unemployed, but we do not suggest to the American people that this is economic stimulus that will return the economy, build jobs, and create some kind of economic vitality.

Idahoans understand it. Thousands of cards and letters are pouring in with one very simple message: Get off the credit card mentality, Congress, and cut spending first.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The time controlled by Senator HATFIELD is 45 seconds, time controlled by the Senator from West Virginia is 54 minutes 40 seconds. If there is no agreement on time——

Mr. D'AMATO. I am wondering, Mr. President, if I might request 3 minutes from somebody's time?

Mr. BYRD. Mr. President, what time are the votes to begin?

The PRESIDING OFFICER. At 4:45.

Mr. BYRD. At 4:45. The Senator has 3 minutes, make it 4:48, and 3 more minutes on this side, make it 4:51.

I ask unanimous consent that there be 3 additional minutes for Mr. D'AMATO, and 3 additional minutes for this side.

The PRESIDING OFFICER. Is there objection?

Hearing none, the Senator from New York has 3 minutes and 45 seconds.

A LITTLE PLAIN COMMON SENSE

Mr. D'AMATO. I thank my distinguished colleague from West Virginia.

Mr. President, I would like to address one aspect of this economic recovery plan. I would like to see a real economic recovery plan that can do something to help reduce the deficit and create confidence and move America ahead and create jobs. I truly want to do that.

It is in that spirit that I come forward today and put forth some recommendations that a lot of people on my side might not be happy with. They are what I think is far more prudent than raising taxes, for example, on energy.

Let me tell you what the energy tax does to my State. It costs my State $1 billion a year more. Let me be more precise in telling you what impact it will have in the area that I live, Long Island. Working middle-class families—it will cost the average family $600 a year more and it will cost the area $300 million annually. Long Islanders already suffer the highest energy taxes in the Continental United States and they should not be forced to endure even higher utility rates, especially when these new taxes will be used for new spending programs.

That is why I am going to suggest doing away with this energy tax that is going to hurt middle-class working families and is a transfer of income, basically from working middle-class families to lower income families. The fact is half of the money, $35 billion out of the $71 billion that will be raised, will be income transfer in the way of $25 billion for tax credits for poor people, another $7.2 billion in additional funding for food stamps, and $3 billion for additional heating allowances because these poeple have been pushed into poverty.

If you do not put that tax on them, there will be no need for that. My residents will not have to, then, be hit and faced with this tax. It is not reducing the deficit. It is going for additional spending.

Let me suggest we freeze spending for 2 years and save $50 billion. Let me suggest that you have a space station that costs $32 billion—what do you need a space station now for when you are budgeted for $32 billion and you are going to tax senior citizens on Social Security, you are going to tax every working middle-class family in certain regions $500 to $700 a year more just for energy, and you are using those dollars for these kinds of programs?

You have a superconducting super collider, $8 billion. Let me suggest if science and technology are going to be advanced, let the private sector pick it up. That is $32 billion on the space station, $8 billion on the superconducting super collider, that is $40 billion; $50 billion from a freeze. Do you know what? We have just identified enough money to do away with increasing the taxes on people for Social Security and the energy tax. And we have not hurt the economy.

What about a little plain common sense? I am not down here objecting to be obstructionist, but what I am suggesting is let us get a hold of the spending. Let us curtail that spending. If we are going to take resources and new taxes, let us make sure they do not go for new spending programs. Certainly, the bike paths and trails and the swimming pools and the huts that are heated for ice skating rinks, and the whole plethora that we have heard is out of line.

The PRESIDING OFFICER. All time has expired controlled by Senator HATFIELD.

Mr. BYRD. I yield to the distinguished Senator from Rhode Island [Mr. PELL] 3 minutes.

THE STIMULUS PACKAGE

Mr. PELL. Mr. President, as we continue to debate the supplemental appropriations bill with its provisions for economic stimulus and investment, I am struck by the fact that we may be losing sight of the fact that this bill is an intrinsic part of a larger design—namely a plan to redefine the very core of our national economic policy.

This is an historic time of change in national priorities. Only twice before in my lifetime has the Nation faced such a watershed—once in 1932, with the election of Franklin D. Roosevelt and again in 1960 with the election of John F. Kennedy.

Today we are faced with unique circumstances resulting from epochal changes in the world around us. The cold war is behind us and with it the need for a vast military establishment sufficient to overcome an opponent of equal strength. But with the reduction of that military establishment has come inevitable economic disruption for many parts of the country.

My own small State is no exception. Its principal private sector employer has been for many years one of the Nation's prime builders of nuclear submarines. Hundred of workers have already been laid off and more are sure to follow. In spite of my persistent efforts over the years to persuade the submarine builder to look to the future and diversify its operations, only faltering steps have occurred in that direction.

We also have lost the Navy ships that were homeported at Newport and several small shore installations as well, although I am glad to say the impact so far is nowhere near as severe as it was when the Navy withdrew its fleet operations after the Vietnam war.

But the overall effect of the end of the cold war on my State and on every other State of the Union is undeniably disruptive of patterns of economic activity which have been built up over the past 50 years.

If this were the only factor that our economy has to absorb, the problem would be more manageable. But the military build-down unfortunately coincides with a number of other historic forces and developments which have combined to produce the economic plight we now find ourselves in.

Not the least of these is the emergence of a new competitive world market place in which we share dominance with new centers of power in Europe and Asia. Concurrently, technological change has resulted in great shifts in economic activity; new technology and new processes have posed new and difficult challenges for our work force; jobs have moved overseas, in some cases leaving whole communities bereft of their principal source of jobs.

As a result of all these problems, the so-called recovery of the economy has not been a recovery at all for many parts of the country. The national unemployment rate still hovers around 7 percent, still higher than where it was when the recession began. Most new jobs created in recent months have been part-time jobs taken by people searching for full-time work. And a recent survey of the National Association of Manufacturers indicated that while their members hope to boost pro-

ductivity in the coming year, they foresee little growth in employment.

So it seems to me that it is far too early to declare that we can be sure the economy is automatically set on a course that will assure sufficient growth to sustain itself and assure support of our national objectives including deficit reduction.

The stimulus package before us addresses our situation in a number of ways, both direct and indirect, designed to provide productive jobs across the country. I have already called attention to the fact that my State only receives one-half of 1 percent of the total outlays in this bill, but even that $50 million will have a powerfully beneficial effect in Rhode Island.

On the national level, I want to call special attention at this time to the provision in the bill which erases the $2 billion shortfall in the Pell Grant Program. This provision will erase all accumulated deficits and give assurance that program funding will be used for student aid.

Those who might question what this provision has to do with economic stimulus fail to perceive that education is the engine of enhanced economic activity. One of the clear implications of the technological and electronic revolutions is that our work force must be more sophisticated, both in terms of those who are just about to join it and those who are experienced but who need to acquire new skills in order to survive.

In recent years, the ranks of individuals eligible for Pell grants—that is whose low income qualifies them for such assistance—have increased dramatically. This is a direct result of the recession in which both unemployed and underemployed workers see additional education as an avenue to a job, as a way to upgrade skills, and as a chance to improve their economic standing.

Restoring health to the Pell Grant Program will mean that individuals and families can count on getting this assistance when they need it. And when they do, it will be a step toward their contribution to national recovery.

I should also note that there is another important education program that would benefit from the stimulus package. That is the so-called Chapter 1 Program which provides basic skills assistance to children from low-income families. The bill would provide an additional $500 million for summer Chapter 1 Programs which can do much to help disadvantaged children sustain the gains made during the school year.

Another $234 million would support Chapter 1 Programs in school districts which did not benefit from census reallocations but which continue to feel the full burden of recession along with a continuation of the full burden of responsibility to meet the needs of poor children.

To return now to the significance of this legislation as a major component of a dynamic program for change, I recognize that there are those in this Chamber who may feel that this stimulus package is too big or that it is behind the curve of economic recovery. They of course do a service in making sure that we take these reservations into account.

But I urge that we look beyond the immediate impact of the stimulus package and not dismiss it as a simple pump priming exercise for short-term gains. We need to understand that it has a long-range economic purpose as a critical component of President Clinton's strategy for economic rehabilitation.

The fact is that we need to fortify the economy for the shock it is going to receive as the deficit reduction program we have just approved goes into effect next year. Deficit reduction will inevitably drain purchasing power from the economy; every dollar of government spending that is cut will result in a cut in someone's income.

Considering the marginal state of the recovery so far, we need to take prudent steps now to give the economy momentum which will carry it through the adjustment which lies ahead. The stimulus package does just that.

In this regard, I was particularly interested in a report called to our attention by the distinguished Senator from Michigan [Mr. RIEGLE], which was prepared by economists at the University of Michigan.

The Michigan report surveys the shaky recovery and the unlikely prospects for economic expansion at the very time a real deficit reduction plan is going into effect. It concludes for these reasons that President Clinton is right to front-load his multiyear deficit reduction package with at least a moderate dose of fiscal stimulus.

In my view, this is the overarching reason for passing the stimulus package promptly without change. To do less would be a great disservice to the economy and to our constituents.

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

Who yields time?

Mr. BYRD. I thank the distinguished Senator from Rhode Island [Mr. PELL], for his fine statement.

I yield 10 minutes to the Senator from South Dakota [Mr. DASCHLE].

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 10 minutes.

GRIDLOCK

Mr. DASCHLE. I thank the chairman for yielding me this time. I appreciate all of his work in the last several days since we debated this most important issue.

It is very hard to fathom this gridlock on jobs, because it is gridlock of the most damaging kind. It is damaging because people's lives are at stake, because millions of people are out of work. They are desperate, and they hope for national leadership. And what are they witnessing? They are witnessing politics as usual; partisan bickering as to whether we ought to create more jobs, over whether this jobs bill is necessary, over the need for an investment strategy that virtually everyone acknowledges could mean new jobs within weeks.

As the distinguished Senator from California said recently, we spent over 100 hours of debate on this economic plan. The other side offered more than 50 amendments so far, keeping us in gridlock, delaying the inevitable, and delaying passage of legislation that could mean help to those who need it so badly.

That should be a debate about jobs, about the necessity of creating them, and about a national investment strategy. Anyone who would be watching what is happening on the floor should come to that conclusion. Certainly, it is a well-intended debate about the issues.

Mr. President, I hope the American people are not fooled by all of what they may see. I hope they will see this effort by Senators on the other side for what it really is. It is an effort to defeat and embarrass the President, pure and simple. They criticize him not necessarily because they disagree, but because some want to play politics. And they are not only harshly critical of President Clinton, but even of old allies who may believe this administration may be on the right track.

I was interested in a story this morning in the Washington Post on the front page, above the fold; the headline reads: "GOP Right, Chamber in Bitter Feud. Clinton Victories Part Old Allies."

It says, in part:

> That the world's most bitter wars break out inside families, and that could explain the savagery of the dispute between two groups that have been allied so long they seem to share bloodlines: the U.S. Chamber of Commerce and the Republican Party.
>
> Republican conservatives embittered by President Clinton's recent legislative victories and suspicious of those who compromise with him, have angrily turned on traditional business allies in the Chamber for applauding parts of Clinton's economic and health care programs.
>
> The conservatives have issued vague threats against the Chamber unless it aggressively opposes Clinton. They have said that if the Chamber doesn't change course, they'll denounce it, demand resignations of top officials and lead a dues strike of the 215,000-member group.

That is the issue, Mr. President. That is what we are talking about. Not what we see in this debate on the Senate floor about amendments that all sound so well intended. This is a partisan

feud, a debate about whether we are going to allow this President to lead, a debate about whether we are going to break the gridlock to govern for the first time in many years.

So no one should be misled. It is about business as usual, and the vote this afternoon is a vote on gridlock. We have a choice: We can vote to end gridlock or we can vote for politics as usual. If we fail cloture this afternoon, it should be very clear: Some Republicans just do not get it. They do not understand that the time has long passed since the American people have tolerated political positioning and an unwillingness to confront our Nation's problems.

They know, as we know, that the problem of unemployment is very real. They know that this recovery should have produced 3 million new jobs by now. Mr. President, that is equal to the entire population of South Dakota, North Dakota, Wyoming, Alaska, and Vermont. That is how many people ought to be working if this recovery were working right.

It is not only about jobs. It is the very real drag on the economy that is at stake, too. The Congressional Budget Office estimates that this drag costs our national economy $80 billion a year. They tell us that this slack economy will increase the Federal debt by $175 billion over 4 years. They tell us that each percentage point increases the Federal deficit by $33 billion the first year and $50 billion each and every subsequent year.

So that is really what is at stake here. We are talking about jobs, we are talking about the economy, and we are talking about the Federal deficit. If we truly care about addressing these problems, it is absolutely critical that we get on with passing legislation which creates the tools which we need to create the jobs. We cannot allow those who would sit idly by to prevail while millions of Americans wait for work and scores of companies cut thousands and thousands of jobs.

Since January, Sears, Roebuck has already announced plans to cut 50,000 jobs; the Boeing Co., 20,000; United Technologies another 10,000; and McDonnell Douglas, over 8,000. We are told that there are 481,000 fewer construction jobs today than there were in 1990, just 3 years ago. We are told that there are 389,000 fewer manufacturing jobs than there were at the bottom of the recession, and 1,062,000 fewer jobs than there were at the beginning of the recession. One out of every five unemployed worker has been jobless for 6 months or more. Total unemployment in the Fortune 500 companies has declined 26 percent in the last decade. We have gone from 16 million workers in 1979 to a mere 11.9 million workers in 1991 in Fortune 500 companies.

We now know that during this period, jobs were created that were very low paying in the industrial sector. I think this chart so ably points it out. I hope the camera can pick it up. We have seen a reduction in mining jobs of 50 percent in over the last 10 years, from 1979 to 1991. The average mining jobs over that period of time averaged $630 per week. We have seen a reduction of 15 percent in manufacturing, with an average weekly wage of $455 per week.

But look down at the bottom of the chart. We have seen an increase in service jobs of 40 percent in that period of time, at salaries not at $630 per week, but at about half that, $332 a week. While full-time employment is in the decline, part-time jobs are on the rise. Average weekly hours have gone down each and every year since 1984, Mr. President. So in order to maintain living standards, families have been forced to offset declines in real hourly pay by doing two things: First, by working longer hours; and, second, by putting additional family members into the work force. All families, but especially families with children, have seen substantial increases in the hours of paid work during the eighties.

What we see in this chart points it out very clearly. In the last 10 years, we have seen an increase of more than 8 percent of all families in the number of hours worked per week. We have seen a increase in the number of hours worked by couples with children, those families who need more time with children, those families who want to protect the livelihood and the lives and the health of their children. What are they doing? They are spending more time in the workplace by more than 11 percent over the last 10 years.

While they work longer, American workers' pay is going down, down by 14 percent in the 1980's. In 1979, the average worker brought home $292 a week. In 1991, it was about $40 less. That is why this bill is so important, to change those trends and put people to work, not with false promises but with real expectations.

The PRESIDING OFFICER (Mr. AKAKA). The Senator's time has expired.

Mr. DASCHLE. I ask for 5 additional minutes.

Mr. STEVENS. Reserving the right to object. I am requested to object to any extension of time.

Mr. BYRD. Mr. President, I have control of the time over here.

Mr. STEVENS. I thought he was saying extension of the overall time.

Mr. BYRD. I yield the Senator 3 minutes.

The PRESIDING OFFICER. The Senator from South Dakota has 3 minutes.

Mr. DASCHLE. I thank the chairman for yielding me the additional time.

Mr. President, this bill creates 500,000 new full-time equivalent jobs by 1994, building highways and bridges and airports, building mass transit, improving health outreach and educational opportunities, providing new housing, urban improvement, and rural development projects that are long overdue.

South Dakota is typical of what is at stake. This bill is critical to my State for many reasons: Water and sewer dollars for many of our small towns who desperately need the help; for our 3 veterans hospitals that have real need of maintenance; and for 16 specific highway projects in locations in every region of our State.

I have a letter from the Department of Transportation which delineates each and every one of those, Mr. President. I ask unanimous consent to have those printed in the RECORD.

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

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Pierre, SD, April 1, 1993.

To: Erin McGrath, Senator Tom Daschle's Office.

From: Richard L. Howard, Secretary, Department of Transportation.

Subject: Projects to be let to contract utilizing ISTEA funds from the Economic Stimulus Program.

In follow-up to our telephone conversation of yesterday, attached are lists of projects which are ready to be let to contract to utilize expected ISTEA funds under the Economic Stimulus Program. As we discussed, South Dakota has fully obligated its existing FY 1993 ISTEA obligation authority on projects which will be let to contract during April and May, 1993.

Therefore, we propose to have a "special" letting on June 2, 1993 using expected funds from the Economic Stimulus Program. The attached list of projects on page 1 and 2 of the attachment are ready to be let on June 2, 1993. The additional projects listed on page 3 of the attachment could potentially be ready to let on June 2nd; however, there are remaining project development activities such as right-of-way acquisition which may delay these projects until the June 22, 1993 letting.

In addition, we have a significant number of projects which will be ready to let to contract in July, August and September which could be funded if re-distributed Economic Stimulus Funds become available from other states.

Your assistance and support in fully funding ISTEA as part of the Economic Stimulus Program is greatly appreciated. We look forward to utilizing the highway funding which may become available to South Dakota to construct badly needed highway improvement projects while at the same time putting people to work and stimulating the economy of our state.

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, DIVISION OF ENGINEERING/PROJECT DEVELOPMENT, 1993 HIGHWAY CONSTRUCTION PROGRAM

[Planned June 2, 1993 letting: Projects which are ready to let to contract to utilize the funds expected from the Economic Stimulus Program]

Project number	PCN	County	Length	Route number	Location of project	Type of improvement	Funding		Fiscal year	Planning estimate (millions)
							Federal	Other		
P 0018(108)349, (A8), P 0281(49)35 [1].	3748	Charles Mix, Douglas	12.1	US18, US281	Fm SD50S to US281N; Fm E Jct. US18 to N of 1st Street in Armour.	Asphalt concrete resurfacing, milling, slope flattening and shoulder widening.	$1.117	$0.246	1993, 6/2/93	$1.363
P 0046(27)334 [2]	3719	Yankton	12.1	SD46	From US81 East to Clay County	Asphalt concrete resurfacing, milling and slope flattening.	1.116	.246	1993, 6/2/93	1.362
NH 0085(39)29	2658	Lawrence	5.7	US85	Fm US14A N of Deadwood N	Surfacing	4.088	.900	1993, 6/2/93	4.988
NH 0212(73)154 [3]	2677	Dewey	11.4	US212	From Eagle Butte East	Surfacing	2.778		1993, 6/2/93	2.778
P 3065(04)178 [4]	K017	Dewey Ziebach	11.4	SD65	From Jct. SD20 West of Isabel, South.	Grading and interim surfacing	2.871		1993, 6/2/93	2.871
P 3065(03)164	2382	Ziebach	11.0	SD65	Fm Jct US212 East of Dupree North.	Grading, structure and interim surfacing.	3.194		1993, 6/2/93	2.595

[1] Combined with PCN 3749 and tied to PCN 559H.
[2] Moved from 4/6/93.
[3] Advanced from 1994.
[4] Deferred from 1993 to 1995 then advanced to 1994.

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, DIVISION OF ENGINEERING/PROJECT DEVELOPMENT, 1993 HIGHWAY CONSTRUCTION PROGRAM

Project number	PCN	County	Length	Route number	Location of project	Type of improvement	Funding		Fiscal year	Planning estimate (millions)
							Federal	Other		
P 1014(21)36 [1]	2130	Lawrence	0.6	US14A	Fm 0.25 Mi W of US85 N to 3 Lane in Lead.	Grading, storm sewer, curb, gutter and surfacing.	$1.802	$0.397	1993, 6/2/93	$1.377
P 1014(37)8 [2]	3532	Lawrence	3.0	US14A	Fm Jct 190 and US14A at Exit 14 to Spearfish Country Club and S 1.3 Mi on Spearfish Canyon Rd.	Grading and surfacing, intersection improvement and resurfacing and slope flattening.	1.802	.397	1993, 6/2/93	2.183
P 0050(65)323 [3]	559H	Charles Mix	.0	SD50	From Jct. US18 and SD50 S	Asph. conc. resurf. and slope flattening.	.082	.018	1993, 6/2/93	.100

[1] ROW (Bankruptcy and possession hearing).
[2] Depends on Timing of Deadwood N. Detour—Moved from 3/16/93.
[3] Tied to PCN's 3748 and 3749—Rev. #93–24.

