] technologies and services.

Last week Norman J. Van Ness retired with 36 years of distinguished service in Government and a remarkable record of leadership in IVHS.

A graduate of The Citadel in Charleston, SC, Mr. Van Ness served in a number of field and Washington office positions in the Federal Highway Administration. He applied his unique organizational skills to the design and management of a national pavements program using state-of-the-practice preservation techniques that saved highway agencies hundreds of millions of dollars. During his tenure, he made major contributions to FHWA's mission to ensure that efficient and cost-effective solutions are used to solve the Nation's complex transportation problems.

But he may be remembered most for his guidance and direction in the establishment of a national IVHS program. The IVHS program will develop futuristic solutions to help the Nation meet its 21st century transportation requirements. An enormous range of modern communications, computer, and control technologies must be researched and field tested in order to determine which types and applications of IVHS technologies will be most cost-effective in reducing congestion and improving highway safety.

The anticipated annual benefits with successfully deployed IVHS technologies are a reduction in stop-and-go traffic of up to 30 percent and a savings in lives and injuries from traffic accidents of 11,000 and 440,000, respectively. Considering that congestion presently costs the United States $100 billion in lost productivity and accidents cost the United States over $70 billion in lost wages and direct costs, the potential annual savings from the IVHS advancements in the target year 2010 are in the $30 to $50 billion range.

Mr. Speaker, under Norman Van Ness' leadership, several major IVHS initiatives have already been accomplished: A national IVHS strategic plan, a comprehensive management plan for FHWA IVHS activities, an IVHS management information system, and a comprehensive short-range research program. In addition, several multimillion dollar field tests of different advanced IVHS technologies have been initiated in partnership with State and local agencies and with private industry. The IVHS program is off to a great start and is already receiving national and international recognition.

Mr. Van Ness' leadership, his ability to foster creative public/private partnerships, and his commitment have all contributed significantly to the national IVHS program and its excellent progress, dedication, service, and vision.

I ask my colleagues to join with me in recognizing Norman Van Ness, as has the Institute of Transportation Engineers on July 7, 1993, when they approved a resolution in his honor, which I would like to include in the CONGRESSIONAL RECORD for the benefit of House Members.

RESOLUTION OF THE INSTITUTE OF TRANSPORTATION ENGINEERS

Whereas, Norman J. Van Ness has served 36 years with the U.S. Federal Highway Administration (FHWA) and its predecessor the Bureau of Public Roads in a distinguished career that has included positions in a number of field offices and in the Washington office, and

Whereas, since April 1990 Norm Van Ness has served as Director of the Office of Traffic Management and Intelligent Vehicle Highway Systems (IVHS) for the FHWA, and

Whereas in that position he has earned the respect and admiration of those within the FHWA and of other organizations and agencies in the transportation community, and

Whereas, the able and dedicated staff of the FHWA Office of Traffic Management and IVHS is a reflection of Norm Van Ness' integrity, fairness, and ability to make decisions, and

Whereas, he has been instrumental in developing and testing innovative technical solutions to transportation problems and successfully creating partnerships with state and local government agencies and with the private sector for development of these technologies, and

Whereas, at the same time Norm Van Ness has played a key role in maintaining and strengthening the commitment of the FHWA to traffic operations—a commitment shared by the Institute and its members. Now therefore be it

Resolved, that the Institute of Transportation Engineers expresses its appreciation to Norman J. Van Ness for his significant contributions to the common goal of the FHWA and ITE to help assure that cost-effective solutions are available to address the nation's 21st century transportation problems, and be it further

Resolved, that the Institute hopes that Norm Van Ness will take as much pleasure from his retirement in North Carolina as we all have in working with him to improve the mobility and safety of the traveling public.

Approved by the ITE Executive Committee and presented on July 7, 1993.

LEON GOODMAN,
International President.

TRIBUTE TO THE MISSOURI CIVIL AIR PATROL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. SKELTON. Mr. Speaker, I take this opportunity to pay tribute to the outstanding effort of the Missouri Civil Air Patrol during the current flood crisis. Under the able direction of Col. Emmit Williams, the Missouri Civil Air Patrol, headquartered in Marshall, MO, has assisted relief efforts by coordinating a no-flight zone in the tristate region. Starting July 8, the Civil Air Patrol has worked around the clock to aid flood victims. The Civil Air Patrol will continue these 24-hour-a-day operations until the crisis subsides. The 498 senior members and 319 cadets of the Civil Air Patrol have filled sandbags, transported public officials, and flown missions to assess flood damage. In the first 2 weeks of crisis operations, Civil Air Patrol members completed 85 sorties and logged 238 in-flight hours while overseeing the no-flight zone. This pace has continued as the flood shows no signs of abating in the near future.