Note.—Totals for 6/2/93: Planning estimate, 19.617; Federal funds, 18.850; other funds, 2.204; project agreement, 21.054.

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION, DIVISION OF ENGINEERING/PROJECT DEVELOPMENT, 1993 HIGHWAY CONSTRUCTION PROGRAM

[Additional projects which could potentially be ready by the June 2 letting—but will definitely be ready for a June 22, 1993, letting to utilize any remaining Economic Stimulus Funds]

Project number	PCN	County	Length	Route number	Location of project	Type of improvement	Funding		Fiscal year	Planning estimate (millions)
							Federal	Other		
NH 0012(80)292 [1]	3746	Brown	1.0	US12	From Roosevelt Rd to Melgaard Rd in Aberdeen.	Widen to 5 lane, replace surface with PCC, curb and gutter.	1.836		1993, 6/12/93	2.241
NH 0016(33)0 [2]	L004	Custer	11.0	US16	Fm Wyoming State Line E	Surfacing	4.767		1993, 6/12/93	5.817
NH 0012(55)367 [3]	2672	Grant Roberts	9.2	US12	From Summit SE to Jct. SD123	Grading, structures and interim surfacing.	3.149		1993. 6/12/93	3.842
P 1771(05) [4]	2961	Pennington	1.0		Sheridan Lake Rd. from Heidiway Land S to Summerset in Rapid City.	Grading, C&G, storm sewer, sidewalk pcc surfacing.	.711		1993, 6/12/93	1.400
IM 29–3(71)77 [5]	2381	Minnehaha	0	129	Exit 77 at 41st Street in Sioux Falls.	Replace NB asph. conc. ramps with PCC pavement, widen and resurf. SB ramps and add auxillary lanes fm Skunk Cr. to 41st St.	2.110		1994, 6/12/93	2.319

[1] Moved from 3/16/93, ROW.
[2] Advanced from 1994, hold in reserve in case of "project".
[3] Advanced from 1994—Need Plans—hold in reserve in case of "project slippage".
[4] Rev. #93–62—ROW.
[5] Advanced from 1994—ROW.

Note.—Totals for 6/12/93: Planning estimates, 15.619; Federal funds, 12.573; other funds, 0.000; project agreement: 12.573.

Mr. DASCHLE. Funding would be provided for at least five Community Development Block Grant Program awards to rural communities in South Dakota. I ask unanimous consent to have those printed in the RECORD.

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

Aurora County (Plankinton)—total project cost: $192,000.

Population: (604)—CDBG award: 90,000.

The county received a grant to construct a 3,200 sq. ft. building to provide medical and dental services to a rural area. This allowed for the consolidation of health care services for this area under one roof and replaced a dilapidated old building. The area is served by a physician's assistant and medical assistants on a full-time basis and a doctor and dentist on a part-time basis.

Beresford—total project cost: $1,015,000.

Population: 1,849—CDBG award: 195,000.

The city of Beresford received CDBG funds to construct water and sewer lines to serve a new industry (Quality Park Products). Quality Park created 35 full-time jobs of which 20 benefited LMI persons. The company invested $820,000 for building and equipment as the remaining portion of this project.

Douglas County—total project cost: $1,665,000.

CDBG award: 400,000.

Douglas County assisted B–Y Water District to expand its rural water system to serve 130 rural customers. The local ground water contained high concentrations of several elements including sulfate, chloride, fluoride, iron and manganese. The project also serves approximately 50,000 livestock which has improved their productivity.

Garretson—total project cost: $410,000.

Population: 924—CDBG award: 210,000.

Garretson is in violation of primary drinking water standards. The project design will be determined by the final standards which hopefully will be adopted by EPA in the fall of 1993. The city is proposing to construct a new well and degassification facility for radon gas removal. If the standards are not approved as proposed, the city of Garretson will be faced with a project exceeding a million dollars to also remove radium 226 and 228.

Martin—total project cost: $320,000.

Population: 1,151—CDBG award: 160,000.

The city of Martin received a grant to construct a 9,600 sq. ft. building to house the six fire trucks and one ambulance. It also provides a meeting room for training volunteers and storage space for emergency equipment. The facility serves all of Bennett County and portions of the Pine Ridge Reservation. The facility replaced a dilapidated building which had only two exits for all of the emergency vehicles. The building was also expensive to maintain and operate.

Mr. DASCHLE. Finally, funding would be provided for projects on our reservations with roads and facilities and schools and forests and education.

So, Mr. President, our choice is clear. It is between jobs and gridlock, between change and business as usual. No one should be misled. We need this bill. We need the jobs it creates. We need a

plan of attack and a strong economy and, above all, we need to demonstrate that at long last we can govern.

I yield back the remainder of my time.

Mr. BYRD. Mr. President, I yield 7 minutes to the Senator from Illinois, Ms. CAROL MOSELEY-BRAUN.

Ms. MOSELEY-BRAUN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. I thank the Chair.

PRESIDENT CLINTON'S STIMULUS PACKAGE

Ms. MOSELEY-BRAUN. Mr. President, I wanted to talk about the President's stimulus package and to pick up on the note about which the Senator from South Dakota was speaking.

After all, Mr. President, we have just been though a recession that has caused more permanent job losses than any previous post-World-War-II-cold-war recession. We have 3 million Americans who would be working right now if this recovery was like other previous economic recoveries. Instead, Mr. President, they are joining millions of other Americans who are either unemployed or underemployed because this economy is not creating anywhere near enough jobs.

Job creation is what the emergency supplemental appropriation is all about, adding some modest stimulus to jump-start job creation in this economy by the private sector. As of the end of last year, we were only creating 23,000 new jobs per month. In any kind of normal recovery, the job creation rate would have been 10 times that high or even higher.

Mr. President, while I wanted to talk about the stimulus program and the need for job creation and about how this supplemental appropriations bill fits into the President's overall economic plan, it is becoming increasingly apparent that there is not much point to that kind of rational discussion.

Unfortunately, Mr. President, the debate we are now having is not about the economic stimulus-supplemental appropriations bill at all. Rather, it is about trying to tear down a new President who is trying to help ordinary Americans and help our country in its future. It is about trying to preserve gridlock and inaction. It is about trying to overturn, Mr. President—overturn—the results of last year's election, and it is about trying, at all costs, to preserve budget myths that have no basis in reality rather than admit that the Reagan revolution was a failure that severely hurt average Americans and undermined our place in the world.

I have heard almost endless argument by Senators from the other side of the aisle about the Democratic tax-and-spend policies, but even when this bill becomes law, Mr. President, spending for this fiscal year will be below the total that President Bush agreed to as part of the 1990 agreement. And every single Senator in this Chamber knows that. To listen to the debate, the average American would think this bill represents the entire economic plan.

I know that we have just spent now over 7 days and cast 46 rollcall votes on the budget resolution, including having to go through the disgrace of voting on 18 different hostile amendments of which no one had seen or heard.

I thought those who opposed the President had had an opportunity to make their case and tried to persuade the Senate and the American public that the President's plan was not the right approach. After all of that, we had a vote on the President's plan, and we won on the budget resolution. Yet here we are today as if none of that had happened. Here we are endlessly debating projects and listening to rhetoric about projects that are nowhere to be found either in the bill before us now or in the committee report on the bill.

Mr. President, here we are today with posturing and long speeches and political diatribes and amendment after hostile amendment all to tear down—not to build, to tear down—part of President Clinton's plan.

I listened earlier to the debate, and one of my colleagues from the other side of the aisle said, well, this is not a filibuster; this is our right to speak out on the issue.

Well, it almost does not matter what you call it, Mr. President. You can call it a filibuster or a talkathon or death by amendment, by the fact is that it is a filibuster, pure and simple. We have been debating the jobs plan now for over 8 days, for over 57 hours. This is filibuster, plain and simple, and its intention is to recreate gridlock.

If last year's election meant anything, Mr. President, it meant the American people were fed up with gridlock and that they wanted to get this country on the move again. That message was crystal clear everywhere in America. It certainly was in my State of Illinois. It was clear to every working person. However, some of the opponents of this bill just do not seem to want to believe that or understand that.

This election, Mr. President, was about change. Folks who are opposed to President Clinton were taken out of power. The voters in this country tripled the number of women in this body, in large part because they were tired of the gridlock; they were tired of the combat; tired of the gamesmanship while our country just drifted into decline.

Senator BYRD has requested the women of this Chamber to speak to this issue, and we have all spoken now with one voice, saying that we are tired of the gridlock. We came here to make a difference. We came here for change. We came here to help get our country's house in order. We are not prepared to stand by and watch business as usual continue. We are here with a singular message, and that is that this activity, this filibuster, is not acceptable. The people and the women of this Chamber want to give President Clinton a chance.

Now, Mr. President, I am the first to recognize there is room for legitimate disagreement, and certainly debate is what this body is about. But the plan before us, this economic stimulus plan, the jobs plan, is what the people have approved. This is the change that they voted for.

Eight days and fifty-seven minutes, Mr. President, to debate a bill that comes down to essentially, if you average it out, 2 hours per page, 2 hours per page on a plan that everybody knows is part of the President's program to get this country going.

What we have, Mr. President, is a fight about whether to move forward or not, whether to end a decade of inaction and inattention to the needs of the American people or not. What we have is an attempt by 43 Senators to dictate to the President, to the House of Representatives, and to the majority of this body what this country's economic policy should be.

What we have is an attempt to preserve the advantage for the wealthiest Americans that two successive administrations conferred on the privileged few. It is not news to anybody that the rich got richer, the poor got poorer, and the middle class got squeezed over the last 12 years in this country, and this President, President Clinton, was elected to turn that around and to change that.

It should be very clear, Mr. President. Those opposing this bill have had an opportunity to have their policies in place for the last 12 years, and those policies have failed. It is time to change. The experiment of the 1990's hurt many to the benefit of the few. It mortgaged our future for short-term political advantage. It promised economic growth and opportunity but produced lost jobs, lost competitiveness, and lost income for most Americans.

As a result of the failures of the 1980's, every man, woman, and child in this Nation has a $16,000 Federal debt hanging over their heads. That is every person's share of the $4 trillion national debt that we have been left with because of the policies of the last 12 years.

Now, the $4 trillion-plus and $300 billion-plus budget deficits, those are numbers that are so large that they seem almost impossible to understand. But let me put it in more human terms.

The PRESIDING OFFICER. The Senator from Illinois has spoken for 7 minutes.

Mr. BYRD. How much time does the distinguished Senator wish?

Ms. MOSELEY-BRAUN. An additional 5 minutes.

Mr. BYRD. I yield an additional 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Illinois has an additional 5 minutes.

Ms. MOSELEY-BRAUN. I thank the Chair.

What those huge numbers translate into is incomes that have not kept pace for the ordinary American. What they mean is people losing their jobs or having to accept new jobs at much lower pay than their old ones. What they mean is more Americans having trouble financing college for their children and that their children are having a harder time finding a good job even if they are able to get a college degree.

What those numbers mean, Mr. President, is more and more two-income families, because having two incomes is the only way that many people can make ends meet. And what they mean is more and more Americans cannot afford to purchase their own home. That is the legacy of the bankrupt policies the opponents of the President's plan want us to return to. That is the legacy of 12 years of policy that did not work and indeed we could argue could not work.

Clinton is trying to change that. He is trying to put ordinary working families first. He is trying to make their lives better and to give us a better future for our children. I believe that this President deserves the same chance that Ronald Reagan got when he took office and that previous Presidents got when they took office. But he is not getting that chance from the opponents of this bill. They will not give his plan an opportunity to succeed. And they are willing to go to any lengths to wreck the plan, to ensure that it does not succeed.

We have been in this filibuster or talkathon, whatever you want to call it now, for 57 hours, 8 days, over jobs, over unemployment benefits, over local government projects, immunizations, education programs—less spending, Mr. President, than President Bush's budget had.

I urge those who are opposing this bill to consider their position carefully. If they are going to be the guardians of gridlock, I think the American people will hold them accountable. And I can assure you, Mr. President, that we have no intentions of backing down. We are going to fight gridlock. We are going to fight it, and we are going to talk about it, and we are going to tell the truth about it, and we are going to do what we can do to bring about the change to end the gridlock and to get this country on the right road again.

The American people know that change is needed. They know that we cannot afford to continue discredited policies of the past. It is not just working Americans who know that change is needed, America's hardheaded conservative fiscal managers have also voted overwhelmingly for change. And they voted with their money, driving down long-term interest rates by over 1 percent since President Clinton's election in November.

The President's economic plan is a good one, Mr. President. The economic stimulus component of that plan is prudent and responsible. This President's priorities are America's priorities—lower deficits, more opportunity, and a better life for working people and their children, and a brighter future for us all.

I believe that this economic stimulus debate deserves our support on its merits. But it also deserves enactment because this is a battle to change the status quo that has so hurt working Americans. The opponents of this bill may see merit in the status quo, in the way that things are, Mr. President. I do not. I do not think the American people do either. That is the reason that we are having this long, protracted debate here on this floor.

The American people expect us to do our jobs. They expect us to act to address their problems. We cannot afford to let the country down. We must give President Clinton a chance.

Mr. President, I urge my colleagues on the other side of the aisle to withdraw from this attempt to recreate gridlock, to withdraw from this attempt to filibuster this legislation, to give this President a fair chance to govern.

Thank you, Mr. President.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator for her very moving and excellent speech.

I yield to the distinguished Senator from Maryland [Ms. MIKULSKI] 5 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

THE PRESIDENT'S STIMULUS PACKAGE

Ms. MIKULSKI. Thank you very much, Mr. President.

I rise again in defense of the stimulus package. We are in the closing hours of the debate today and are on the brink of voting for a technical procedure of cloture. As we come on the brink of this vote, I would like to pay my respects and tribute to the most gallant, steadfast, and unrelenting fighter for this program, Senator BOB BYRD.

Senator BOB BYRD has been on this floor day and night defending the American people and the fact that this stimulus program could create jobs, not only in West Virginia, but in every State in the United States of America. Senator BYRD has used the skills of parliamentary procedure, the genius that he is able to execute that, and in the American tradition has used the rule of law to advance an American agenda.

I hope the world is watching on CNN to see how the American people conduct their business; in an open forum. We are on TV. This is an electronic debate on the future of the United States of America. Who has led us? Senator BOB BYRD and our leader, GEORGE MITCHELL.

We could not have a better time. I remember during the dark days of exile when the Republicans were in control of the U.S. Senate, BOB BYRD knew how to hang in there. But I will tell you, BOB BYRD never put the Senate through the gyrations of an obstructionist tactic as is going on today.

When Ronald Reagan went to meet with Gorbachev and those world leaders, BOB BYRD always had the minority organized to tip their hats so that when an American President was meeting with a foreign leader, he did not have to worry about what was going on in the Chambers of the U.S. Congress, that there would be no mischief to undermine his agenda while he was overseas fighting for freedom and stability in the world. I would like the same courtesy extended to Bill Clinton as we extended to Ronald Reagan and to George Bush when they met with their world leaders. We did not do budget summiteering and so on.

So as we come to those final hours, I would like to turn to, Senator BOB BYRD, and thank him for what he has done in the advance of this stimulus package.

I know that we work with appropriations under the aegis of the budget given to us by JIM SASSER, and we are going to advance that American agenda.

Let me tell the American people why we are voting for cloture. Cloture means that you cannot filibuster. People say this is no filibuster. They ask, is that when old, craggy, Senators get up in the middle of night and read from telephone books, and soup recipes, Yankee recipes, lobster pie, chicken potpie?

No. That is when people will know what is going on. That is out of date. That is out of line. That is out of step. And everybody will know that.

We are into something called a groping filibuster, where we are filibustering one amendment at a time. But guess what? We are combat ready, we Democrats, and we will be here to deal with it amendment by amendment. We are going to try to come up with an orderly parliamentary procedure to bring this to a closure. I am ready to do it.

Why? Because I so believe in this package to generate jobs, and we will do it in every State because of something called the Community Development Block Grant Program, one of the anchor chains of the distinguished package, the one that has been minimized and trivialized as pork barrel.

Yet, there were no cries for pork when Jerry Ford invented the program, because in every State in the Union, they knew that those projects were coming in.

We know that community development block grants will enable people at local levels to be able to provide shelters for the homeless, be able to modernize public housing, be able to do worthwhile projects that will stimulate other economic development, the rehabilitation of small business districts that might be deteriorating. There is a whole cornucopia of opportunity that will occur at the local level. And who will be in charge of it? Not the Federal bureaucrats working on regulations, but mayors, city councils, grassroots community organizations, will be determining the destiny of their own communities.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MIKULSKI. Mr. President, I think that will conclude my remarks for now. But if I am needed to enhance this debate, for as long as this long filibuster stands, I will be combat ready with my sister and brother Democrats.

Mr. WELLSTONE addressed the Chair.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland [Ms. MIKULSKI] for her animated, inspiring, great, speech. And I thank her profusely for her kind remarks.

Ms. MIKULSKI. I thank the Senator from West Virginia sincerely.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I yield all of the remaining time on this side to Mr. SASSER.

Mr. SASSER. I thank the distinguished Senator from West Virginia. The Senator from Minnesota has been seeking recognition. May I ask the Senator how much time he needs?

Mr. WELLSTONE. I will need 5 minutes.

Mr. SASSER. I yield 5 minutes to the Senator from Minnesota.

FILIBUSTER BY AMENDMENT

Mr. WELLSTONE. Mr. President, first of all, let me just say that I do not know that I want to follow the Senator from Maryland very often. I thank Senator BYRD from West Virginia for being a very strong voice out here on the floor of the Senate for a long, long, long time. And I thank Senator SASSER for his leadership as well. It makes me very proud to be a Democrat.

Mr. President, what we have had on the floor of the Senate is not just a continuation of gridlock—we talked about guardians of gridlock—but I think, more profoundly, a continuation of an old and discredited politics. It is as if our colleagues, by introducing amendment after amendment after amendment and trying to stop and thwart and block an economic stimulus package, have forgotten the meaning of the election.

President Bush talked about just deficit reduction alone, and he turned his back away from real people with real problems and real pain, from people who were unemployed, from young people who were looking for jobs during this summer, from young children who were in the Head Start Program, from children who were not immunized, from young people who could not afford to go on to higher education, from communities that did not have the resources to invest in infrastructure. And President Bush made a very big mistake, because people in our country have said several things to us. One is: Get your economic house in order. Please begin to deal with all of the problems that you swept under the rug for so long. Please begin to bring that deficit down.

But the other thing that people said to us in the United States of America in this past election was: Invest in our communities, invest in our economy, invest in jobs and come through for us, Senators and Representatives, Democrats and, yes, Republicans alike, when it comes to decent, affordable, humane, dignified health care.

Mr. President, this economic stimulus package, from the point of view of a good many of us here in the Senate, really is too little. It is the most reasonable of the reasonable of the reasonable compromises. Many of us felt there should have been more of a stimulus. But it seemed to be a compromise and at least a step forward.

I really believe that my colleagues on the other side of the aisle, by filibustering through amendment, are making a terrible mistake. They are making a terrible mistake on economic grounds, in terms of what is good for our country economic policywise. They are making a terrible mistake by turning their gaze away from real people with real problems and on a huge and full agenda that has to be met.

Finally, let me say, as a political scientist, that I think the biggest mistake of all is to fail to understand this distinction. If our colleagues on the other side of the aisle do not agree with this economic stimulus package, if they do not agree with the budget resolution, or they do not agree with what we do with health care, they have every right to debate it and to say you are wrong, to say that to the people of the country.

But then this is what accountability is: We get a chance to put those policies into effect. And if we do well for the people of the United States of America and begin to turn the economy around, and we do well on health care, and we do well on beginning to bring the deficit down, and we do better in terms of employment policy, then 2 years and 4 years and 6 years from now, people say, it worked, so we will reelect you; or it did not work, we do not reelect you. That is the essence of representative democracy.

This amendment after amendment after amendment, this obstructionism, this filibustering, really takes that very idea of representative democracy and severely undercuts it. It takes the very essence of accountability and undercuts it. It is a terrible mistake from the point of view of what is good government.

I hope my colleagues will, at a certain point in time—the sooner the better—call off the filibuster and let us move forward with the policy.

Mr. SARBANES. If the Senator will yield for a question, is it not the fact that the President has made it very clear that this bill is part of his overall economic package, and that he needs all of his economic package in order to make his economic strategy work, including this legislation that is before us; is that not correct?

Mr. WELLSTONE. I say to the Senator from Maryland, it is an important question because what the President is trying to do is strike a balance between, yes, some deficit reduction, yes, some increase in taxes, yes, a call for shared sacrifice; but also, as the Senator from Maryland knows, of critical importance is that investment, that stimulus right now in an economy which is not producing jobs for people.

Mr. SARBANES. The fact of the matter is, Mr. President, that those who thwart this part of the President's package, in effect, are denying him the opportunity to put forth his comprehensive economic proposals.

If this part of the package is thwarted and the economic proposals do not work, the reason they will not have worked is because they were denied the full opportunity to work. You cannot take one piece of it and let that go and deny the other piece without assuming the responsibility for whether the package is going to work or not.

The President has said that these are interrelated. He needs all of these pieces in order to make this economic strategy work. And those who are denying him this piece, in effect, are denying him the opportunity to put his economic strategy into place and, in my judgment, will ultimately bear the responsibility, if the policy does not prove itself. The President is prepared to be accountable. The President has said: Give me this economic package, and I will take the responsibility for what happens in the economy. You can hold me accountable in the future in terms of how it works out.

Our colleagues on the other side are saying: No, we are not going to give you that chance, Mr. President; we are going to deny you one essential element of your economic strategy.

I say, Mr. President, if that in the end proves to be the case, that we cannot put this essential piece into place and the economic strategy then does not work out, obviously the reason it will not have been worked out is the denial of one essential element of that economic package.

Several Senators addressed the Senator.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I yield 3 minutes to the Senator from Vermont.

Mr. LEAHY. I thank the Senator.

Mr. President, I spoke here a few days ago on this package in my capacity as chairman of the Agriculture, Nutrition, and Forestry Committee. I did that because all of the programs that affect rural America go through that committee.

Every one of us have extolled the virtues of rural America—the clean air, the sense of neighborliness, and all that is there. But one thing that we have to realize, every Senator, Republican and Democrat, is that we all represent some rural areas. In those areas, unemployment has skyrocketed.

One thing that really needs mentioning here is that the President's plan provides jobs in rural America. If we want to go back home and extol the virtues of rural America, let us be able to go back home and say: We voted for jobs for rural America.

President Clinton deserves a vote. If you want to vote against this jobs program, then vote against it. But allow it to come to a vote. The American people expect gridlock to end. They want us to vote on this package. Vote for it, or vote against it, but for God's sake vote. Do not hold a jobs program hostage so you can get some kind of a political or partisan advantage. Allow it to come to a vote.

Keep in mind the President of the United States is representing every single one of us in probably the most important meeting he will have this year, the meeting with the President of Russia. The whole world is watching President Clinton. Every single American wishes him well. Do we want the news to be that his jobs program is being held hostage for partisan reasons, with people saying we cannot even vote on President Clinton's jobs program, at a time when he is supposed to carry the message and the standards of the free world in his meeting with President Yeltsin.

Maybe somebody sees a political advantage in that. I am one American who does not. If there is ever a time the President ought to at least be allowed to have a vote in this great democracy of ours, on his program, it is now, as he goes to meet with President Yeltsin. Let us not deny him that vote. But even more importantly, whether we deny it to President Clinton or not, let us not deny that vote to 250 million Americans who are concerned about whether we are going to have jobs, whether in rural America or urban America.

This is, after all, a program designed to put people back to work. I think all people are concerned either because they are out of a job or because they worry about losing the job they are in.

Mr. President, that is my point. Let us not hold up 250 million Americans who want to see a jobs program voted and let us not embarrass the President of the United States when he is meeting at this important summit.

The PRESIDING OFFICER. The time has expired.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield myself 10 minutes.

Mr. President, the Senate has been dealing with the President's job bill here now for more than a week, and that is what it is. It is the jobs bill, a bill to produce jobs for the American people that has been presented to this body by the President of the United States. This jobs bill is an integral part of President Clinton's economic recovery package.

Some of our colleagues on the other side of the aisle say we do not need it. They say if we leave this economy alone, it will recover on its own. They say why if we leave it alone, leave the economy alone, the unemployment lines will simply vanish, the help wanted ads will miraculously choke the classified ads in the newspapers. That is exactly what they were saying last year, and that is exactly what they were saying the year before.

The American people listened to them then. But they have determined they were wrong and they determined they needed a change, and that is the reason they elected Bill Clinton to be President of the United States.

The latest news from the job front knocks all these pipe dreams of our friends from the other side of the aisle into a cocked hat.

The economy reminds me of a weak-kneed prizefighter struggling to his feet, and this filibuster over here on the other side is going to be the punch that sends this weak-kneed prizefighter to the mat for the third time.

We have seen this economy struggle, struggle, and struggle and look as if it was getting into a significant recovery twice before and then fall back off into recession. This is the third time it is coming up struggling, struggling. And what this President is trying to do with this jobs bill is give it some help. Why is he doing that?

I would call the attention of my colleagues to this particular chart here. The distinguished Senator from Maryland has ably pointed this out before, but I think it is helpful to review this.

This chart indicates what is occurring in this recovery and why it is different from every other economic recovery we have had since World War II. At all other stages of an economic recovery since World War II, and technically we are now 24 months from the bottom of this recession, 24 months coming out of it, in every other recovery since World War II, the economy would have produced 4 million jobs by this time as represented by the blue in this chart.

What has the economy done? In this particular instance, in this particular recovery, the economy has produced less than a million jobs, about 825,000 jobs represented by the yellow.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. SASSER. I am pleased to yield to my friend from Maryland.

Mr. SARBANES. It is also important to underscore that the only part of the private sector that has shown a job growth through this recovery is the service sector, and a large share of the jobs produced in the service sector have been in the temporary help industry. In fact, the temporary help industry has accounted for about 25 percent of the job growth in the service area. As we know, the unemployment statistics count as employed anyone who works even 1 hour a week..

Mr. RIEGLE. The Senator is correct.

Mr. SARBANES. So you have not only the unemployed, about 9 million of them, you have a lot of people working part time who want full-time jobs. They are not counted as unemployed, but they may only be working 5 or 10 or 15 or 20 hours a week, and there are 6 million. There are almost 2½ million of such part-time unemployed on top of the 9 million that are unemployed and that are reflected in the unemployment figures.

Mr. SASSER. The Senator is quite right.

As we pointed out on the floor of this Senate yesterday, we have more people on food stamps in this country now than at any time since the inception of the program in 1964.

Mr. LEAHY. One out of every 10.

Mr. SASSER. One out of every 10 of our fellow Americans is on food stamps today. Those who run this program say that these are different types of individuals. People in the food stamp lines now are middle-income, middle-level managers who worked for some of the great corporations—IBM, Boeing, Sears Robuck—all of these people are being laid off.

The distinguished Secretary of Labor, Dr. Robert Reich, testified a week or two ago before the House committee that only 14 percent of these individuals who are being laid off by the great corporations such as IBM, Boeing, Sears Robuck, and General Motors

will ever be recalled back to work. That is why President Clinton says we have to get a jobs bill passed here and have a tail wind moving behind this economy.

What is happening in the economy at the present moment as I speak to you?

I call the attention of my colleagues to another chart here captioned "Tracking the Economy." What this chart includes something economists refer to as "coincident indicators." What are coincident indicators? It is an economic measure wherein you combine income of the work force with the number of jobs in the work force, with the sales that are going on in the economy, with the production that is emanating from the economy. That is what we produce. These things lumped together make up what the economists call coincident indicators, and they are a very significant measure of an economy's health.

I want my colleagues to look at what has happened in this economy. Beginning in January of 1990, we see the economy is up at a fairly decent level. Then it suddenly drops off, and that dropoff is occasioned by the war in the Middle East, the Operation Desert Shield, and then Operation Desert Storm. You see it falling off here. Then the war ends at the very bottom and it struggles up just a little bit and then starts falling off again, another fall off into a recession. It struggles up once again, struggles, falls off again. We see here in January 1993, and we see as we come further into 1993 it is struggling up once again and then starts falling off again.

Now, that indicates we have troubles in this economy. Just today the distinguished Senator from Maryland in testimony he took from the Bureau of Labor Statistics learned that 59,000 people lost their jobs in the construction industry last month. The unemployment rate in the construction industry, as I speak to you today, is in excess of 15 percent. The distinguished Senator from Maryland may have the precise number there. It is 15 or perhaps 16.3 if memory serves me correctly. An unemployment level of over 15 percent in the construction industry is depression-level unemployment.

This job bill contains money to put construction workers back to work.

It contains billions of dollars worth of funds for highway construction. These funds are collected from us every time we buy a gallon of gasoline and put it in the highway trust fund. It is there to create jobs.

What do our friends on the other side of the aisle have to say about that particular initiative?

Well, here is what they were saying about the highway bill back in 1991. The distinguished minority leader, for whom I have the highest regard, stated, in his support of the highway bill, that it would create 4 million jobs.

The distinguished Senator from Texas [Mr. GRAMM] who is one of the leaders in this effort here to obstruct the passage of this bill, said, "How can having a highway bill be controversial, a bill that would create tens of thousands of jobs?"

And BOB MICHEL, the Republican leader in the House of Representatives, said, "Thank heavens for a job-creator bill."

Now, that is what they were saying when the highway bill was passed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. Mr. President, I do not want to use the time unduly.

TRIBUTE TO JOHN HERSEY

Mr. LEAHY. Mr. President, a literary genius has passed away. John Hersey died on March 24; he was 78. Hersey was a renowned writer, known as both a journalist and novelist. His work made us more aware of the human condition, writing about society in terms that captured the perspectives of ordinary men and women within the context of larger life experiences.

The son of American missionary parents, Hersey was born in Tientsin, China, on June 17, 1914. His family returned to the United States when he was 10. Hersey's work spanned over half a century. He published over 20 novels and wrote numerous articles. His career began in 1937, writing for Time and then Life, chronicling the epic events of World War II. Hersey retired as a professor from Yale University in 1984, but he continued to write, handing in his last manuscript 7 weeks ago.

Hersey won a Pulitzer Prize for "A Bell for Adano," in 1945. The book explored the human aspects of World War II in a small Italian village, where American soldiers responded to the cries of the people to replace the church bell which was the central cultural emblem of their town. One of his most famous works, "Hiroshima," tracked the lives of six people who had survived the dropping of the atomic bomb on Japan. In 1950, Hersey published "The Wall," a novel about the Warsaw ghetto during Nazi occupation.

In 1968, Hersey's book, "The Algiers Motel Incident," told the story of a racially motivated murder at a Detroit motel. His most recently published novel, "Antoinietta," in 1991, follows the life of a Stradivarius violin, as it passes through the hands of different people. Hersey used fiction to capture truth. As he wrote for the Atlantic Monthly in 1949, "Fiction is a clarifying agent. It makes truth plausible. Among all the means of communication now available, imaginative literature comes closer than any other to being able to give an impression of truth."

John Hersey explored mankind. He did not write about politics, but about the people it affected. His legacy will live on.

TRIBUTE TO BILL BUFORD

Mr. BUMPERS. Mr. President, I rise today to pay tribute to my friend, Bill Buford, a brave and dedicated public servant. Bill is presently recovering in Little Rock from a gunshot wound he received in late February while involved in the raid on the Branch Davidian sect's compound in Waco, TX.

Buford, the resident agent of the Little Rock office of the Bureau of Alcohol, Tobacco and firearms since 1976, was a part of the unit assigned to the raid on the religious cult. Bill saw one of his own men killed during that raid and attributes that agent's heroism to his ability to escape alive.

Bill and those he supervises are among the scores of civil servants in this country who often risk life and limb to protect our liberties. Most of the time they are unsung heroes; we know little of their efforts.

Mr. President, Bill Buford has now recovered from his wounds sufficiently to return to work. That is true testament to his fortitude and dedication. I want him to know that we wish him well in his recovery and that all Americans appreciate the fine work that he and others like him perform for us day after day in the service of country.

TRIBUTE TO SAMMY CAHN

Mr. LEAHY. Mr. President, one of the greats in American songwriting is gone. Sammy Cahn died at the age of 79, leaving behind a legacy of brilliant collaborations and lyrical hits.

Mr. Cahn was known for his bold, colorful style which he often mixed with sentimentality. He worked with composers Jule Styne, Jimmy Van Heusen, and Saul Chaplin to create music for such talents as Frank Sinatra, Dean Martin, Paul Anka, Sammy Davis, Jr., and Tony Bennett.

Sammy Cahn's career spanned 57 years and included hits on Broadway as well as the big screen. Beginning as a fiddler on the Lower East Side of New York, Sammy Cahn then joined forces with Saul Chaplin to write material for vaudeville acts. In 1947, he worked with Jule Styne to produce the hit Broadway musical, "High Button Shoes," and between 1942 and 1951, the Cahn-Styne duo wrote songs for 19 films. His song "All the Way" from the 1957 film "The Joker is Wild" won Frank Sinatra an Oscar and as with many of Mr. Cahn's other collaborations, became a No. 1 hit. Known for his clever parodies of his own and others' work, Sammy Cahn rewrote the lyrics for "High Hopes" which was made famous as John F. Kennedy's campaign song in 1960.

In the late 1950's, Frank Sinatra brought Sammy Cahn and Jimmy Van

Heusen together to write the title song for the film "The Tender Trap." Their collaborations sent Sinatra right to the top producing the title songs for four of his classic albums. The team then went on to write for three more Broadway musicals. In 1974, Mr. Cahn was a great success in his own, one-man retrospective on Broadway, "Words and Music."

For 20 years, Sammy Cahn served as president of the National Academy of Popular Music, an organization also known quite appropriately as the Songwriters Hall of Fame. He touched so many through his creativity and musical genius. His songs caused us to smile, to hum, to sing aloud. Mr. Cahn dedicated his life to entertainment and to him, his wife Tita and his children, we say thank you.

My wife and I were privileged to know Sammy, to be with him when be played and sang before hundreds—and before a handful in a living room.

He was an American genius.

VIOLENCE AGAINST WOMEN ACT

Mrs. BOXER. Mr. President, yesterday I met with representatives from Childhelp USA, a national nonprofit organization dedicated to the prevention and treatment of child abuse and neglect. I was deeply moved by the distressing situation they described.

Approximately 2.7 million children were reported to State authorities as abused or neglected in 1991, an increase of 6 percent from the previous year, and 40 percent since 1985.

The National Child Abuse Hotline, which Childhelp USA founded and runs, received 360,000 calls last year. Of those calls, 19 percent requested assistance in reporting child abuse to authorities; 53 percent required crisis counseling and referrals to child abuse treatment, mental health and emergency shelter programs; and 28 percent asked for general information about child abuse and neglect.

In addition to the hotline, Childhelp USA created the first residential treatment center for victims of child abuse and neglect in my home State of California. That program has been so successful that it has been replicated in Virginia.

It is time to end child abuse, to end the hurt and the pain. Passing the Violence Against Women Act, which I introduced with the distinguished chairman of the Judiciary Committee, Senator BIDEN, would be a step in the right direction.

In one-half of spouse-abusing families, the children are battered as well. According to a study conducted by the San Francisco Family Violence Project of men who abuse their wives, 63 percent of the abusers had either seen their own mothers abused or had themselves been abused as children.

The Violence Against Women Act would break the cycle of family violence by providing additional funding for the arrest and prosecution of spouse abusers, for battered women's shelters, and for educating youths in all school grades about domestic violence and violence among intimate partners.

I commend Childhelp USA for doing its best to prevent child abuse and neglect, and I hope that Congress will do its part by passing the Violence Against Women Act as quickly as possible.

LUXURY TAX COLLOQUY

Mr. CAMPBELL. Mr. President, a few weeks ago, a discussion took place on this floor among several Senators, including my distinguished colleague from New York, Senator MOYNIHAN, supporting the repeal of the luxury tax. The concern expressed that day focused on the toll this onerous tax has taken on the boating industries of their respective States.

Like my colleagues, I strongly favor a repeal of the luxury tax imposed on boats, jewelry, furs, and airplanes. However, today, I speak against the tax as it relates to jewelry. As a jewelry designer and maker myself, I know first hand how devastating this tax has been to the jewelry industry.

Mr. MOYNIHAN. I welcome my distinguished colleague's support for repeal, and I note with pride that my State, especially New York City, is one of the centers of jewelry production and sales in this country. So I too, have a great familiarity with the industry and the adverse consequences associated with this poorly conceived tax. And, as I have noted before, this is a tax on those who make jewelry, not those who buy it.

Mr. CAMPBELL. First, let me begin by briefly describing the luxury tax as it relates to jewelry. According to the Omnibus Budget Reconciliation Act of 1990, the tax is to be imposed on the first retail sale of jewelry and, even more significantly, a retail sale is defined to include any jewelry manufactured from materials furnished by a customer. The tax is equal to 10 percent of the amount by which the sales price or, in the case of manufactured jewelry, the total fair market value of the jewelry exceeds $10,000 at the time of delivery. The tax is paid by the person who makes the first retail sale.

Since day one of this tax, jewelers have lost business, lost jobs, seen customers refuse to purchase items worth over $10,000, and angered customers when they can't be convinced that the increased costs are due to taxes, and not for the jewelers' own pockets.

One of the greatest problems with this tax is how it affects jewelers who remount stones previously purchased by customers. The law requires that the jeweler must pay the excise tax based on the fair market value of the new piece of jewelry, not just the cost of remounting the materials furnished by the customer.

I know of one jeweler who had a customer bring in a previously purchased diamond valued at $41,000 to be mounted on a $1,000 setting. When she came back to pick up the setting, she refused to pay the $3,200 luxury tax based on the total combined value of the diamond and the setting. The customer was so infuriated she demanded the jeweler unmount the setting. To make matters worse, the customer angrily canceled another order which would have brought $8,000 to $10,000 to the store. These things happen to jewelers all across America, forcing them to give up thousands of dollars in sales.

This story reveals the inadequacy of the luxury tax. Clearly, the tax does not affect the wealthy consumer who could absorb the extra cost, it hurts only the small business jeweler who is struggling to maintain a profit margin.

Furthermore, the design of this tax places the burden solely on the bench jeweler, not the one who sells the stone. According to the law, the luxury tax is charged once the loose gemstone is mounted in a finished piece. Thus, even though a jeweler can mount a diamond solitaire for as little as $150, the jeweler must bear the tax burden to the extent that the stone, as mounted, has a fair market value in excess of $10,000.

The luxury tax underscores one of the problems fallacious tax policies can lead to—unintentional consequences. Before passing a tax, we need to carefully examine its impact on the economy, especially the industries that will be most affected. Nothing in this economy exists in a vacuum. In the final analysis, it's clear we need to repeal this tax, because it just doesn't work.

Mr. MOYNIHAN. I thank my colleague for his remarks. As the distinguished Senator noted, I have long opposed this excise tax because I believe it is an ineffective means of making the tax burden progressive, and instead arbitrarily hurts workers and retailers in specific industries. Indeed, when such a tax was considered in 1987, I led a successful effort to defeat it in the Finance Committee.