The selfless service of these men and women cannot be overlooked. Their efforts have earned the respect and appreciation of the National Guard in the tristate area. The creation of a no-flight zone enables the Guard to conduct rescue and evacuation operations more effectively and safely. The tremendous efforts on the part of Colonel Smith and his colleagues is a tribute to the Civil Air Patrol, the State of Missouri, and the American people.

TRIBUTE TO TWO PROMISING NBA COACHES

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay special tribute to two new promising coaches of the National Basketball Association. Michael Fratello of Hackensack, NJ, and Bryan Hill of East Orange, NJ, were recently awarded head coaching positions for their achievements in the sport of basketball. Throughout their independent careers and the years they worked together, these men have contributed immeasurably to a greater understanding of the game for both players and fans.

Mike Fratello has recently been named the new head coach of the Cleveland Cavaliers NBA basketball team. His basketball career has been quite diversified, participating not only as a coach, but as a player, and a television analyst as well. Early on, Coach Fratello made his mark in New Jersey when he graduated from Montclair State College in 1969 as a three-sport letterwinner. He began his coaching career at Hackensack High School and held assistant coaching positions at Rhode Island, James Madison, and Villanova, before entering the mainstream of professional basketball. Due to his outstanding ability, Coach Fratello became the head coach of the Atlanta Hawks in 1981 after only four seasons with the organization. In his 7 years as head coach, the Hawks compiled a winning average of .564. His brilliant coaching resulted in many honors, including the Red Auerback Trophy for coach of the year after the 1985–86 season and he currently stands as the second winningest coach in Hawks' history.

After leaving the Atlanta Hawks in 1990, Coach Fratello became a basketball analyst for NBC Sports. His ability to simplify the game for the everyday viewer with the use of an onscreen diagramming device earned him the title "Czar of the Telestrator." His most recent accomplishment through NBC was his coverage of Olympic basketball at the games of the XXV Olympiad in Barcelona. In the upcoming season, Coach Fratello will return to the court as the head coach of the Cleveland Cavaliers.

Bryan Hill received similar honors when he was named head coach of the Orlando Magic. He too began his career in New Jersey on Montclair State College's basketball staff as a fulltime assistant coach from 1972–74. His adept coaching skills earned him the head coach position at Lehigh University in 1975, only 1 year after joining the staff. Before moving on to a 3-year assistant coach position at Penn State in 1983, Coach Hill led Lehigh to its most successful era in basketball.

It was at this point in time when Mike Fratello and Bryan Hill worked together. As head coach and assistant coach from 1986 to 1990, these two men worked diligently to capture first place in the central division in the 1986–87 season and had the leagues No. 1 ranked defense. After completing this successful run, Coach Hill joined the Orlando Magic as its top assistant in 1990. His numerous achievements and honors have given Coach Hill the needed experience to undertake his new position as head coach of the Orlando Magic.

Mr. Speaker, I commend Michael Fratello and Bryan Hill for their continuing dedication to both college and professional basketball. Their commitment to this sport serves as an inspiration to people everywhere. I am thankful that these two men have a strong background in and dedication to the State of New Jersey.

INTRODUCTION OF THE ERISA DISCLOSURE ENHANCEMENT ACT OF 1993

HON. KAREN SHEPHERD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Ms. SHEPHERD. Mr. Speaker, today I introduced, with seven of my colleagues, the ERISA Disclosure Enhancement Act of 1993. This legislation will ensure that workers in industries throughout the Nation are given adequate information about their retiree health benefit plans.

BACKGROUND

On December 19, 1990, the Financial Accounting Standards Board [FASB] approved the final statement on retiree benefits, FAS 106. FAS 106 requires accrual accounting—quantifying future obligations and accounting for them on balance sheets and income statements—for all nonpension postretirement benefits, including health benefits. It has had a tremendous impact on the health benefit plans of American workers and retirees. According to a survey release on August 1992, almost two-thirds of surveyed employers either had altered retiree health benefits over the previous 2 years or intended to make changes by this year. Three percent of employers surveyed terminated their plans, and respondents to that survey generally indicated they would make more cutbacks in the future. [BNA Pension Reporter, 11–9–92.]