I would also note that I was the first Democrat to cosponsor comprehensive, as opposed to single-item, repeal legislation (S. 1261) in 1991. I also supported the comprehensive repeal provisions that were included in last year's tax bills (H.R. 4210 and H.R. 11), both of which were vetoed by President Bush. Thus, I will continue to provide my support for any legislation included in this year's tax bill that would repeal the luxury tax on jewelry.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt—run up by the U.S. Con-

gress—stood at $4,230,579,916,100.67 as of the close of business on Wednesday, March 31.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime of the taxpayers' money that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this long-term and shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on reckless Federal spending, approved by Congress—spending of the taxpayers' money over and above what the Federal Government has collected in taxes and other income. This has been what is called deficit spending—but it's really a form of thievery. Averaged out, this astounding interest paid on the Federal debt amounts to $5.5 billion every week, or $785 million every day—just to pay, I reiterate for the purpose of emphasis, the interest on the existing Federal debt.

Looking at it on a per capita basis, every man, woman, and child in America owes $16,470.44—thanks to the big spenders in Congress for the past half century. The interest payments on this massive debt average out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it still another way, for each family of four, the tab—to pay the interest alone, mind you—comes to $4,511.40 per year.

Does this prompt you to wonder what America's economic stability would be like today if, for the past five or six decades, there had been a Congress with the courage and the integrity to maintain a balanced Federal budget? The arithmetic speaks for itself.

SECURITY STRATEGY AND THE DEFENSE BUDGET

Mr. MCCAIN. Mr. President, as we begin to shape our Nation's security strategy and defense budget for the coming year, we must pay proper attention to George Santayana's caution that, "those who cannot remember the past are condemned to repeat it."

Before we treat the end of the 20th century as a era of peace, we need to remember its beginning. The world of 1905 was also a period of optimism where few had any idea of the reality that would follow. The Boer War, the Spanish-American War, the Balkan Wars, and the Russo-Japanese War were over. The Moroccan crisis of 1905 seemed little more than a petty colonial incident, and the long cold war between France and Germany seemed less and less likely to explode into a new conflict in Europe.

Constitutional and democratic reform had taken place throughout most of Western Europe. The Hague Conference of 1899 seemed to codify the rules of war, and lay the groundwork for an international court, and preparations were being made for a new Hague Conference of 1907. In spite of nationalism, most of the Western world believed it was already creating a new world order. In fact, two Nobel prizes were to be awarded to leading experts for proving that European nations would never again have any incentive to fight a major conflict.

Then, as now, Russia was moving toward democracy and reform, but presented great uncertainties. An innovative and challenging Japan was growing in power. Change was taking place in most of the developing world, including the Balkans, the Middle East, Asia, and Latin America, but usually in a peaceful and evolutionary fashion. The Indian National Congress came under moderate—not radical—control. The Empire of China was forced to abolish its ancient examination system, and was moving toward the revolution that toppled the Ching dynasty.

This was a time when the major European powers planned for wars that would last a maximum of 30 days. The only real warning of the shape of things to come was the Anglo-German arms race, and that was seen far more as a struggle for prestige than a serious harbinger of war. It was a period in which an interlocking matrix of treaties was being created to secure the world against wars between its major powers—although these same efforts at international cooperation eventually helped trigger the global conflict that followed.

We have had many painful lessons of our own during this century. We failed to see the risk of isolationism and military weakness after World War I. We helped create the climate of international relations that resulted in a second global conflict. After World War II, flush with victory and weary of war, we demobilized our forces and relaxes our defenses beyond the levels which prudence and the apparent hostility of an erstwhile ally demanded. We had confused victory with enduring invincibility, and the cost was a war in Korea, for which we were ill prepared and which we nearly lost.

After Korea, we again raced from war to peace without due regard to the emerging and global threat from the Soviet Union. We lost our ability to fight a European conflict without immediate resort to nuclear war. We lost much of our power projection capability and our technological edge. Our self-imposed weakness invited new challenges from our enemies, and we found ourselves trapped in a long, escalating arms race with a determined adversary.

Stunned and enervated from our losses in Vietnam, we let our forces become hollow. Once again, our conventional options in Europe were abandoned. Our power projection efforts were undermined by inferior readiness and capability. The result was another rapid and often wasteful military buildup. This buildup, however, was critical to checking the expansion of Soviet military power, and served as a key element in hastening the collapse of the Soviet Empire. It also allowed the United States to frustrate the ambitions of a regional empire builder in the Persian Gulf, and defeat the world's fourth largest military power with a minimum loss of life.

The lesson we should learn, that we must learn, from history is that optimism and hope must be supported by consistent strength and by a consistent will and ability to act. It is easy to talk about international stability and emerging world realities, but we need to face the fact that history is unpredictable, and very few have ever accurately foreseen the true nature of the strategic climate they have lived in.

THE END OF THE END OF HISTORY

History has taught that lesson repeatedly since the end of World War II. A study by the Center for Naval Analysis shows that we have used military force more than 240 times since 1945. In spite of our focus on the Soviet Union and Warsaw Pact during the cold war, well over 80 percent of those uses of force had nothing to do with the U.S.S.R. or any Warsaw Pact country.

Well over 90 percent of those uses of force were not included in the scenarios used for planning our forces the year before, and well over 90 percent involved less than 3 months of strategic warning. The uses of force for which we did not shape our force plans or have strategic warning included Korea, the Berlin Wall, Vietnam, Grenada, Panama, Operation Earnest Will, and Desert Storm.

There are obvious dangers in any comparison between 1905 and 1993, but in June 1990, some of my most senior colleagues on the Senate Armed Services Committee rejected the idea that we might need strong power projection forces because of the instability in the gulf. In fact, if you look at the record of the hearings we held during that month, you would find statements that we had no reason to concern ourselves with the gulf, that we had seen the end of the Iran-Iraq War, and that the region was relatively stable. No member of the committee would have made such statements 2 months later.

If we are to shape America's post-cold-war strategy and forces, we must recognize that we are not at the end of history, or even at a dramatic new beginning. We have instead reached another point where history reinvests itself—a moment where one or two catalytic changes alter one critical aspect of the structure of world power without fundamentally altering the balance of international stability in most of the world.

No one can deny that the collapse of the Warsaw Pact, the Soviet Union, and communism has been of momentous importance. The United States, Europe, Russia, and the world will all be safer. The prospect of another devastating world war, or nuclear holocaust, has greatly diminished.

Yet, we face many new uncertainties regarding the future. These include the political and military future of Russia and many of the other former states of the Soviet Union. We see civil war in many countries of the world. We see North Korea moving toward the acquisition of nuclear weapons, refusing inspection of its nuclear facilities by the International Atomic Energy Agency, and continuing to build up conventional forces that are continuously deployed in attack position and which could reach Seoul in a matter of hours.

Two aggressive and proliferating nations—Iraq and Iran—threaten the gulf, moderate Arab states, Israel, and the security of more than 60 percent of all the world's oil reserves. Iraq has emerged from the gulf war with more than 50 percent of its prewar force structure intact. North Korea's military spending and buildup continues in spite of its erratic rhetoric about peace, and North Korea seems unwilling to meet any of its obligations under the Nuclear Non-Proliferation Treaty. Iran is rearming at a rate of 500 million dollars' worth of arms a year.

A bloody war is raging in what was once Yugoslavia. A new arms race is taking place in Southeast Asia. A decade-long effort at peace negotiations has failed in Angola. Syria is buying new conventional arms and North Korean medium range ballistic missiles. India and Pakistan continue their nuclear arms race and efforts to develop long range missiles. A host of other small wars threaten regional peace, and some—like the wars in Somalia and the Sudan—are not small. They have already killed more people than the gulf war and all the Arab-Israeli conflicts combined.

MIXING PEACE WITH STRENGTH

The key issue for national security planning in the post-cold-war era is not how much we can save but rather how we can most cost-effectively provide what we need. If we maintain our strength, history does not have to repeat itself, and the present promise of the post-cold-war era does not have to end in a return to a world of conflict and disorder.

We can mix this ability to use force with peaceful alternatives. We can and should reach out to Eastern Europe and the nations that once formed the Soviet Union and help them create stable democracies, strong economies, and a new alliance that unites East and West.

At the same time, we must be prepared for the fact that it may take decades to bring all of the nations in the East to that level of development, and into such an alliance. We must be prepared for the risks posed by the fact that the nations that make up the CIS still possess vast numbers of nuclear weapons, missiles, conventional arms, and defense production facilities.

We should seek to encourage democracy, strong market economies, arms control efforts, and cooperative security efforts throughout the rest of the world. We should maintain humanitarian relief efforts, expand our peacekeeping efforts, and be ready to support U.N. and international peacemaking efforts even when these involve low- and mid-intensity conflict. We should be able to deter and contain aggression, be able to force the termination of regional conflicts, be able to support friendly states, and deal with the risks posed by proliferation.

At the same time, the use of force—and the ability to use force—are critical to peacemaking. Events in Bosnia, Kuwait, Somalia, and Liberia have already shown us that peace will not be created or endure without United States peacemaking capabilities. We cannot guarantee the security of humanitarian relief efforts; we cannot deal with sudden threats to American citizens or those of friendly nations; we cannot help friends and allies without American power projection forces.

The practical challenge for American strategy is to combine peaceful efforts to create a new world order with the preservation of our status as the world's only true superpower. We must also accept the fact that the central measure of our strategic and military capability to deal with the realities in post-cold-war era will be our power projection capabilities.

STRATEGIC CHANGE IN THE POST-COLD-WAR ERA: UNDERSTANDING THE PROBLEM OF RESOURCES

We have not failed to cut defense spending in the years since it became apparent that the cold war was coming to an end. Defense spending has dropped in real dollars during each of the last 7 years. President Bush and the Congress have initiated major reductions in defense spending which responded to the changing geopolitical circumstances and security threats, and to the fiscal pressures of the time. The United States has achieved a real peace dividend while sustaining its status as the only power capable of meeting aggression, when necessary, anywhere in the world.

At the same time, both history and the current threats of stability and peace warn us about the critical importance of power projection capabilities. They warn us that we cannot afford to plan our forces as if the only thing we will have to face is low-intensity combat or some defining mid-intensity threat. They warn us that we cannot shift from a force posture based primarily on the Soviet and Warsaw Pact threat to one that is driven by narrow budget factors or the economics of the Federal deficit.

If we are to provide the power projection capabilities we need and maintain our status as the world's only superpower, we must take a new and strategic approach to the problem of defense resources. Unfortunately, it is this strategic approach to shaping defense resources which the present administration threatens to undermine.

The Clinton administration's understandable focus on our economic problems has enouraged us to take risks with our security that we can ill afford to take. In fact, there is a clear and present danger that we will sacrifice our status as the world's only superpower on the mistaken premise that such a sacrifice is essential to our economic recovery. There is a very real risk that we will end the 1990's with our military manpower and major combat unit strength cut by 40 percent, having replaced our readiness during Desert Storm with hollow forces, and having substituted empty rhetoric for a real capability to meet our strategic commitments.

THE CLINTON DEFENSE PROGRAM

The only net cuts in Federal spending in the new administration's proposed budget come from defense. Net nondefense spending actually increases, and defense is taxed to reduce a budget deficit it did little to create in a totally disproportionate fashion. During 1990–95, defense was the only part of the Federal budget that took its fair share of cuts. Increases in entitlement spending and discretionary defense spending by a Democrat-controlled Congress transform the supposed $500 billion cut in the budget deficit that was supposed to occur during this into a $500 billion increase. In contrast, defense spending was cut more than was called for by the budget summit.

Table 1 shows how the new administration's bottom line for defense compares with that of President Bush. There are some unexplained differences between the numbers estimated by President Clinton and the lower numbers set forth in Secretary Aspin's defense budget request. The new administration has stated, however, that it proposes to cut $126.9 billion in budget authority in the program Congress approved last year, and $111.8 billion in budget outlays through 1998.

There is no easy way to estimate what these spending cuts will cost us in military capability. Secretary of Defense Les Aspin has only provided force cut data for 1994. These cuts are significant, and will cut Navy battle force ships from 443 to 412 and aircraft carriers, to 12. Army active divisions will be reduced from 14 to 12, and Air Force fighter wings will be reduced from 28 to 24. Readiness is said to be kept con-

stant—although this only seems to involve current operational activity levels—but procurement is to drop by 17 percent in 1994 alone.

The Army is to lose 35,000 personnel, the Navy 46,000, the Marine Corps 8,000, and the Air Force some 19,000. This is a total cut in our Active Forces of 108,000 men and women. In addition, 60,000 men and women will lose their jobs in the Selected Reserve, and the new administration will cut defense civilians by 45,000.

These cuts are only a taste of what is to come, but Secretary Aspin has said that he will not provide us with force plans and a "bottom up review" for fiscal years 1995–99, to explain the impact of President Clinton's massive cuts in defense spending, until late this summer. He has said that he will not provide concrete budget and future year defense plan figures until February 1994.

WHY MASSIVE CLINTON FORCE CUTS SEEM INEVITABLE

Most important, Secretary Aspin has stated that the current Clinton defense spending plans will produce a 42-percent cut in real defense spending between fiscal year 1985 and fiscal year 1998. He has also stated that this will lead to 30-percent cuts in our forces, although there is an obvious imbalance between the cuts in spending and the cuts in forces, and he has provided no real information on what forces and programs will be cut, the degree to which they will be cut, and his future plans for our defense industrial base.

What seems far more likely is that 42-percent cuts in defense spending will produce at least 40-percent cuts in our military forces. If so, the administration is putting us on a course that could cut our forces by 40 percent between 1991 and the end of 1998. A cut of this magnitude could reduce our total military manpower to about 1 to 1.2 million men and women, and result in at least a 20-percent larger reduction of defense industry employees. This would force hundreds of thousands of men and women, including many minorities to accept involuntary separation from the service.

The size of these force cuts may seem surprising, but this is largely because of the way the new administration has issued its proposed defense budget:

First, the Department of Defense issued a press release that only reported a total of $88 billion in cuts. As Table 1 shows, however, the detailed material issued by OMB indicates that the Clinton program cuts another $39.2 billion in 1998—a cut that the press release mysteriously ignores. This statistical gamesmanship means that much of the press has ignored the fact that the administration's cuts are at least 45-percent higher than $88 billion.

Second, there is no clear or credible picture of where the administration's cuts are coming. The only details given in "A Vision for America" concern a proposed $18 billion savings through a "Governmental-wide pay adjustment." This would, in effect, finance new social spending at the cost of fair pay for enlisted personnel and officers—an option the Congress has already rejected. These numbers, incidentally, do not seem to track with the tables issued with the Aspin defense budget.

Third, the administration keeps referring to cuts in military manpower that would reduce our military manpower to 1.4 million men. In fact, however, such figures only cover manning levels through 1997, and again ignore the $39.2 billion additional cut in 1998. The truth is that it will be almost impossible to sustain a future force level of greater than 1 to 1.2 million. The true cuts will be at least 400,000 larger than those recommended by President Bush—enough men and women to field 10 divisions. There must also be massive additional cuts of defense civilian employees and defense industry workers.

These are three good reasons why the Congress should not have voted on a total Federal budget before it saw the details of the administration's fiscal years 1994–98 defense program. Unfortunately, Congress not only acted before it thought, it acted before it understood. It also acted in a political climate where few understand that the United States has already made major cuts in defense spending and were planning further cuts in the coming years.

TABLE 1.—CLINTON DISCRETIONARY DEFENSE SPENDING

[In billions of current dollars]

	1993	1994	1995	1996	1997	1998	1994–98
Current OBRA baseline:							
Budget authority	274..3	288.0	296.4	304.5	312.9	321.5	1,523.3
Outlays	294.3	289.6	293.8	299.8	306.5	313.8	1,503.5
Changes from OBRA to congressionally adjusted Bush baseline:							
Budget authority		−12.5	−18.5	−26.2	−28.3	−28.1	−113.6
Outlays		−5.3	−9.5	−15.2	−20.0	−24.8	−74.8
Current congressionally adjusted Bush baseline:							
Budget authority		275.5	278.0	278.3	284.6	293.4	1,409.8
Outlays		284.4	284.3	284.6	286.5	289.0	1,428.8
Proposed Clinton changes:							
Budget authority		−11.8	−15.2	−24.5	−36.2	−39.2	−126.9
Outlays		−6.7	−11.7	−19.7	−37.4	−36.3	−111.8
Proposed Clinton discretionary defense spending:							
Budget authority	274.3	263.7	262.8	253.8	248.4	254.2	1,282.9
Outlays	294.3	277.7	272.6	264.9	149.1	252.7	1,317.0
Aspin proposed fiscal year 1994 defense budget:							
Budget authority	273.0	263.4	261.1	253.7	246.0	253.9	1,278.1
Outlays	290.7	276.9	270.9	264.7	246.9	252.5	1,311.9

Source.—Table 1 to Appendix to President Clinton's "Vision for America" and tables attached to Secretary of Defense Les Aspin's press release on the FY1994 defense budget.

THE PEACE DIVIDEND OF THE REAGAN AND BUSH PROGRAMS

Two years ago, the United States won a decisive victory against a heavily armed enemy with few American or allied casualties. It did so because it had the best military forces in the world. We had the best trained and most combat-ready men and women. It had the best weapons, intelligence, communications, and logistics. It was ready to project power anywhere in the world, and to sustain our forces in combat.

That victory came in combat, but the United States had won an even more important victory earlier without any casualties and without firing a shot. We had demonstrated a level of military capability and resolve that helped catalyze the collapse of the Soviet Union and Warsaw Pact. It had responded to a massive Soviet military build-up, and shown the leaders of the Soviet Union that they had no hope of dominating or intimidating the West.

The United States would never have won either victory if it had not been for the buildup in our forces and defense spending during the Presidency of Ronald Reagan. President Reagan took office at a time when we had hollow military forces. Forces that were underequipped, undertrained, lacking readiness, and lacking sustainability. By the mid-1980's, that situation was reversed, and the United States had a mix of high technology new weapons programs.

Since that time the cold war has ended, and the Soviet Union and Warsaw Pact have vanished into history. President Reagan and President Bush have signed the most successful arms control agreements in history—ending Warsaw Pact superiority in conventional forces, eliminating most deployed theater nuclear missiles, and putting us on a path that will reduce the strategic nuclear threat to the United States from more than 20,000

weapons to 3,000—a seven fold reduction that includes the elimination of virtually every risk from a nuclear first strike.

President Bush did not, however, rest on these accomplishments. He took advantage of these strategic victories to achieve a massive peace dividend. He carried out a series of carefully planned and managed cuts in defense spending. As a result, the United States saved over $330 billion during 1985–93, relative to the peak spending levels of the Reagan buildup in 1985. In fact, defense spending dropped by nearly one-third in constant dollars.

These savings, however, are only part of the story. Under the Bush administration, defense spending dropped from 27 percent of the Federal budget to less than 17 percent the lowest share of the Federal budget in more than half a century.

This point is critical because the burden defense puts on Federal spending is not a function of how many dollars are spent, but rather how much defense consumes out of the total Federal budget. Our economy and Federal revenues grow constantly, and when defense budgets drop, they drop far more quickly in terms of the burden they place on total spending than they do in dollars.

The Bush 1993 defense budget provided vast security benefits while placing only a minor burden on the total budget. It is less than one-third of the 57 percent of the Federal budget we spent at the time of Korea, and less than half of the 43 percent we spent during Vietnam.

In fact, defense spending has contributed virtually nothing to our current budget and deficit problems—the issues that President Clinton says he is trying to address. During the period from 1950 to the present, which includes all of the major increases in the Federal deficit, payments to individuals, the so-called entitlement programs have risen from 18 percent of the Federal budget to over 50 percent.

Defense has also dropped massively as a burden on our economy. We spent 11.9 percent of our GNP on defense at the time of the Korean conflict, and 9.1 percent during the Vietnam War. President Bush reduced defense spending to less than 4.5 percent of our GNP today, versus 6.3 percent at the height of the Reagan buildup—this is a reduction of roughly 33 percent in the burden defense places on our economy since the beginning of the end of the cold war.