These developments were brought to my attention by former employees of Unisys, many of whose workers and retirees live within the boundaries of Utah's Second Congressional District. Many other companies like Unisys reeling from defense cutbacks, such as McDonnell-Douglas, as well as companies in industries undergoing structural upheavals, such as steel, banking, automobiles, and airlines, have offered their employees early retirement incentives in order to cut back labor costs, including implicit promises of lifetime retiree health benefits. Many of those employees took early retirement under the assumption that their health care benefits would be fully covered by the former employer.

Hearings were held in February and March of this year by the House Select Committee on Aging and the Senate Committee on Labor and Human Resources on this very issue. Testimony from retirees affected by either the loss or severe cutback of one's health care benefits depicted the tremendous emotional trauma involved. The retirees affected by changes in retiree benefit plans are not only blue-collar employees, but engineers and managers as well. In fact, this matter should be of particular concern to workers who are primarily non-union, for collective bargaining agreements typically have the legal status and security of a contractual obligation.

The Employee Retirement Income Security Act [ERISA] requires employers to adequately disclose the details of their retiree benefit plans. According to the Bureau of Labor Statistics, 40 percent of all businesses, and up to 95 percent of large businesses, provide lifetime health benefits in their workers' existing benefit packages. A survey done by Hay/Huggins Post-Retirement Medical consulting firm, however, reported that at least 37 percent of employers have not maintained the plan documentation that ERISA requires. This is particularly disturbing in that according to that same survey, 92 percent of plan documents expressly reserve the right to amend or terminate retiree health benefit plans.

SUMMARY OF LEGISLATION

The ERISA Disclosure Enhancement Act is a relatively short and simple piece of legislation. It would require that a summary description of a group health plan contain a clear and concise statement describing any right reserved by the employer under the plan to terminate the plan or alter its benefits. This statement would be included in the company's already required semiannual report to plan beneficiaries. Employers are also encouraged, implicitly, to include this statement in other communication having to do with changes in

the beneficiary's health benefit plan. These changes would go into effect January 1, 1994. Violations of these new disclosure requirements are subject to civil penalties already in existence under current law.

One of the problems with our health care system is that health care consumers are generally poorly educated as to the details of their health care plans. While my legislation does not absolve a consumer of the need to scrutinize a benefits plan document carefully in planning his or her retirement, it will provide some assurance that a plan participant is making an informed decision when considering a major life change such as early retirement or switching jobs.

I should also point out what this legislation will not do:

First, it does not overturn FAS 106, nor does it require companies to prefund their retiree health care benefits. The financing of retiree health care benefits is an issue that should be addressed in more comprehensive health care reform legislation. Rather, the legislation addresses only the disclosure requirements of ERISA.

Second, it does not increase the penalties imposed for violations of ERISA's disclosure requirements. Only the penalties already in current law for violations of ERISA's disclosure requirements [29 Section 1132(c) USCA] would apply. Businesses are already facing tremendous uncertainty about the future of the Tax Code and health care system, and I see no compelling need to muddy the waters any further.

Finally, it does not impose an undue burden upon plan administrators, for this disclosure would be included in plan information already required under ERISA. Plan administrators are already required under ERISA to issue a semiannual report to plan beneficiaries and send frequent notices about policy changes made in benefit packages. Moreover, the existing ambiguities allowed under current law have set off a string of class-action lawsuits against companies who have eliminated or dramatically scaled back their retiree benefit plans. Congress is often criticized for passing laws with vague standards, but my legislation removes some of the ambiguity in current law as they apply to retiree health benefit plans.

CONCLUSION

I have no problem with the requirements imposed by FAS 106. Rather, the demands imposed by FAS 106 on American businesses—most of whom have a record of good corporate citizenship—are related more to the skyrocketing costs of health care. What FAS 106 has done is highlight the tremendous strain that these costs are imposing upon American companies, as well as exacerbate the fears that so many of our Nation's workers and retirees face on a daily basis.

I harbor no delusions that my legislation is any sort of cure-all for the Nation's health care woes. It is my hope, in fact, that the recommendations of the President's Task Force on National Health Care Reform will relegate my legislation to the annals of legislative history. It is quite possible, however, that the Federal budget deficit or practical political limitations will prevent us, in the short term, from doing all that is necessary to ensure that retired Americans have adequate access to quality health care. In that case, I consider my legislation the least we can do to ensure that working Americans do not have a rude surprise awaiting them upon their retirement.