THE BUSH DEFENSE PLAN AND ADDITIONAL PEACE DIVIDENDS

There were times when President Bush might have acted faster, and achieved deeper defense cuts. He was slow, for example, to cut forces during the fiscal year 1992, and to terminate cold war relics like the *Seawolf*, B–2, and small ICBM. By fiscal year 1993, however, President Bush planned major additional defense cuts and peace dividends.

President Bush also presented a very clear plan for reducing our military forces and defense expenses. The Base Force plan that was proposed by General Powell, and which President Bush approved, reduced military manpower by 360,000 people between 1991 and 1997, or from 2.0 million to 1.63 million. It cut Army divisions from 26 to 18 divisions, aircraft carriers from 15 to 12, combat ships from 536 to 448, Air Force fighter wings from 34 to 26, and strategic bombers from 228 to 181.

These force cuts would have reduced defense spending to only about 16 percent of Federal spending, and 3.5 percent of the GNP by 1997. By that time, we would have been spending more on the paperwork and overhead costs of medical care than we would have been spending on our national security.

THE DANGEROUS IMPACT OF THE NEW ADMINISTRATION'S PROGRAM

As has been touched upon earlier, the new administration's program goes far beyond either the Bush cuts or those the Congress agreed to in voting on the fiscal year 1993 budget. These trends have already been shown in table 1, but four additional factors need to be considered in estimating the true impact of the Clinton 1994–98 defense program.

First, the administration's program clearly extends through 1998. Any analysis of the administration's program that ignores this is meaningless, and so are references to cuts of only 200,000 men or any other adjustment to our defense program that ignores the administration's $39.2 billion cut in 1998—the "balloon mortgage" of the administration's defense reductions.

Second, the administration's cuts are incremental to the major cuts that President Bush and Congress have already made.

Third, while many people talk about budget outlays, because these affect the deficit in a given year, it is budget authority that counts when it comes to shaping the trends in total force size and military capability.

Fourth, Secretary Aspin stated in his March 27, 1998 press release that defense spending is expected to drop to 3 percent of the GNP by 1998, and 13.5 percent of the Federal budget.

Given this background, it is striking that the OMB estimates that the administration relied on in its Vision for America list defense expenditures in 1998 of $254.2 billion in budget authority in current dollars. This total is 14 percent less than the $293.4 billion recommended by President Bush, and the Senate Budget Committee staff estimates that it is equal to only $232 billion in constant 1994 dollars. Similarly, the Congressional Budget Office estimates expenditures in constant dollars of $234 billion.

Given the fact that the Bush 1994–98 defense spending plan was already planned to produce at least 25 percent force cuts, a further reduction of 14 percent in defense spending almost inevitably leads to total force cuts of at least 40 percent.

The truth, however, could be much worse. There are also major uncertainties regarding the extent to which the administration believes or does not believe it can seriously freeze the pay of every man and woman in uniform, and defense civilian, for half a decade. The military have already lagged about 7.8 percent behind inflation during the last decade, and 11.7 percent behind civilian pay. The estimates Secretary Aspin provided in his testimony to the House Armed Services Committee indicate that the military will lose at least 6.6 percent more of the value of its pay during 1994–98 as a result of the new limits on pay increases, and this loss of real pay could exceed 13 percent if the January 1992 estimates of inflation prove to be more realistic than the administration's far more optimistic assumptions.

The new administration is only assuming about two-thirds of the inflation during the next 5 years that President Bush assumed last year, and it is far from clear that this is realistic. It is not clear what the new administration is assuming about energy tax costs, and serious questions arise about the assumptions regarding management and efficiency savings.

At least one-half billion dollars a year evidently has to be reprogrammed into defense conversion and some part of $17 billion in additional spending for technology and business reinvestment and defense conversion may have to come out of the defense budget.

These factors have a powerful cumulative impact. Even if we are charitable about the administration's plans for a pay freeze, these assumptions are almost certain to be offset by the undercosting of the 1994–98 program, and by the major diseconomies of scale that raise force costs as we cut our total force structure and defense industrial base.

WHAT DOES A 40-PERCENT FORCE CUT MEAN?

Given these data, what would a 40-percent force cut mean? A conservative estimate is shown in Table 2, and indicates that it could mean total active military manning of about 1.0–1.2 million men and women. It could mean cuts of at least 3 more active Army divisions, one more Army reserve division, 3 carrier battle groups, 100 more surface ships, 3 carrier air wings, 1 MEF equivalent, 5 active tactical fighter wings, 3 reserve fighter wings, and 60 more bombers. It could also mean at least 20 percent more cuts in the manpower in defense industry, and cuts of well over 100,000 more defense civilians.

During the period between fiscal year 1991 to fiscal year 1998, we would go from 28 Army divisions to 12–14, we

would go from 13 carriers to 8, we would go from 545 combat ships to 300–340, from 15 carrier air wings to 8, from 3 Marine Expeditionary Forces to 2, and from 36 Air Force fighter wings to 15–19, and from 268 bombers to 120–141.

TABLE 2.—SLASHING DEFENSE: THE PROBABLE REAL WORLD IMPACT OF THE CLINTON PROGRAM

Forces	Actual end 1992	Bush base force in fiscal year 1997	Aspin plans for fiscal year 1997				Probable impact of Clinton budget by fiscal year 1998
			A	B	C	D	
Total active military manpower (millions)	1.8	1.6	.....	1.4?	1.4?	1.4?	1.0–1.2
Army divisions:							
Active	14	12	8	8	9	10	8–9
Reserve	10	6	2	2	6	6	4–6
Marine Corps divisions:							
Active	3	3	2	2	2	3	2
Reserve	1	1	1	1	1	1	0.5
Air Force unit equivalents:							
Active fighter wings	18	16	6	8	10	11	9–11
Reserve fighter wings	12	11	4	6	8	9	6–8
Total fighters	1,296	1,098	.....	.....	.....	.....	750–780
Total bombers	250	211	.....	.....	.....	.....	120–141
Navy Forces:							
Total nonstrategic combat ships	441	432	220	290	340	430	300–340
Total carriers	14	13	6	8	12	15	8
SSNs	87	80	20	40	40	50	40
Amphibious ships	65	50	50	50	50	82	35–45
Mobility/prepositioning:							
C–5	128	128	.....	.....	.....	.....	.....
C–141	250	to 0	.....	.....	.....	.....	.....
C–17	0	to 120	.....	.....	.....	.....	60
Fast Sealift ships	8	8	16	24	24	24	10
New surge ships	0	11	.....	.....	.....	.....	(?)
Reserve fleet	99	142	.....	.....	.....	.....	80
MPS squadrons	33	3	.....	.....	.....	.....	(?)
Prepo ships	12	23	20	24	24	24	18–20

Other risks are less clear because they are harder to cost, but they are not less important. We already are letting some aspects of our forces to go hollow. We are not buying the major spare parts and advanced munitions we need. We are not keeping our military bases modernized. We are reducing support activities, and we are slowing many other areas of force modernization. We are disguising this by not cutting normal operational and training rates, but the fact remains that we are losing readiness.

We often forget what Desert Storm taught us about shortfalls in our forces. Our modernization of strategic and tactical airlift is far behind schedule, and critical areas like Marine Corps tactical lift are effectively unfunded. Strategic sealift has funds, but little tangible activity. Maritime prepositioning is inadequate and underfunded, as are many aspects of mine warfare. We face block obsolescence in amphibious lift, and we are funding shipbuilding at a rate that can only sustain a 200-ship Navy. We have no clear program to deal with the growing risk that we will face long range missiles and weapons of mass destruction on the battlefields of the future.

Not all of these cuts and problems can be blamed on the administration's program. Some are attributable to undercosting and exaggerated management savings during President Bush's term. Roughly a third are the long term consequences of the budget cuts made by Congress before President Clinton took office.

Such cuts would mean we cannot maintain an effective defense of Asia. We cannot provide security for Israel and the gulf. We cannot provide adequate safeguards for the security of Europe. They also mean we will have no real reserve for peace-making and other contingencies. We will probably have lost much of the technology edge we had during Desert Storm. We will have crippled part of our defense industrial base.

The alternative to such a slash and burn approach to defense cuts is to use a fundamentally different approach to sizing our defense expenditures and our forces. It is to build upon the knowledge that we have already reduced defense spending as a share of total Federal expenditures and our GNP to levels that are both acceptable and sustainable indefinitely. Given this fact, we can reexamine the base force concept to see what forces are needed and what forces are not, and pursue strategy-driven solutions to adjusting our forces to the post cold war era, rather than narrow budget-driven approaches.

Such a strategy-driven approach does not produce one fixed set of force numbers for the next 5 years. We must continuously be prepared to deal with uncertainty, and there are areas like sizing our future strategic forces and strategic defense efforts which require comprehensive zero-based study on a bipartisan basis. It is clear that some force improvements and additions must be made to strengthen our power projection capabilities, as well as force cuts. However, one thing is clear. There are some areas where significant force cuts are possible, and if these cuts are less draconian than the Clinton cuts, they would still allow us to meet our strategic requirements and stay within 15 percent to 17 percent of the Federal budget, and 3.5 percent of our GNP.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: RESTRUCTURING OUR FORCES FOR EUROPE AND IN THE ATLANTIC FORCE PACKAGE

The Atlantic force package portion of President Bush's base force is one of the areas where significant savings seem possible. We should continue to restructure our forces to match the pace of change within the former Soviet Republics, the improvements in East-West relations, advances in arms control, and the growing wealth of our Europeans allies.

We can make further cuts in defense spending by creating a new transatlantic bargain. Such a bargain would restructure our strategic relations with Europe so that Europe takes over primary responsibility for the security of Europe while the United States concentrates on the security of Asia and other out of area commitments.

Such a change in United States strategy could allow us to reduce our presence in Europe. This is now planned to drop from 300,000 to 150,000 men, although Congress has legislated that it should drop to 100,000. It is scheduled to be reduced from two corps with four divisions to one corps with two divisions, and from 8.8 fighter wings to 3.3 wings.

Further reductions are possible. Total manpower in Europe could drop to 70,000–80,000 men. Our ground forces could consist of two active brigades, dual capable in power projection missions. We could preposition an additional two to four brigades worth of equipment to allow the United States to build up to corps strength in 30 days, and provide suitable reinforcement forces in the United States to provide rapidly deployable combat and support forces. Such forces could be far smaller than the traditional support forces used in structuring a NATO corps, taking into account the fact that a prolonged theater-wide conventional conflict in Europe is no longer a credible threat.

Our air component in Europe should be kept at a strength near three wings, but it should be clear that such forces will be dual capable in power projec-

tion missions and will not be dedicated to NATO if out of area crises arise. At least one wing should be deployed in the southern flank area where it can deploy immediately to out of area missions in the gulf and the Middle East. We also restructure our Air Force units in Europe to concentrate on deploying the high technology and special purpose aircraft our allies do not have, and using smaller wing structures designed to be as economic in peacetime as possible. Such a mix of air units might be deployable for as little as the cost of two of the kind of wings we now deploy in Europe.

The present crisis response force in the United States—that is part of the Atlantic forces package of the base force—is the least necessary component of our present force posture. We should stop maintaining dedicated Active and Reserve Forces in the United States for NATO. We are not going to buy the lift and sustainability to deploy anything like three Active and six Reserve divisions for Europe. Without such lift, however, such reinforcements are largely symbolic in character.

Further, Europe currently shows no signs of maintaining the kind of forces in the central region that would allow such forces in the United States to play a useful role in a theater conflict even if such a conflict seemed likely, and even if the United States had 90–180 days of strategic warning to deploy and mobilize such forces.

Virtually every European nation is now cutting its forces and defense expenditures to the point where they will no longer maintain the strength and capabilities for theater-wide conventional war. There are strong indications that most of the central region nations that now rely on conscription will either see those systems end or drastic new constraints on the amount of manpower called up and periods of service.

Accordingly, the land element of the crisis response force can probably be cut to one Active and three Reserve divisions, using some of the savings to improve deployability and out of area power projection capabilities. There is no requirement for the two Army cadre divisions in the reconstitution force of the Atlantic forces package, or for the Navy frigates assigned to this force. They are artifacts of the cold war and should be disbanded as quickly as possible.

The 2 Active and 11 Reserve air wings currently assigned to the crisis response force have more practical value. They can deploy relatively rapidly, and they have an inherent dual capability for power projection missions. Thy are, however, a force component where further cuts can be made, and reducing this force to one Active and five Reserve wings would free substantial assets for higher priority power projection forces.

The four carrier battle groups and Marine expeditionary force currently assigned to the Atlantic forces package are power projection forces and should be retained in the force structure. They are vital elements of our peace making capability, rapid reaction capability, and ability to intervene in low- and mid-intensity conflicts.

There are, however, two major changes that should be made in structuring our Navy and Marine forces for Europe that should be made in all these forces world wide. The U.S. Navy does not need its current mix of surface escorts, ASW assets, or attack submarines. It needs to thin out its forces in the Atlantic to create far more cost-effective power projection forces, and reflect the post cold war shift away from blue water conflicts to littoral warfare. It needs to emphasize the dual capability of its carrier aircraft, and converting the F–14 to dual capability in attack missions should be given high priority in view of the age of the A–6 and the fact the A–X cannot be deployed until well after 2025.

At the same time, emphasis needs to be given to providing improved cruise missile attack capability, improved missile defense capability, improved mine warfare capability, and improved shore support capability. The idea of mounting the multiple launch rocket system [MLRS] on shipboard deserves serious consideration. The Marine Corps probably needs at least one additional prepositioning ship to improve sustainability and capability for mid-intensity conflict.

The United States needs to reevaluate the heavy weapons strength and sustainability of the Marine Corps expeditionary forces [MEF's]. The recent roles and missions study by the Chairman of the Joint Chiefs of Staff does not come to grips with the need to deploy power projection forces with the artillery, armored, tactical lift, and sustainability to fight well armed Third World forces like those of Iraq.

It simply does not make sense to maintain or restructure U.S. Army forces to support the Marine Corps in these areas which can never be as flexible, rapidly deployable, or as well integrated into an amphibious strike force as Marine Corps units, and strengthening Marine Corps forces—potentially with U.S. Army equipment—would be far more cost-effective.

The United States cannot abandon Europe, or Atlanticism, but it must focus its military resources on the ability to deploy forces anywhere in the world, and it must concentrate its contingency planning on missions in Asia and the developing world. The time has come where the United States must not only push Europe to assume primary responsibility for Europe, but make it clear that Europe has no other choice.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: RESTRUCTURING OUR FORCES FOR ASIA AND IN THE PACIFIC FORCE PACKAGE

The situation in Asia and the Pacific is radically different from the situation in Europe. The confrontation between North Korea and South Korea represents one of the two most serious risks that United States will be involved in mid- to high-intensity conflict—the other being the risk of renewed conflict in the gulf.

United States forces in Asia play a major role in stabilizing the balance between Japan, the PRC, and Russia. They help assure and there are no confrontations between nations in Southeast Asia, they act as a presence that limits the risk of further conflict in Cambodia, and they deter armed clashes in the South China Sea.

Unlike the Atlantic forces package we do not have a major forward deployed force in Asia, and we do not have large surplus active and reserve forces for Asia in the United States. There is only one light division in South Korea, and it has only two brigades. We deploy less than two fighter wing equivalents in country.

Now that we have withdrawn from the Philippines, our only other major forces that are forward deployed in Asia consist of 1–2 fighter wings in Japan, a forward deployed carrier battle group and amphibious readiness group and a Marine expeditionary force in Okinawa. Our reserve forces in the United States consist of one division and one fighter wing in Hawaii and Alaska, and five carrier battle groups in Hawaii and the United States—the core of our naval power in the Pacific.

There are no major regional powers with military forces that can take the place of the present strength of U.S. forces. Japan is assuming virtually all of the Yen costs of deploying our forces in Japan, and South Korea is steadily increasing its burden sharing contribution. We are able to project power that brings a high degree of stability to nearly half the world at only minimal cost.

There are, however, useful changes we can make to our present force structure. Our forces in South Korea can be given dual capability in power projection missions. This would allow some further economies in our force structure in the United States, provide some strengthening of their combat capability, and improve our rapid reaction capability during periods where we did not face an immediate threat from North Korea. It would also encourage further South Korean efforts to assume command functions in Korea.

The Marine expeditionary force in Okinawa has gradually dropped in readiness and deployability. It needs to be strengthened and brought to full readiness as a power projection force that can be used both regionally and in the gulf and Indian Ocean area. As in

the case with the MEF in the Mediterranean, more armor and artillery are needed, and probably at least one more repositioning ship to improve sustainability and capability for mid-intensity conflict.

There is little practical point in keeping land forces in Alaska in the post-cold war era, and the 6th Light Infantry Division can be disbanded. The U.S. Army also needs to reexamine its force and support structure in Hawaii. A lean power projection-oriented force component—which should require only limited changes to the 25th Light Infantry Division—is what is required.

As was the case with the Atlantic force package, the U.S. Navy does not need its current mix of surface escorts. ASW assets, or attack submarines. It needs to thin out its forces to create far more cost-effective power projection forces, and reflect the post cold war shift away from blue water conflicts to littoral warfare. It needs to emphasize the dual capability of its carrier aircraft, and converting the F-14 to dual capability in attack missions should be given high priority in view of the age of the A-6 and the fact the A-X cannot be developed until well after 2025.

Once again, new emphasis needs to be given to providing improved cruise missile attack capability, improved missile defense capability, improved mine warfare capability, and improved shore support capability. The idea of mounting the Multiple Launch Rocket System [MLRS] on shipboard deserves serious consideration. The Marine Corps probably needs at least one additional prepositioning ship to improve sustainability and capability for mid-intensity conflict.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: RESTRUCTURING OUR CONTINGENCY FORCES PACKAGE

The contingency forces package was originated before Iraq's invasion of Kuwait, but time has validated the wisdom of this package. It is clearly apparent that we need a strong component in the United States of rapidly deployable Army divisions, Air Force fighter wings, and Marine and Navy forces.

The present proposal to maintain a five-division Army force, with three heavy, one airborne, and one air assault division represents the minimum force we should be able to deploy and sustain within a 30- to 60-day period. Giving this force the readiness and strategic sealift it needs should be one of our highest priorities. The same is true of providing it with seaborne munitions and sustainability.

It is possible that the present goal of maintaining seven tactical fighter wings can be reduced to five, but an alternative is to give the National Guard and Air Reserve a role in the contingency forces to allow us to maintain the present strength. Similarly, Desert Storm has shown that a new total force concept might well include substantial reserve combat and service support for the Army's active divisions.

The Marine expeditionary force assigned to this package represents the Marine Corps' global reserve. It should be strengthened and given added firepower and maritime prepositioning, just as has been the case with the MEFs assigned to the Atlantic and Pacific Forces.

Two other major changes are needed in this package:

First, even the best strategic sealift cannot deploy a heavy U.S. Army division in time to defend the gulf, and more than 60 percent of the world's oil reserves, from Iran and Iraq. Every effort should be made to persuade Kuwait, Saudi Arabia, and the other southern gulf states to fund prepositioning of one heavy division in the gulf. The alternative is to seek burdensharing for maritime prepositioning. We need true rapid deployment capability for at least one MEF and one Army division to both deter Iraqi and Iranian aggression and to respond to it if it occurs.

Second, the original base force plan never specifically dedicated strategic air lift, strategic sealift, maritime prepositioning forces, or naval air, missile, and fire support for this package. These power projection capabilities should be identified as specific parts of the contingency force package, and the naval forces in the Atlantic and Pacific Forces that will be specifically tailored to support contingency force operations should be identified and possibly even earmarked to the contingency force.