In closing, I want to thank my constituents—including Richard Perkins, Paul Peterson, and Robert Anderson, all of Salt Lake City, UT—for bringing this issue to my attention. I suspect that retirees in every State and congressional district will be affected by the ramifications of FAS 106. I intend to do all I can to see the concerns addressed by my legislation are incorporated into a broader health care package later in the year. So, I urge my colleagues to join me in this effort to focus attention on this particular shortcomings of our health care system by signing on as a cosponsor of my legislation.

CONGRATULATIONS TO EAGLE SCOUT, JAMES GLEASON

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize the accomplishment of James T. Gleason who will be awarded scouting's highest honor, the rank of Eagle Scout, at a Court of Honor on August 8, 1993.

The rank of Eagle Scout is not easily attained. As a member of Troop 682, sponsored by St. Vivian Catholic Church in Cincinnati, OH, James Gleason is the first member of the troop in 7 years to successfully aspire to this goal.

James Gleason has been an exemplary scout. He has earned the Arrow of Light, the World Conservation Award, and the Parvuli Dei Religious Award. His Eagle Scout community improvement project was an erosion control and water diversion project along a trail in Caldwell Park and Nature Preserve. He went beyond the original scope of his project by removing overgrown brush and weeds from a historic site along the trail and used the brush to help correct an erosion problem along another hillside in the park.

While devoted to scouting, James also excelled in his school endeavors. He has been a member of the Roger Bacon High School Bank, was on the wrestling team, and was inducted into the National Honor Society. He will be entering the University of Cincinnati this fall to pursue a degree in aerospace engineering.

The adult leaders of the troop and James' parents should be justifiably proud. They share in his accomplishment through the help and support they have provided to him as he blazed the trail for other scouts to follow. I congratulate James Gleason on his outstanding accomplishment and wish him the best in all his future endeavors.

INCINERATOR THREATENS REVOLUTIONARY WAR SITE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. TOWNS. Mr. Speaker, today I introduced a simple bill to ensure that we protect a potential national historic site in Brooklyn.

During the Revolutionary War, over 10,000 Americans were taken aboard British prison ships in Wallabout Bay, now the site of the Brooklyn Navy Yard. Our revolution was fought long before international treaties on the treatment of prisoners. These men were crowded aboard the ships. They were fed food condemned as unfit for the Royal Navy. At that time, conditions were so harsh in that service, that I'm sure the sailors would have been surprised to learn that any food was judged unfit for them. The prisoners were beaten, some were tortured. The prison ships were filthy, and disease rampant.

Not surprisingly, the prisoners died in tremendous numbers. Over 7,000 died, more than all the battle deaths suffered during the war. These prisoners were both black and white, reflecting the diverse make up of the citizen army that won our independence. Although the British made cynical overtures to American blacks, promising many freedom, black American were predominantly on the side of independence.

In the last couple years, research has uncovered a map of Brooklyn by Revolutionary War general, Jeremiah Johnson. He indicated the location of prison ships in Wallabout Bay, and of prisoners' graves on both sides of the bay. These men died in terrible conditions, yet like the men who suffered and died at Valley Forge, these deaths, too, were a part of how we won our independence and forged a nation.

I believe that the site indicated in this map matches the site of the current Brooklyn Navy Yard and the proposed incinerator to be built there.

The bill is simple. It requires the Secretary of the Interior to survey and investigate the site under the 1935 Historic Preservation Act. It makes several findings pointing out the likelihood that the navy yard is the home of this historic site, and that if so it is foolish to begin building there. But it does not make any judgments about whether this is the site, it only requires a survey to make that determination.

Many of us have served in our country's Armed Forces. Some Members have survived being prisoners of war. Each of us can only imagine what these Americans endured, but all of us, I believe, want to preserve what we can of their historic sacrifice. This is only a small step to ensure that in our rush to build today we do not desecrate the graves of our forebears.

THE SEXUAL HARASSMENT PREVENTION ACT OF 1993

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. MILLER of California. Mr. Speaker, sexual harassment has been brought to our attentions vividly throughout these past several years. As policymakers, we have considered legal remedies for the victims of sexual harassment, and we have held congressional hearings which have revealed the circumstances that confront those who are harassed in their workplaces. Yet, for the 90 percent of workers who will never bring complaints or initiate suits on their own behalf, the United States has no proactive public policy at the Federal level. I hope that you will join me and Congresswoman OLYMPIA SNOWE in addressing this problem, as we introduce the Sexual Harassment Prevention Act of 1993. This legislation has been incorporated in the Women's Economic Equity Act.