We need to recognize that the contingency force has a major potential war fighting mission—the defense of the gulf. We need to ensure that it can fight such conflicts successfully. We also need to be extremely careful to ensure that the contingency force keeps its war fighting capabilities. General purpose forces tend to become no purpose forces as congressional pork and inter-service politics take their toll. This must not happen in the future.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: RESTRUCTURING OUR STRATEGIC FORCES PACKAGE

President Bush has already created a climate that allows massive reductions in the strategic forces component of the base force package. Our goal should be to work with Russia and the other members of the CIS that have nuclear forces to move towards the goal of no more than 3,000 nuclear weapons on each side as soon as possible.

REEXAMINING OUR NEEDS FOR STRIKE AND STRATEGIC OFFENSIVE FORCES

It is tempting to spell out the details of such a shift, but what is really needed is not more proposals for altering the triad, weapons mixes, or patterns of downloading. What we need is a comprehensive review of what the United States and Russia can realistically accomplish, of the costs and tradeoffs involved, and of the options for United States action and force planning.

We must tailor our cuts in force modernization to a very clear net assessment of Russian actions. We must tailor our cuts in the bomber force to a comprehensive reappraisal of the role the bomber force can play in conventional combat.

The Air Force has raised some interesting ideas in this regard, but there are massive uncertainties in its estimate of the potential lethality of the B-52, B-1B and B-2 in conventional combat that need independent validation by research centers that are not affiliated with the Air Force. This includes evaluation of such key factors as aircraft and weapons performance, sortie generation and sustainment capability, targeting capability

At the same time, equally demanding analysis is needed of the linkages and tradeoffs between bomber and strike fighters. We need to examine how the most realistic bomber road map compares with Navy and Air Force plans to modernize attack and strike fighters. Recent roles and mission studies attempt to resolve these issues on a doctrinal, rather than an analytic basis. They avoid direct examination of tradeoffs between the air fleets of given services, and we lack the resources to tolerate such an approach.

The United States also needs to examine the need for a future triad, and reexamine its strike planning. For example, reducing ICBM's, and emphasizing SSBN's, would eliminate key land targets. At the same time, it would increase force costs and present some problems in terms of the START II agreement. Limiting D-5 modernization and loading could reduce costs, but increase the need for ICBM's. Freezing modernization of the B-1 could save money, but potentially limit some conventional capabilities.

Our goal should not be to make some simple set of program tradeoffs but to find ways we can simultaneously reduce the risk of conflict, first strikes, and total force cost. It may well be possible to reduce such costs of strategic forces by 10 percent more per year if we are successful in working with Russia to reduce the capabilities on both sides. However, we must not take risks with strategic offensive forces.

A BIPARTISAN APPROACH TO ZERO-BASING OUR THEATER AND STRATEGIC DEFENSE FORCES

As for strategic defenses, our program should not be budget or ideology driven, or tied rigidly to the current interpretation of the ABM Treaty. We need to break out of the partisan impasse of the last 5 years, and restructure the entire SDI Program on the basis of a comprehensive reassessment of the need for theater and strategic defenses. The best way to approach this

would be a bipartisan commission, similar to the Scowcroft Commission, that examined all the options involved.

This commission should also look beyond the narrow mandate of ballistic missile defense. It should examine our combined need for ballistic missile, cruise missile, and air defenses. It should examine theater threats, the problem of proliferation, the risk of accidental launch, and options for further deterring any risk of a strategic exchange. It should examine what models of technical and cost risk should drive plans and schedules, and tie the program to a realistic reassessment of potential threats. It should reexamine all our assumptions about space and land based systems, deployment versus R&D activity, and the role each service should play in theater and strategic defense.

It should specifically examine options for cooperation with Russia, rather than treat it as an opponent, and it should examine time frames for the deployment of given types of defenses and the need for continuing research where deployment is not yet indicated. It should examine sea- as well as land-based theater defense options, and it should integrate the analysis of ballistic missile defense options with the analysis of cruise missile and air defenses.

Such an approach might allow us to make substantial near term reductions in the Bush spending plan for SDI. It is unlikely, however, that such reductions would come close to the Draconian, budget-driven cuts proposed by President Clinton. In any case, our program should be based on a zero-based review, founded on the best analysis available, and not on partisan ideology.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: RESTRUCTURING OUR SUPPORTING FORCES PACKAGE

One of the critical flaws in the way the United States now tries to manage strategic change is that it tends to focusing on making tradeoffs among its most useful forces—its combat ready and forward deployed forces—while it ignores the need to reduce the vast mix of support capabilities it maintains in the United States.

It is a strategic fact of life that cutting active and reserve combat and combat support forces threatens our security, but cutting unnecessary overhead, headquarters, support, military bases, and other facilities in the United States does not.

These support capabilities have been reduced as a result of the actions of the Base Realignment and Closing Commission, management review efforts by the Department of Defense, and actions by the individual military services. Many, however, are still vestiges of prior wars or are sized to meet the very different requirements of the cold war era. As Secretary Aspin has admitted in his testimony to the Base Closing Commission, the sum total of our base closings and realignments to date—including every aspect of the 1993 efforts now under examination by the Commission—will close only 15 percent of our domestic bases. This compares with plans to cut or forces by 30–40 percent and to reduce defense spending by 42 percent.

It is almost impossible to believe that we cannot make major further cuts in non-strategic defense activities in the United States if we restructure our current base closing and management efforts to make a comprehensive effort to reduce them by the same share as we reduce our combat forces and defense spending. Such an effort could produce tens of billions in additional savings, and it is important to note that such savings would generally not mean a net loss of jobs or income for most states.

There is a fundamental fallacy in the way the Congress generally treats local interests and pork. It is assumed that every dollar spent or job saved produces a net saving for the State involved. In fact, all that ever happens in an era of declining defense budgets is to trade needed jobs and activities that contribute to our national security for ones that do not.

A given district may benefit from pork, but—in general—preserving unneeded bases and programs simply means cutting the number of active military, needed bases, or defense industry jobs at the same time by roughly the same amount. An honest effort to resize our defense support activities in the United States would produce new base closings and changes in facilities, but it would be counterbalanced by allowing us to preserve larger forces and a larger defense industrial base.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: THE DEFENSE INDUSTRIAL BASE

The defense industrial base is another area that needs bipartisan analysis and planning, and not ideological quick fixes. We cannot afford to try to solve the problem through either industrial Darwinism or planning of a kind that eliminates market forces and competion. We also cannot afford to downsize our industrial base simply to meet our short term needs without considering future risks and the lead times necessary to recreate key defense production capabilities.

The key is to pull together experts from industry, the military services, and academic centers to form a bipartisan task force that will make specific recommendations about both the steps we need to take in the near future and the future management of our industrial base. Such a task force should be set up immediately and provide at least a preliminary report before Congress takes its final vote on the fiscal year 1994 defense budget. It should work closely with the military services and Office of the Secretary of Defense.

Most importantly, it should recognize certain basic strategic realities.

First, the United States must maintain the technology edge it used during Desert Storm. Deployed technology is both a force multiplier and a deterrent, and we must size our RDT&E, procurement programs, and defense industrial base accordingly.

Second, we must not indulge in either over-ambitious procurements, or in focusing on RDT&E efforts that do not reach the troops. We know all too well we cannot count on years of strategic warning to procure the equipment we need. We know from bitter experience that few major systems are ever really combat ready that are not tested and modified by units in the field, and adapted on the basis of realistic training and exercises. We know that nearly half the cost and delays of the learning curve in major programs comes after equipment enters initial full scale production.

Third, we know there are many areas where we will be able to afford only one major center of production capability. We must preserve competition wherever we can, but there are many areas where competition already does not exist. We must plan such centers of excellence and substitute improved government management for a lack of competitive efficiency.

Fourth, while we need to clearly identify the areas where we must preserve a defense industrial base that is separate from the civil industrial base, we also need to move as swiftly as possible to redesign our combat technology and production systems to use civil parts and manufacturing capability in every other area. The only way to achieve future economies of scale, and preserve critical production capability, is to end as much of the separation of the civil and defense industrial bases as possible. This will maximize the strength of competition and our ability to use the free market system.

The last thing we need is partisan debates over the merits of industrial planning versus competition. We need both. We also need to recognize that cost and on-schedule performance must be absolute conditions for going ahead with major programs, not simply strategic need or technical excellence. We must not confuse preserving the defense industrial base with preserving firms that cannot perform or industries that have lost their importance.

STRATEGIC CHANGE IN THE POST COLD WAR ERA: ARMS SALES AND THE PROBLEM OF PROLIFERATION

Finally, we need to recognize that both the United States and other Western states face a world where power projection faces the threat that Third World states will use weapons of mass destruction, and where every advanced conventional weapon that falls into unfriendly hands complicates our ability to project power.

The ongoing process of proliferation in the developing world may well be emerging as a much more serious long term threat than the residual capabilities of the Russian Republic. North Korea, Iran, Iraq, Libya, and Syria already possess significant capabilities for chemical warfare and probably for biological warfare as well. They already have advanced long range strike aircraft and surface-to-surface missiles. India and Pakistan are already nuclear powers, and the most radical states in northeast Asia and the Middle East are seeking nuclear capability as well.

It is one thing to sell advanced conventional weapons to states like South Korea, Singapore, Egypt, Israel, or Saudi Arabia. It is quite another to sell them to states that may stay friendly or neutral, or to states like Iran, Libya, and Syria. We already created one Frankenstein's monster in Iraq. We will have only ourselves to blame if we create another.

We need to recognize that we must both prepare to fight wars where weapons of mass destruction may be used, and that the effort to limit proliferation and the transfer of advanced conventional arms to potentially hostile states has the highest possible strategic priority. Arms control is not the enemy of effective power projection. It is its essential partner, and no analysis of emerging world realities can afford to ignore this.

ACCEPTING THE CONTINUING NEED FOR AMERICAN POWER

There is no way to cost all of the recommendations set forth in this paper. Many require detailed follow-on planning efforts, and many involve complex changes in force structure that are far beyond the simplistic and inaccurate cost models used outside the Department of Defense. It is clear, however, that all of these measures can be implemented for less than the cost of the adjusted Bush program for fiscal years 1993–98. It is also clear that they will cost more than the program advocated by President Clinton.

Such an added investment will be worth far more than its cost. It is easy to counsel retreat and to list the risks of American involvement overseas. It is easy to strip away defense resources in a period of peace. It is much harder to remember the inevitable costs of taking such advice. The fact remains, however, that we need strategy driven force plans and defense budgets. Further, any short term savings we can achieve are almost certain to be more than offset by the costs of our resulting indifference and weakness.

It is all too clear that we are not present at the creation of a new world order—if that is supposed to mean a world where political and economic forces can preserve peace and democracy. In fact, in many ways, the world we face today is very similar to the world that existed when this century began. This is the reason we cannot make the kind of cuts in defense spending now proposed by the new administration without threatening our security. It is the reason such cuts could eventually force us into far higher defense expenditures than if we maintained the level of military capability we need in the first place.

The United States cannot act alone in the world, nor should it oppose the strengthening of international coalitions, arms control efforts, and peace making. Being the world's remaining superpower is not an end in itself. It is only a bridge to the time when cooperation between East, West, and the developing nations of the world can achieve greater security by more peaceful means.

The last thing we should seek is a United States faced with responsibilities it cannot really afford, and thrust into a solitary role that can only mix arrogance with isolation. The United States should limit any power projection role it plays to its own vital strategic interests, or to aiding threatened democracies that cannot defend themselves without American aid.

However, we must not burn our bridge to a secure future before we cross it. An era of limits must not become an era of impotence, and the only thing worse than being the world's only policeman is trying to live in a world with no policeman at all. The emerging realities of the post cold war world are forcing the United States to change its forces and deployments to adopt a new power projection strategy. This is the only way that we can hope to preserve international stability, deter and repel aggression, and buy the time we need to create a more stable world.

POWER OF PROSECUTION

Mr. WALLOP. Mr. President, prior to the Senate's vote to confirm Ms. Janet Reno as the Nation's next Attorney General, the majority leader made some rather curious remarks about our Nation's judicial system.

After discussing Ms. Reno's experience as a prosecutor for the State of Florida, the majority leader spoke generally about "the power of prosecution" in our society.

He stated that "One of the greatest powers in a democratic society is the power of prosecution." Mr. President, this Senator certainly has no quarrel with that particular comment. In any society, the prosecutorial power of the State is formidable.

However, the majority leader subsequently proclaimed that, "The power of prosecution is greatly abused in a democratic society." He also inveighed against the power of prosecution as "The greatest power for which there is little or no accountability."

Mr. President, if the majority leader is truly concerned about the unfettered and unaccountable power of the prosecution in our society, the Senator from Wyoming suggests he turn his attention to the activities of independent counsel Lawrence Walsh. The conduct of Judge Walsh's investigation mirrors perfectly the concerns the majority leader has expressed.

Mr. President, when our judicial system operates within the institutions and the principles set forth by our Founding Fathers in the Constitution and Bill of Rights, there are numerous and powerful restraints on the State's prosecutorial power.

However, when our Government creates offices and empowers officers outside the bounds of these very important strictures, we seriously threaten the core principles upon which this Nation was established. The independent counsel law is one such example.

One of the reasons we place limitations upon the State's prosecutorial power is to prevent it from engaging in witch hunts. Nevertheless, we now have the spectacle of an independent counsel—whose authorization to exist expired December 15 of last year—continuing to pursue alleged villains with reckless abandon. Of course, to date, Judge Walsh's efforts to convict the individuals he has hounded have proven quite unsuccessful. Perhaps it is due to frustration that his office's investigation has taken on the appearance of a vendetta.

But Mr. President, it is for just such an eventually that we have institutional constraints and constitutional protections.

The majority leader emphasized the need for accountability among those vested with the power of prosecution. Does it not trouble him that until last year the General Accounting Office had failed to conduct an audit of Judge Walsh's Office, in operation since 1987, as required by law?

This despite the fact that Judge Walsh's expenditures to date—nearing the $40 million mark—account for roughly 90 percent of all the money spent by independent counsels since 1978. Does it not bother the Senator from Maine that when the GAO audit was finally conducted, a number of improprieties were discovered, including:

The failure of Walsh and his chief deputy, Craig Gillen, to pay District of Columbia income taxes while living and working in the city;

The improper billing to the taxpayers of 78,000 dollars' worth of meals and lodgings;

The improper billing of first-class air travel;

The improper leasing by Walsh of a Government vehicle for transportation between his office and Washington residence;

The granting of excess leave credit without written justification. As of

March 30, 1992, 30 employees had reportedly accrued 5,300 hours of leave time; and

A number of other financial and ethical misdeeds.

If practices such as these trouble the majority leader—and they should—then he ought to be even more appalled that the GAO agreed to waive—yes, waive—the applicable Federal pay and procurement standards with respect to the operation of Judge Walsh's office.

That's right. Having been informed that these activities violated Federal guidelines, Judge Walsh asked for, and was granted—yes, granted—by GAO, an exemption from applicable Government rules. In effect, Judge Walsh has been pardoned; he cannot be held accountable for his activities. To make matters worse, not only has Judge Walsh's office been granted a waiver from applicable Government regulations for its past actions, it has also been notified it need not comply with some of the same rules for the remainder of its investigation. How preposterous. What American citizen can expect the same absolution?

Perhaps the majority leader could explain to the Senator from Wyoming and the American taxpayer how such waivers and exemptions fulfill his notion of accountability.

As the evidence of Judge Walsh's financial and political intemperance mounts, it becomes ever more clear how dramatically Congress erred when it created the Frankenstein monster known as the independent counsel law.

With the authorization for the law having expired, one would hope that this monster, having met a timely demise, would be laid to rest for good. However, as in the many sequels to the classic horror film, some mad scientist always takes it upon himself to resurrect the hideous creature hoping to tame him once and for all.

It should come as no surprise then that the Judiciary Committee in the other Chamber recently, after issuing bipartisan criticism of Judge Walsh and his office's conduct, voted along party lines to revive the independent counsel law. Can similar action in the Senate be far behind?

So, Mr. President, if the majority leader is truly distressed about malicious and overzealous prosecution, about the lack of accountability among prosecutors, and about prosecution with a political agenda, he will have an excellent opportunity to confront these problems if and when some of our colleagues attempt to revive the independent counsel legislation.

This Senator would be happy to work with the Senator from Maine to prevent that from happening.

Mr. President, I yield the floor.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 64

Mr. DORGAN. Mr. President, I rise to support the conference report on House Concurrent Resolution 64, the budget resolution for fiscal year 1994 and succeeding years, because it embodies fundamental economic change that this country direly needs.

This compromise resolution requires that we take some tough medicine to help cure our budget deficit problems. But we must not shrink from doing so because the American people expect no less.

The conference report sets forth the biggest deficit reduction package in our history. The $500 billion cut in red ink will help to ensure both that deficits do not undermine the foundations of our Government and that they do not cripple economic growth.

The spending cuts and tax increases required by this legislation will create some pain in sectors throughout our Nation. President Clinton said that this sacrifice should be fairly shared. And that's as it should be.

I have worked to see that those most able should shoulder the biggest burden of sacrifice. I have also sought equity in the plan so that rural America received fair treatment.

I am pleased to report that the resolution before us does indeed assume that the wealthy will bear the largest burden of tax increases. Under the Clinton plan, two-thirds of the revenue increases would fall on taxpayers with incomes over $100,000. Meanwhile, the resolution assumes full funding for programs that help fight poverty, such as WIC, Head Start, Child Immunization, and the Mickey Leland Hunger Program.

Moreover, the Clinton Administration has cooperated with me and other colleagues to put deficit reduction for agriculture and rural America at the same relative level as for other sectors. We achieved this result by retaining the Senate's budget level for agriculture, which was $3.2 billion higher than the House proposal over 5 years. This compromise softens the impact on agriculture and gives us room to design a decent price support program and to make sound reforms in the Agriculture Department.

The President has also agreed to exempt ethanol from the Btu tax and to fix the problem that tax might have created for the Dakota Gasification Plant. The conference agreement also recognizes that agriculture and energy-producing States should not bear a disproportionate share of the Btu tax. It further affords some flexibility in adjusting grazing fees so that ranchers are not unfairly penalized.

May I also add that this budget achieves savings through prudent reductions in Government overhead and defense spending. We can do so as a result of Federal management reforms and the end of the cold war, respectively. Reining in wasteful and unneeded spending can enable us to invest in such priorities as education, health care, and transportation systems. Prior administrations have neglected these needs and I commend President Clinton for turning the spotlight back on them.

In a word, this budget meets the twin tests of economic change and fairness. It charts a path toward economic competitiveness and deficit reduction. It asks my constituents in North Dakota to make a meaningful contribution to deficit reduction, but does not ask them to bear an unfair burden compared to other regions of the country. That is why I intend to vote for the conference report on the fiscal year 1994 budget resolution.

EXECUTIVE SESSION

NOMINATION OF STROBE TALBOTT, OF OHIO, TO BE AMBASSADOR AT LARGE AND SPECIAL ADVISER TO THE SECRETARY OF STATE ON THE NEW INDEPENDENT STATES

The PRESIDING OFFICER. Under the previous order, the question is on the confirmation of Strobe Talbott.

Mr. DOLE. 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.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Strobe Talbott, of Ohio, to be Ambassador at Large and Special Adviser to the Secretary of State on the New Independent States?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. KRUEGER] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 99 Ex.]

YEAS—89

Akaka	Chafee	Feingold
Baucus	Coats	Feinstein
Bennett	Cochran	Ford
Biden	Cohen	Glenn
Bingaman	Conrad	Graham
Bond	Coverdell	Gramm
Boren	D'Amato	Grassley
Boxer	Danforth	Harkin
Bradley	Daschle	Hatch
Breaux	DeConcini	Hatfield
Brown	Dodd	Heflin
Bryan	Dole	Hollings
Bumpers	Domenici	Inouye
Burns	Dorgan	Jeffords
Byrd	Durenberger	Johnston
Campbell	Exon	Kassebaum

Kennedy	Mitchell	Rockefeller
Kerrey	Moseley-Braun	Roth
Kerry	Moynihan	Sarbanes
Kohl	Murkowski	Sasser
Lautenberg	Murray	Shelby
Leahy	Nickles	Simon
Levin	Nunn	Simpson
Lieberman	Packwood	Specter
Lugar	Pell	Stevens
Mack	Pressler	Thurmond
Mathews	Pryor	Warner
McConnell	Reid	Wellstone
Metzenbaum	Riegle	Wofford
Mikulski	Robb	

NAYS—9

Craig	Helms	McCain
Faircloth	Kempthorne	Smith
Gorton	Lott	Wallop

NOT VOTING—2

Gregg	Krueger

So the nomination was confirmed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on committee substitute to H.R. 1335, the emergency supplemental appropriations bill:

Harlan Mathews, Dianne Feinstein, Barbara Boxer, Jeff Bingaman, Bob Kerrey, Barbara A. Mikulski, Robert C. Byrd, Pat Leahy, Frank R. Lautenberg, Wendell Ford, David Pryor, Carol Moseley-Braun, Tom Daschle, John D. Rockefeller IV, Jim Sasser, Bill Bradley, Patty Murray.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the committee substitute to H.R. 1335, the emergency supplemental appropriations bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. KRUEGER] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

The yeas and nays resulted—yeas 55, nays 43, as follows:

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—55

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

NAYS—43

Bennett	Faircloth	Murkowski
Bond	Gorton	Nickles
Brown	Gramm	Packwood
Burns	Grassley	Pressler
Chafee	Hatch	Roth
Coats	Hatfield	Shelby
Cochran	Helms	Simpson
Cohen	Jeffords	Smith
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Lott	Thurmond
Danforth	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	
Durenberger	McConnell	

NOT VOTING—2

Gregg	Krueger

The PRESIDING OFFICER. On this vote, there are 55 yeas and 43 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. MITCHELL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will not proceed until the Senate is in order. All those wishing to converse, please take their conversations to the cloakroom.

The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Republican leader be recognized to use his leader time; that following his remarks I be recognized to use my leader time; and that following my remarks, the Senate stand in recess subject to the call of the Chair.

Mr. BYRD. Mr. President, reserving the right to object, I do not intend to object, I hope we will know before the day is over what time tomorrow we will come in.

Mr. MITCHELL. Mr. President, we will.

Mr. BYRD. I thank the leader.

Mr. GRAMM. Will the distinguished Senator yield?

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, I will not object, I simply would like to ask a question.

If we come in tomorrow to vote on cloture, will we have an opportunity tomorrow to offer amendments?

Mr. MITCHELL. I will discuss that with the distinguished Republican leader during the evening. Obviously, if the request is accompanied with a list of amendments and a time certain for voting on the bill, it will be very carefully and sympathetically considered and reviewed. We will be happy to discuss that with the Senator from Texas and the distinguished Republican leader and others following discussions.

Mr. GRAMM. I just say to the distinguished majority leader, I have amendments to this bill that I think are relevant. I am eager to offer them. If we are going to be in anyway, I would like to get that opportunity.

Mr. MITCHELL. If we can get a list of amendments and a time certain for vote up or down on the bill, and the Senator would like to help us in that regard, obviously we will be pleased to consider that.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object,

Mr. MITCHELL. Mr. President, I ask that prior to the statements by the distinguished Republican leader, and myself, that the Senator from Iowa be recognized for up to 3 minutes to deliver a eulogy on former Representative Schwengel from Iowa.

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

TRIBUTE TO FRED SCHWENGEL

Mr. HARKIN. Mr. President, today is a very sad day for me and the State of Iowa and for Americans everywhere. As the Chaplain already mentioned in his opening prayer last night, a good friend of mine, former Congressman from the State of Iowa, Fred Schwengel, died after a long bout of illness.

History tells us that on the day John F. Kennedy died, a tailor in New York put a sign on the door that read, "Closed Due to a Death in the Family." That is the way I feel today—it is like we had a death in the family.

Fred was born and raised in Iowa. Many of this body knew him personally, as well as his wife Ethel, who survives him, as well as two children, five grandchildren, and one great-grandchild.

In fact, Mr. President, it was just a little over a month ago that Fred cele-

brated the birth of his great-grandson. His granddaughter-in-law, Betsy Schwengel—who is a member of my staff—gave birth to a bouncing baby boy, Riley Kenworth Schwengel. And I'll tell you, Fred was proud of that great-grandson.

He was a progressive Republican who served for eight terms in the U.S. House, and five terms in the Iowa Legislature. I knew Fred for over 30 years, In fact, I probably would not be here in the Senate today if it were not for Fred Schwengel. My first experience in Washington was as an intern in a program set up by Fred Schwengel to bring both Republican and Democratic young Iowans to Washington, DC, to intern for the summer.

As we all know, one of Fred Schwengel's true loves was history. He was both a teacher and a historian. Back in 1962, Fred Schwengel founded the U.S. Capitol Historical Society. He served as its president until 1992, and was chairman of the board until his death. We've all seen him leading guiding tours through the Capitol, talking about the institution that he loved. He enriched our lives and our understanding of this building.

Fred used to tell me that "sometimes he wanted to say to those who are still in school, and who think that history is a dry thing that lives in a book: nothing is every lost in this building." And if you walk through the Capitol rotunda today and listen closely, you can still hear Fred leading a group of students through and point to the paintings or to the center of the rotunda, and saying "that is where the body of Abraham Lincoln layed in State."

As any Senator can attest whoever went on a tour with Fred Schwengel that it was a real treat to go on the tour of the Capitol with Fred Schwengel.

He loved history and approached it as both a romantic and a realist. He could quote from the Lincoln-Douglas debates easily. In his love and support of America's historical treasures, Fred Schwengel himself became a national treasure.

He was probably on of the foremost scholars of the Capitol in the world. He also wrote a book on the history of the Republican Party. I would say that Fred Schwengel is probably the only person who could get me to talk about the history of the Republican Party on the floor of the U.S. Senate.

I recommend it to everyone, both Republicans and Democrats. But, Mr. President, I would like to read just one paragraph from Fred Schwengel's book on the history of the Republican Party. I recommend it. It is a wonderful book.

This is what Fred Schwengel wrote about the Republican Party—actually about America.

I believe that moderation is a virtue—especially in a democracy of contending interest—and that extremism is a divisive vice. My reaction in 1964 led me to conduct research on political moderation. I have come to the conclusion that moderation is to be recommended above all political philosophies because it will alone recognizes the common fate and aspirations of all human beings; it alone understands the influences that drive people to extremes; and, finally, moderation alone respects the sacredness of humanity. Moreover, I have discovered that the Republican Party has a heritage of moderation. Lincoln, far from being the radical, was a moderate who followed Ben Franklin's advice to "avoid extremes."

Fred Schwengel was, indeed, one of the individuals who influenced me to go into politics. I always kidded that he got me involved in government but could never make me a Republican. He was a dearly beloved figure, one of the closet friends I had in my lifetime. He was a credit to his country and a credit to the U.S. House of Representatives, a credit to the Capitol.

The last time I worked with Fred was about 6 months ago. He has just successfully worked to set up the Harry S. Truman Program for the importance of history at Northeast Missouri State University. They were having a dinner and he asked me to send a letter.

In that letter, I wrote that "in the long history of the world, mankind has pondered whether people make history or history makes people. Harry Truman reminded us that people do indeed make history—but it's up to all of us to make sure that that history is never forgotten."

Mr. President, I think the same may be said of Fred Schwengel. Thomas Carlyle once said that "history is the biography of great people." Fred Schwengel was a great person, he was a great friend, and a credit to this institution. He lived a long and full life, and he left his mark. And we are all going to miss him.

Mr. President, I yield the floor.

Mr. MITCHELL. I ask unanimous consent that the Senator from Virginia be recognized for up to 5 minutes to submit a resolution unrelated to the pending bill.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. I thank the Chair.

(The remarks of Mr. ROBB pertaining to the submission of Senate Resolution 92 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Republican leader is recognized.

ALTERNATIVE ECONOMIC STIMULUS PACKAGE

Mr. DOLE. Mr. President, there has been a lot of double-talk lately about this so-called jobs bill.

Well, let me tell the American people exactly what this bill really stands for: It stands for everything the American people voted against last year; it is everything they detest about Washington—big deficits, big spending, and big promises from a Congress that still refuses to exercise a little discipline when it comes to spending the taxpayers hard-earned dollars.

That is not change. That is short-changing the American people. If you are looking to stimulate the deficit, vote for this bill.

Of course, this is not a jobs bill. Oh, it does provide some temporary make-work jobs, but there is nothing in this package that will create longterm job opportunities for Americans looking for real jobs and real hope.

Some of the double-talk we've heard lately has also tried to describe this bill as some kind of emergency. Well, it is an emergency—it is an emergency for the taxpayers; and it is an emergency for our economy, which cannot take any more deficit spending by the White House and Congress.

In my opinion, a vibrant private sector will create far more good, lasting jobs than the President's plan to send a $19 billion IOU to future generations of Americans.

The clever salesmen behind this plan's false advertising have also tried to hide the truth behind the gridlock gimmick.

Well, let us make one thing clear—when it comes to wasting another $19 billion, the American people are counting on gridlock to save them from the tax and spend crowd that cannot wait to get their hands on the taxpayers' wallets.

However, while my Republican colleagues and I have serious problems with much of the President's package, we are ready to offer an alternative plan that contains the better elements, and saves the taxpayers from having to pay for all those swimming pools, gymnasiums, and that infamous ice skating warming hut.

Our plan includes support for unemployment benefits, summer jobs, immunization, and highway and mass transit funding. These five items are all either time-sensitive, genuinely create jobs, or are legitimately needed.

This leaner, meaner alternative puts the Government on a healthier diet by cutting out the pork and the fat—no pork, no political favors, no fooling around with the taxpayers dollars. I hope my Democratic colleagues will embrace this package. Forget the gridlock gimmick what we have here is greedlock, the wasteful pork barrell proposals that have put this terrible bill in jeopardy, which is exactly where the American people are hoping we put it.

Our alternative supports summer jobs, immunization, highway and mass transit funding—and here is the best part—and it pays for them with across-the-board cuts in Government administrative costs. It is a fair and equitable way to pay for programs.

It is regrettable that funding to extend unemployment compensation will not be offset elsewhere in this amendment. That is because the most recent extension bill passed by Congress considers all funding to extend unemployment benefits emergency spending. I voted against this approach, but in this case, I have little choice but to abide by the statute passed by the majority of my colleagues.

Let us face it, dialing the legislative equivalent of "911" has become a major loophole that needs to be closed. Everyone in this Chamber knows that simply slapping the emergency label on clearly questionable spending in a supplemental appropriations bill will not stop it from adding to the deficit. If we need something, we should be honest enough to pay for it within the spending caps set in the 1990 budget agreement.

The American people are demanding change and an end to business-as-usual. What better way to give it to them than by paying for new spending rather than taking the easy way out and jacking up the deficit.

Mr. President, it had been my intention yesterday to offer an amendment. I still hope I may have an opportunity to do this, if not tomorrow, some time next week.

I want to discuss what the amendment would do. We have all heard the debate on what the entire bill will do and whether or not it is a stimulus package and what the American people want.

I know one thing they do not want are big deficits, big spending, and big promises from the Congress that refuses to exercise very much discipline when it comes to spending the taxpayers' money. It just seems to me that we have voted and demonstrated that we do have an impasse here. Some would call it gridlock; I call it porklock. Call it what you will. There is a big difference of opinion on what we ought to do.

Some would say this is an emergency bill, and some would categorize it as an emergency for the American taxpayer, that we ought to halt this bill in its entirety, because it is an emergency for the taxpayers and for our economy.

Many of us believe we just cannot continue to pile up deficit spending and say do not worry about it, it is not that much money, and add it to the deficit. In the opinion of many in this country, including Republicans or Democrats, the best recovery will come from the private sector, from lasting jobs and not make-work, short-time summer jobs, whereever it may be.

So it seems to me that we will have a lot of debates in the next 2 or 3 days.

To summarize, I do not think there is any dispute about the unemployment compensation, about that $4 billion. We have already voted on that. It has already been authorized. So there is no dispute about the $4 billion. I think we would be prepared—at least I would be; I cannot speak for all of my colleagues—to put in additional sums for summer jobs, immunization, highway and mass transit funding; in other words, complete this fiscal year, and this would be outlays. The total would be $350 million, plus the $4 billion that is not paid for, the unemployment compensation; we would pay for the $350 million.

This leaner and meaner alternative puts the Government on a healthier diet. We cut out a lot of the areas that we do not think are necessarily job-creating.

I hope that there might be some opportunity to offer the amendment. I am not under any illusion that it might be passed. But it might set the stage—if there is any way of working out something here in the next few days—for at least sending a signal that we are just as sensitive, we believe, as Members on the other side of the aisle when it comes to some of these programs. We just have a basic difference. We think they ought to be paid for.

We believe they can be paid for. If we did it on a pay-as-you-go basis, there would be considerable support on this side of the aisle.

So we pay for it with the across-the-board cuts in Government administrative costs. It is fair and it is a fair way to pay for it. When you ask the American people who ought to sacrifice, they say the Government. They do not see the Government sacrificing. We just passed a big, big tax bill called an economic package, but we do not see the Government making any sacrifice. So it would seem to me that we can at least make a step in the right direction.

It is regrettable, in my view, that we are going to extend unemployment compensation without paying for it, but we have already been through that. I voted against it because we did not pay for it. In this case we have little choice but to abide by the statute, so let us fact it. I think this would give us an opportunity to at least take a look at whether or not there is any way we can figure our way out of this impasse. If not, then I assume we will be on this bill for a considerable amount of time.

I hope that sometime tomorrow or sometime on Monday I will be offered an opportunity to offer this amendment because I think it should be voted on. It is relevant, it is germane, it does deal with the specific issue before us, and it would offer some degree of relief, not as much as some would like, but it does go into the areas where we think there are job opportunities, at least some relationship, and funds those programs for the fiscal year 1993. In my view the Appropriations Committee will find ways to fund the programs in 1994, 1995, 1996, and thereafter. Why not pay for what we do? That seems to me a fairly responsible approach. It is the one the American people want when they tell us to cut spending first. If we are not going to cut it, as least we ought to pay for it. In my view, that is a very responsible position to have. I wanted to state that I hoped to offer this amendment yesterday afternoon, but I had a matter I had to attend to and was not here and able to do that.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD.

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

In the pending substitute, on page 28, line 22, [sec. 201] strike the period and insert ": *Provided*, That no appropriations contained in this act may be made available for obligation except (1) all of the additional amounts under the heading "Training and Employment Services" under the heading "Employment and Training Administration" under the Department of Labor, (2) all of the additional amounts under the heading "Advances to the Unemployment Trust Fund and Other Funds" under the Department of Labor, (3) all of the additional amounts under the heading "Office of the Assistant Secretary for Health" under the heading "Assistant Secretary for Health" under the Department of Health and Human Services, (4) all of the additional amounts under the heading "Federal-Aid Highways (Liquidation of Contract Authorization) (Highway Trust Fund)" under the heading "Federal Highway Administration" under the Department of Transportation and Related Agencies", (5) and all of the additional amounts under the headings "Formula Grants", "Discretionary Grants", and "Trust Fund Share of Transit Programs (liquidation of contract authorization) (Highway Trust Fund)" under the heading "Federal Transit Administration" under the Department of Transportation and Related Agencies."

PAY-AS-YOU-GO PROVISIONS

(A) Of the amounts provided in previous fiscal year 1993 appropriations acts and available budget authority under previous appropriations acts, such amounts of budgetary resources are rescinded so as to equal $350,000,000 in outlays as provided in subsections (B) and (C).

(B) The Director of Office of Management and Budget shall make uniform percentage reductions in budget authority in Federal agency administration expenses, except that no reductions shall be made in current rates of pay under current law.

(C) For the purposes of this section, Federal agency administration expenses are defined as object classes 10 (excluding object classes 12.1, 12.2 and 13.0), 20 (excluding object class 23.1), and 30.

(D) To the extent budgetary resources are not provided in appropriations acts, the Director shall make the same uniform percentage reduction as required in subsection (B) in Federal administrative expenses as determined in section 256(H) of the Balanced Budget and Emergency Deficit Control Act of 1985.

STRIKE EMERGENCY PROVISION

On page 28, strike section 202.

Mr. DOLE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, what the American people want are jobs and an end to gridlock, and end to the politics of the past which has tied this institution and this country in knots and not permitted the kind of change in progress for which the American people voted in November. The rate at which new jobs are being created coming out of this recovery is only one-tenth the rate at which jobs have been created in previous recoveries.

The economic news today indicated that in the last month, rather than an expected 100,000 increase in jobs, the economy suffered a decrease of 22,000 jobs with very large decreases in manufacturing. I say to my colleagues, the most pressing need in America today is the creation of jobs, and this is a jobs bill, which is intended to and will create jobs. A vote against this bill is a vote to deny Americans the 500,000 jobs which would be created by this bill. That is the central issue.

What Americans also want is an end to gridlock, an end to what has occurred over the past 7 days in which a majority favoring the bill, which is an important part of the President's program, is denied the right to vote on the bill because a minority, acting within their rights under the rules, has denied that right. All of us at one time or another have exercised the rules to our favor. We all recognize that fact. But in this case, a new President has presented a comprehensive economic program which will reduce the budget deficit by $496 billion over the next 5 years, and those who say they want to reduce the deficit voted against the President's deficit reduction program.

This bill is a part of the whole. President Clinton was elected to change the economic policies that the previous administration followed. He offered a comprehensive economic program for change and job creation and deficit reduction. Our opponents, our colleagues, want to continue the failed policies of the past. We want to change those policies. That is the essential difference that confronts us here today.

Now the effort to defeat and embarrass the President is focused on picking his program apart piece by piece, first in opposing the deficit reduction of $496 billion and then opposing the job-creating program on the contention that it does not reduce the deficit even though those making that argument voted against the deficit reduction program which we just adopted in the budget resolution.

It is opposing every part of the President's program on a piecemeal basis. The American people understand that the President's program is a complete program, an integrated economic whole, and it makes sense. The pressing need now is job creation so the first step is to create 500,000 jobs with this jobs bill.

In order to sustain economic growth over the coming 5 years, it is necessary to bring the deficit down, so the President's program does that by a combination which includes $223 billion in spending reductions and $273 billion in revenue increases, every dollar of which will go to reduce the deficit.

Viewed as a whole it makes sense. But under the rules of the Congress we cannot vote on it as a whole. We must vote on it piece by piece, and that enables our colleagues, first, to oppose the deficit reduction plan and then to oppose the jobs bill on the grounds that it does not reduce the deficit.

I think the American people understand the issue at stake here. President Clinton has been in office for just over 2 months. Are we the Congress, going to give our new President a chance to get his program started? Or are we going to block the President? Are we going to give the President the chance to do what he was elected to do—change the economic policies of this country? Or are we going to try to block the President? Are we going to give President Clinton the opportunity to demonstrate to the American people that they were right when they elected him last year to change the economic policies? Or are we going to try to block the President? That is what is at stake here.

I regret the vote that just occurred. I understand it. I respect each and every one of my colleagues, and I surely respect my good friend the distinguished Republican leader. We do have a fundamental difference of opinion on how best to approach this.

I wish to address just briefly the subject of amendments. We have been told that there are unlimited amendments to be offered by the other side. Several Senators have suggested that it is inappropriate that they not be allowed to offer amendments. Mr. President, we have been on this bill for 7 days. Where were they when they had the opportunity to offer amendments earlier? Second, I have made it clear that if our colleagues will give us a list of amendments that they want to offer and a specific time when we can vote on this bill up or down when those amendments are completed, surely we will consider them. But when the suggestion is made that "we want to offer amendments" and they are unlimited in number and they refuse to give any time for final action on the bill, then it is clear that this is a filibuster by amendment.

So everyone should understand that. If we can get an agreement on what amendments are going to be offered and we can vote on this bill up or down at some point, why, then of course the amendments will considered.

Mr. President, in conclusion I say I regret the result of the vote. I understand it. I respect the arguments presented by my friend and colleague. We disagree, as we often do, not in a disagreeable way. I believe the President's program is right for the country. I believe the American people elected him to put this policy into effect, and I believe this Senate ought to give him that chance.