Based upon landmark legislation passed in Maine and California and introduced in several other States, the Sexual Harassment Prevention Act will: Publicize the Federal guidelines which prohibit and define sexual harassment in every workplace in the United States throughout employer posting; require that every employer establish and notify employees of workplace policies and procedures addressing sexual harassment; and require employers to inform employees at both the line and supervisory levels on their sexual harassment policy, how to bring complaints, and how to achieve a harassment-free workplace.

The Sexual Harassment Prevention Act will amend the Civil Rights Act of 11964 to authorize the Equal Employment Opportunities Commission to oversee the implementation of the legislation and to provide technical assistance and public education materials for employers and their employees.

Why should we pass such legislation? The need is well-documented. Consider: First, studies published between 1986 and 1990 in a broad variety of workplaces establish that 50 to 85 percent of womenworkers in the United States report experiencing some form of sexual harassment. This means that the problem has affected 28 million working women, or more, who have been subject to some form of sexual harassment.

Second, the vast majority of sexual harassment episodes go unreported. Experts estimate that 6 percent, or fewer, of incidents ever reach the formal complaint process. A 1991 study by Klein and Associates documents that 90 percent of those who experience harassment never even report that it has occurred, due to fear of retaliation and loss of privacy.

Third, sexual harassment is costly for employers. A 1988 study by Working Woman Magazine showed that a typical Fortune 500 company spends $6.7 million per year—a cost of $282.53 per employee—addressing sexual harassment complaints. The study estimates that it is 34 times more expensive for employers to ignore the problem than to establish effective programs and policies to address it.

Fourth, most workplace sexual harassment programs and policies have been established in large corporations. Yet, sexual harassment is a workplace safety issue in every workplace. Since two-thirds of new work force entrants over the next decade will be female—and since the greatest job growth is expected in small business—sexual harassment policies and education must be brought to the small workplaces as well as the largest. In these smaller workplaces, establishment of sexual harassment programs and educating/informing workers should be a routine but low cost effort.

The Sexual Harassment Prevention Act of 1993 will ensure that freedom from sexual harassment is a basic worker protection. Technical assistance from the EEOC will ensure that this is done in a cost effective and standardized fashion. Now is the time to take preventive action to address the sexual harassment issue where it can affect the largest number of workers and workplaces. I hope that you will join us in cosponsoring this legislation.

IN TRIBUTE TO JOHN DEQ. BRIGGS, JR.

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. RICHARDSON. Mr. Speaker, I rise today to pay tribute to John DeQ. Briggs, Jr., a former teacher and associate headmaster of the Middlesex School in Concord, MA. John, who recently passed away, arrived at Middlesex in 1932 and, over the years, touched the lives of countless Middlesex students, including my own. He served for over four decades as a teacher of English, adviser, coach, administrator, and associate headmaster. It can be said that few individuals in the history of the Middlesex School have had the impact on the school that John did. He was the best teacher I ever had and many other students would say the same.

At a memorial service held at the Middlesex School Chapel, former headmaster David Sheldon recalled Monk Terry's words about John:

> It's in the classroom that this remarkable man makes the greatest impact on the boys of Middlesex. Year in, year out, by mail and in person, I am told of the lasting stimulation felt by his students: and the amazing thing is that the poor students are as enthusiastic as the good ones. I can think of no one in my thirty-nine years of teaching who more deserves the title of master teacher.

John DeQ. Briggs, Jr. is survived by his wife, Delia; his daughter, Henrietta Cosentino; and his son, John. I extend my deep sympathies to his family.

FIRST FEMALE TO ASSUME COMMAND OF U.S. NAVAL BASE: A TRIBUTE TO U.S. NAVY REAR ADM. LOUISE C. WILMONT

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay tribute to a Wayne, NJ, native, who has dedicated almost 30 years of her time, talent, and energy to the U.S. Navy. Rear Adm. Louise C. Wilmont, on July 7, 1993, became the first woman to ever take command of a U.S. Navy base.

Rear Admiral Wilmont was born in Wayne, NJ, in 1942. She attended postsecondary school at the College of St. Elizabeth, Convent Station, NJ. She then left New Jersey in 1964 to receive her commission as an ensign in the U.S. Navy from a candidate school in Newport, RI.

This is not the first time Rear Admiral Wilmont has been honored for her outstanding dedication to the U.S. Navy. She has received many notable decorations, including the Defense Superior Service Medal, the Legion of Merit, and the Meritorious Service Medal.

Rear Admiral Wilmont will succeed Rear Adm. Francis W. Harness to take control of the Philadelphia Naval Base. Since 1819, when the Philadelphia Naval Base began operating under Comdr. Alexander Murry, only men have commanded it. Today, over 10,600 personnel work under command of Rear Admiral Wilmont, who is one of the two female rear admirals out of the 206 on active duty.

Mr. Speaker, I commend Rear Adm. Louise C. Wilmont for setting a new standard for women in the military by attaining this respected position and for becoming the first female commander of a U.S. Navy base. Because of the heights she has reached in the U.S. Navy, Rear Admiral Wilmont will serve as an outstanding role model for women and men everywhere.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 3, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 4

9:30 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold joint hearings with the Committee on Energy and Natural Resources on the Superconducting Super Collider.
SD-366

Commerce, Science, and Transportation
To hold hearings on proposed legislation to authorize funds for programs of the Magnuson Fishery and Conservation Act.
SR-253

Energy and Natural Resources
To hold joint hearings with the Committee on Appropriations' Subcommittee on Energy and Water Development on the Superconducting Super Collider.
SD-366

Environment and Public Works
Clean Water, Fisheries and Wildlife Subcommittee
To resume hearings on S. 1114, authorizing funds for programs of the Federal Water Pollution Control Act, focusing on regional issues.
SD-406

Governmental Affairs
To hold hearings to examine operating procedures at the Internal Revenue Service and the U.S. Customs Service, focusing on allegations of waste and abuse.
SD-342

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up the nominations of Nelson A. Diaz, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development, and Gordon J. Linton, of Pennsylvania, to be Federal Transit Administrator, Department of Transportation.
SD-538

Foreign Relations
To hold hearings on the nominations of Aurelia Erskine Brazeal, of Georgia, to be Ambassador to the Republic of Kenya, Walter C. Carrington, of Maryland, to be Ambassador to the Federal Republic of Nigeria, John S. Davison, of Maryland, to be Ambassador to the Republic of Niger, Robert G. Houdek, of Illinois, to be Ambassador to Eritrea, Roland K. Kuchel, of Florida, to be Ambassador to the Republic of Zambia, Donald J. McConnell, of Ohio, to be Ambassador to Burkina Faso, and John T. Sprott, of Virginia, to be Ambassador to the Kingdom of Swaziland.
SD-419

2:30 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue joint hearings with the Committee on Energy and Natural Resources on the Superconducting Super Collider.
SD-366

Energy and Natural Resources
To continue joint hearings with the Committee on Appropriations' Subcommittee on Energy and Water Development on the Superconducting Super Collider.
SD-366

AUGUST 5

9:30 a.m.
Energy and Natural Resources
To hold hearings on the actinide recycle program and the Department of Energy's advanced nuclear reactor program.
SD-366

Environment and Public Works
Clean Water, Fisheries and Wildlife Subcommittee
To continue hearings on S. 1114, authorizing funds for programs of the Federal Water Pollution Control Act, focusing on Federal agency monitoring and other issues.
SD-406

10:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine advanced computing in health care.
SR-253

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold oversight hearings on foreign-flagging requests of American shipping companies.
SR-253

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

2:00 p.m.
Select on Intelligence
To hold hearings to examine issues relating to economic intelligence.
SH-216

3:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Indian Affairs on the implementation of the Job Training Partnership Act (P.L. 102-367), and the Indian Employment Training and Services Demonstration Act (P.L. 102-477).
SR-485

Indian Affairs
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on the implementation of the Job Training Partnership Act (P.L. 102-367), and the Indian Employment Training and Services Demonstration Act (P.L. 102-477).
SR-485

AUGUST 6

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for July.
Room to be announced

SEPTEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1086, to foster the further development of the Nation's telecommunications infrastructure through the enhancement of competition.
SR-253

CANCELLATIONS

AUGUST 3

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 318, to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and S. 727, to establish a California Ocean Protection Zone.
SD-366

AUGUST 4

9:30 a.m.
Indian Affairs
To hold hearings to examine the Bureau of Indian Affairs' proposal to reduce by 10% the funding for Indian programs for fiscal year 1995.
SR-485

POSTPONEMENTS

AUGUST 6

10:00 a.m.
Governmental Affairs
To hold hearings to examine environmental problems in the Federal government.
SD-342