Mr. President, I reserve the remainder of my time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, I do not want to extend this and I certainly do not want to quarrel with my good friend, the majority leader. But I am compelled to indicate that, as of last night, the Democrats have used 24 hours and 6 minutes and the Republicans have used 10 hours and 58 minutes.

I think when you look at the time that has been allotted to the two sides, it is very clear where most of the debate has been coming from. So it has not been an effort on this side to hold up this legislation.

Every time I hear this about gridlock, I think back to 1985 when I was the majority leader. At 2 o'clock in the morning, we finally passed a budget—a tough budget—by a vote of 50 to 49. One Democrat was in that group of 50, the late Ed Zorinsky from the State of Nebraska.

We had not learned about gridlock then. I guess we knew what it was, but we had not been able to define it.

So when I look at back at 1985—and we were not raising taxes; we were cutting spending and making a lot of tough decisions—I could not encourage or persuade any but one of my colleagues on the other side to vote with us.

I agree with the majority leader—and I will address this more maybe tomorrow—about how we use the rules and how some say we abuse the rules.

I remember when we had a brandnew President—his name was George Bush—in 1989. He had an economic plan. The key element of that plan was reduction of the capital gains tax rate.

A strange thing happened. We had some parliamentary maneuver worked out so it took 60 votes. We had a majority, but we could not get 60 votes. That went on for 4 years. You talk about gridlock. This is nothing. That lasted for 4 years. Never could get a vote on the capital gains tax rate reduction, which would have done a lot for the economy. Maybe we would not be here today if we had passed that part of President Bush's economic package.

So there are a lot of parallels.

At the same time, the two leaders, we disagree from time to time, but we are never disagreeable. We have to make this place run and we hope we can continue to do that.

But there is, I think, a basic difference in philosophy. We believe we ought to pay for what we spend. That is the only point we are trying to make.

I hope we can work out some agreement on amendments. We have a number of relevant, germane amendments on this side that we would like to offer. We hope that is a possibility.

The majority leader has left the door open—slightly. You cannot get through it, but we can see through it. But, in any event, we will be working on that.

So I just say to my colleagues, we appreciate your patience. We hope it is as good on Wednesday as it is this evening.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, the Senate, at 6:02 p.m., recessed subject to the call of the Chair; whereupon, at 7:40 p.m., the Senate reassembled, when called to order by the Presiding Officer [Mr. PELL].

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 1335) making emergency supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator majority leader.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on committee substitute to H.R. 1335, the emergency supplemental appropriations bill:

Wendell Ford, Pat Leahy, Patty Murray, Barbara Boxer, George Mitchell, Daniel Inouye, Dianne Feinstein, Claiborne Pell, Robert C. Byrd, David Pryor, Jim Sasser, Tom Daschle, Paul Sarbanes, John F. Kerry, John Glenn, Byron L. Dorgan, Paul Wellstone, Carol Moseley-Braun.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 63, James B. King to be Director of the Office of Personnel Management; Calendar No. 65, Eugene Allan Ludwig to be Comptroller of the Currency.

I ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

OFFICE OF PERSONNEL MANAGEMENT

James B. King, of Massachusetts, to be Director of the Office of Personnel Management for a term of 4 years.

DEPARTMENT OF THE TREASURY

Eugene Allan Ludwig, of Pennsylvania, to be Comptroller of the Currency for a term of 5 years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

SENATE LEGAL COUNSEL TO APPEAR AS AMICUS CURIAE

Mr. MITCHELL. Mr. President, I send to the desk a resolution to direct the Senate legal counsel to appear as amicus curiae in the name of the Senate in a case pending in the U.S. Court of Appeals for the Sixth Circuit, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 93) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in *United States ex rel. Taxpayers Against Fraud, et al.* v. *General Electric Company.*

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, by Senate Resolutions 104, 117, 160, and 289 of the 101st Congress, and Senate Resolutions 287 and 343 of the 102d Congress, the Senate authorized the Senate Legal Counsel to file briefs as amicus curiae in the name of the Senate in defense of the constitutionality of the qui tam provisions of the False Claims Act. The provisions in question authorize private plaintiffs to initiate civil lawsuits against contractors who have defrauded the Government and, as an incentive for such actions, to share a portion of funds recovered on the Government's behalf.

The Government contractors, who have been the defendants in these cases, have advanced two challenges to the constitutionality of the False Claims Act. First, they maintain that authorizing private individuals to initiate civil litigation in the name of the United States violates the constitutional separation of powers and infringes upon the executive branch's law enforcement responsibilities. Second, they argue that the qui tam provisions of the act violate the standing requirement of article III of the Constitution.

All the district courts that have addressed the constitutional issues, and recently the U.S. Court of Appeals for the Second Circuit, have rejected challenges to the act's constitutionality. Appeals on the constitutionality of the act will soon be heard by the U.S. Court of Appeals for the Ninth Circuit.

The qui tam provisions of the False Claims Act have also come under challenge by the defendant in United States ex rel. Taxpayers Against Fraud, et al. versus General Electric Company, which is now pending in the U.S. Court of Appeals for the Sixth Circuit. As with the prior cases, the Department of Justice has not appeared in the litigation to defend the constitutionality of the qui tam provisions of the act. We understand that the Department is reviewing its position on this issue, and look forward to an early decision by it to defend the constitutionality of this significant tool to protect the Government against fraud. While the issue is under review by the Department, it remains important for the Senate to continue its defense of the law.

Accordingly, this resolution authorizes the Senate Legal Counsel to appear in this case as amicus curiae on behalf of the Senate to defend the constitutionality of the qui tam provisions of the False Claims Act. Senate Counsel will not be addressing other issues between the parties in the appeal.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 93

Whereas, in the case of United States ex rel. Taxpayers Against Fraud, et al. versus General Electric Company, Nos. 92-4283 and 93-3015, pending in the United States Court of Appeals for the Sixth Circuit, the constitutionality of the qui tam provisions of the False Claims Act, as amended by the False Claims Amendments Act of 1986, Pub. L. No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. 3729, et seq. (1988), have been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act

of 1978, 2 U.S.C. 288b(c), 288e(a), and 2881(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of United States ex rel. Taxpayers Against Fraud, et al. versus General Electric Company to defend the constitutionality of the qui tam provisions of the False Claims Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEDICATION OF THE U.S. HOLOCAUST MEMORIAL MUSEUM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 76, a joint resolution concerning the dedication of the U.S. Holocaust Memorial Museum; that the Senate then proceed to its immediate consideration, that the joint resolution be deemed read three times, passed, and the motion to reconsider laid upon the table and the preamble be agreed to.

The PRESIDING OFFICER. Without objection is so ordered.

The joint resolution was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 76

Whereas, in 1980, the Congress of the United States established the United States Holocaust Memorial Council (Public Law 96-388, dated October 7, 1980) by unanimous vote and mandated it with the creation of a permanent living memorial museum to the victims of the Holocaust;

Whereas, through the great generosity and unstinting efforts of thousands of individuals from all walks of life, the United States Holocaust Memorial Museum has now been built on Federal land with private contributions and will be officially dedicated on April 22, 1993;

Whereas this institution will underscore the ideals of human rights and individual liberty this Nation was founded upon, as expressed by President George Washington in 1790, when he declared that the United States had created "a government which to bigotry gives no sanction, to persecution no assistance";

Whereas four administrations and every Congress since 1980, and especially Members of Congress and individuals who have served on the Council and officials of the United States Departments of State, the Interior, and Education, have joined with the American public in bringing this institution to life; and

Whereas this museum signifies national dedication to remembering the Holocaust and will serve as the Nation's leading educational facility to teach current and future generations of Americans about this tragic period of human history and its implications for our lives and the choices we make as individuals and societies against crimes based on hate and prejudice regarding race, religion, and sexual preference: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the One Hundred Third Congress officially commemorates the opening and recognizes the historic importance of this unique institution as it takes its place among the other great memorials and museums in our Nation's Capital that honor the democratic precepts this Nation is based upon; and be it further

Resolved, That Congress encourages all citizens of the United States, and all who come to Washington, District of Columbia, to visit the Museum and avail themselves of the opportunities presented within its walls to learn about the past and to contemplate the moral responsibilities of citizenship; and be it further

Resolved, That in remembrance of those who perished in the Holocaust; in tribute to the survivors who came to the United States to build a new life, and who, with their families, have contributed so much to the fabric of our diverse society; in recognition of heroic American soldiers who liberated prisoners of Nazi camps; in recognition of the anonymous bravery of rescuers from many lands who had the courage to care and placed their own lives in peril to help others in need; and in hope that Americans will learn from this museum the need to remain vigilant against bigotry and oppression; we welcome the United States Holocaust Memorial Museum to the center of our American heritage and state now, in recognition of the Museum's motto, that for the dead and the living and those yet to be born, we do bear witness.

DEDICATION OF U.S. HOLOCAUST MEMORIAL MUSEUM

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 156, a House companion joint resolution, just received from the House; that the joint resolution be deemed read three times, passed, and the motion to reconsider laid upon the table; and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection it is so ordered.

The joint resolution was deemed read a third time and passed.

The preamble was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Edwin R. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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-708. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report for fiscal year 1992; to the Committee on Commerce, Science and Technology.

EC-709. A communication from the Employee Benefits Manager, transmitting, pursuant to law, notice of information on the retirement and thrift plans, and financial statements for the period ending August 31, 1992; to the Committee on Governmental Affairs.

EC-710. A communication from the Acting President of the United States Institute of Peace, transmitting, a report of the audit for fiscal year 1992; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. 766. An original bill to provide for a temporary increase in the public debt limit.

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. DANFORTH (for himself, Mr. EXON, Mr. LAUTENBERG, and Ms. MIKULSKI):

S. 738. A bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers; to the Committee on Commerce, Science, and Transportation.

By Mr. BUMPERS:

S. 739. A bill to amend the Internal Revenue Code of 1986 to simplify the limitation on using last year's taxes to calculate an individual's estimated tax payments; to the Committee on Finance.

By Mr. COHEN:

S. 740. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority and certain tax expenditure repeals; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committees have thirty days to report or be discharged.

By Mr. BREAUX:

S. 741. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 742. A bill to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 743. A bill to require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes; to the Committee on the Judiciary.

S. 744. A bill to provide for drug-testing of Federal prisoners on release from prison; to the Committee on the Judiciary.

S. 745. A bill for the relief of Hardwick, Inc; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 746. A bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for stage 3 aircraft; to the Committee on Finance.

By Mr. ROTH:

S. 747. A bill to suspend temporarily the duty on Pigment Red 254; to the Committee on Finance.

S. 748. A bill to extend the temporary suspension of duty on 7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene; to the Committee on Finance.

S. 749. A bill to suspend temporarily the duty on Pigment Blue 60; to the Committee on Finance.

S. 750. A bill to suspend temporarily the duty on pectin; to the Committee on Finance.

S. 751. A bill to suspend temporarily the duty on 6-Acetyl-1,1,2,3,3,5-hexamethyl Indan; to the Committee on Finance.

By Mr. BUMPERS:

S. 752. A bill to modify the boundary of Hot Springs National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 753. A bill to extend the temporary suspension of duty on certain carbodiimides; to the Committee on Finance.

S. 754. A bill to extend the temporary suspension of duty on octadecyl isocyanate; to the Committee on Finance.

S. 755. A bill to extend the temporary suspension of duty on 1, 5-naphthalene diisocyanate; to the Committee on Finance.

S. 756. A bill to suspend temporarily the duty on certain carbodiimide masterbatches; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. PRYOR, Mr. WOFFORD, Mr. SIMON, and Mr. GLENN):

S. 757. A bill to correct the tariff rate inversion on certain iron and steel pipe and tube products; to the Committee on Finance.

By Mr. SIMON:

S. 758. A bill to amend the Harmonized Tariff Schedule of the United States to restore the duty rate that prevailed under the Tariff Schedules of the United States for certain twine, cordage, ropes, and cables; to the Committee on Finance.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 759. A bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 760. A bill for the relief of Leteane Montasi; to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 761. A bill to amend the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska; to the Committee on Energy and Natural Resources.

By Mr. PRYOR (for himself, Mr. BAUCUS, Mr. BOREN, Mr. BREAUX, and Mr. SARBANES):

S. 762. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER:

S. 763. A bill to amend section 1729 of title 38, United States Code, to improve the Department of Veterans Affairs medical care cost-recovery program; to the Committee on Veterans' Affairs.

By Mr. WOFFORD:

S. 764. A bill to exclude service of election officials and election workers from the Social Security payroll tax; to the Committee on Finance.

By Mrs. BOXER (for herself, Mr. DECONCINI, and Mr. FEINGOLD):

S. 765. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve protection of benefits under group health plans, to provide for adequate notice of adoption of material coverage restrictions under such plans, and to provide for effective remedies for violations of such title with respect to such plans; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 766. An original bill to provide for a temporary increase in the public debt limit; from the Committee on Finance; placed on the calendar.

By Mr. NICKLES:

S. 767. A bill to amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") to redirect and extend Federal and State activities to protect public water supplies in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself and Mr. MURKOWSKI):

S. 768. A bill to amend the Japan-United States Friendship Act to recapitalize the Friendship Trust Fund, to broaden investment authority, and to strengthen criteria for membership on the Japan-United States Friendship Commission; to the Committee on Foreign Relations.

By Mr. DANFORTH (for himself, Mr. MURKOWSKI, Mr. STEVENS, Mr. HATCH, Mr. GORTON, and Mr. MCCAIN):

S. 769. A bill to prohibit any increase in the tax on the sale of certain aviation fuel, and to prohibit any tax on such fuel or on the energy content of petroleum or petroleum products used in the production of such fuel; to the Committee on Finance.

By Mr. DANFORTH:

S. 770. A bill to amend the Federal Aviation Act of 1958 to authorize the Secretary of Transportation to prevent United States air carriers from engaging in predatory pricing; to the Committee on Commerce, Science, and Transportation.

S. 771. A bill to provide a limited exception to the restriction on foreign ownership and control of the voting interest in United States air carriers; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 772. A bill to amend the Internal Revenue Code of 1986 to provide a simplified tax on all income, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S.J. Res. 79. A joint resolution to designate June 19, 1993, as "National Baseball Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON:

S. Res. 91. A resolution to refer S. 745 entitled "A Bill for the Relief of Hardwick, Inc.," to the Chief Judge of the United States Court of Federal Claims; to the Committee on the Judiciary.

By Mr. ROBB (for himself, Mr. BIDEN, Mr. HELMS, Mr. MURKOWSKI, and Mr. D'AMATO):

S. Res. 92. A resolution condemning the proposed withdrawal of North Korea from the Treaty on the Non-Proliferation of Nuclear Weapons, and for other purposes; to the Committee on Foreign Relations.

By Mr. MITCHELL:

S. Res. 93. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States ex. rel. Taxpayers Against Fraud, et al. v. General Electric Company; considered and agreed to.

By Mr. GRAMM:

S. Con. Res. 22. A concurrent resolution concerning the approximately 190 children and youths at the Romanian Institution for the Unsalvageables at Sighetu Marmatei who are in desperate need of humanitarian assistance; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH (for himself, Mr. EXON, Mr. LAUTENBERG, and Ms. MIKULSKI):

S. 738. A bill to promote the implementation of programs to improve the traffic safety performance of high risk drivers; to the Committee on Commerce, Science, and Transportation.

HIGH RISK DRIVERS ACT OF 1993

• Mr. DANFORTH. Mr. President, I am pleased to introduce with Senators EXON, LAUTENBERG, and MIKULSKI the High Risk Drivers Act of 1993. The goal of this legislation is a reduction in the disproportionate number of highway crashes involving younger and older drivers and drivers with bad driving records.

Last October, the National Highway Traffic Safety Administration increased its 1990 estimate of the annual cost of traffic crashes from $74 billion to $137.5 billion. This estimate reflects only the economic loss of crashes, which includes lost productivity, property damage, and health care costs. There are, however, more devastating losses. If the current trends continue, over the next 10 years, an estimated 400,000 people will be killed and over 5.2 million will be hospitalized as a result of highwy crashes. We can prevent a substantial portion of this economic and human loss by reducing the disproportionate number of crashes and fatalities involving younger and older drivers and repeat offenders.

In 1991, drivers under the age of 21 experienced the highest crash involve-

ment rate per licensed driver. Nationally, 7.4 percent of licensed drivers were 16 to 20 years of age. Despite the lower percentage of young licensed drivers, drivers between the ages of 16 and 20 were 15.4 percent of traffic fatalities and were involved in over 20 percent of all single-vehicle accidents. In my home State of Missouri, 29.5 percent of all 1991 traffic accidents and 26.4 percent of fatal accidents involved a driver under the age of 21, although those drivers comprised only 7.7 percent of all licensed drivers. In 1991, a total of 277 Missourians were killed and 21,171 injured in accidents involving young drivers. This translates to one person killed or injured in a young driver related accident in Missouri every 24.5 minutes.

This legislation will combat the major causes of young driver crashes by establishing an incentive grant program under which qualifying States must institute a provisional licensing system. This system would mandate that a minor may not obtain a full license until he or she has maintained a clean driving record for 1 year. California, Maryland, and Oregon have experienced as much as a 16-percent reduction in accidents and a 15-percent reduction in traffic convictions for 16- to 17-year-old youths after implementing such systems.

Qualifying States would have to take additional steps to combat youth-related highway safety problems, including a 0.02-percent blood alcohol content [BAC] maximum for minors; an open container prohibition; a minimum $500 penalty for selling alcohol to a minor; mandated belt use for front and rear passengers; a minimum 6-month license suspension for any minor convicted of an alcohol-related offense; a youth-oriented traffic safety enforcement, education, and training program for State officials and young drivers; substantial compliance with the drivers license compact to ensure the efficient interstate transfer of driver records; and a minimum $100 penalty for driving through a railroad crossing while the gate is closed or being opened or closed.

The criteria were selected based upon their past effectiveness. For example, after a 0.02 percent BAC maximum was introduced in Maryland, there was a 21-percent reduction in crashes involving drivers under 21 who had been drinking. When combined with a public information and education campaign, those crashes decreased 50 percent.

Moreover, the National Transportation Safety Board released a report on March 3, 1993, which concluded that several actions can be effective in reducing automobile crashes involving young drivers, including lowering the maximum blood alcohol level for minors, vigorous enforcement of minimum drinking age laws, and provisional licenses for young drivers.

A supplemental grant program is also available to States which take steps, such as providing information to parents on the effect of traffic convictions on insurance rates, and mandating stricter penalities for speeding for drivers under the age of 21.

This legislation also establishes a research program on issues related to older drivers. According to an insurance institute for highway safety study, drivers 75 years and older had 11.5 fatal crashes per 100 million miles driven, as compared to 2 fatal crashes per 100 million miles for drivers aged 35 to 59. Research on the problems of older drivers had never been consistently funded, despite the fact that, by the year 2020, 51 million people will be over the age of 65, as compared to just over 30 million today.

This bill directs the Department of Transportation [DOT] to research and disseminate information on the abilities of older drivers and the ability of licensing agencies to deal with older drivers. The issues to be studied include identification of factors that predict the ability of older drivers; the training of examiners; an evaluation of licensing programs; the promotion of voluntary actions on the part of the older driver; encouragement of restricted license use as a way to preserve older driver mobility; the advancement of technology to benefit older drivers; and the commitment that alternative transportation take into account the needs of older persons. The legislation ensures that DOT acknowledges the importance of mobility for older persons and the need for States to be sensitive to the transportation needs of older Americans.

Finally, the High Risk Drivers Act of 1993 confronts the problem of drivers with repeated traffic violations and crashes. A driver with 12 or more convictions on his or her driving record is 6.9 times more likely to crash than a driver in the general population. Given this evidence, the legislation requires that DOT report to Congress on additional Federal activities that may be needed to improve driver record and control systems, so that enforcement authorities are aware of a driver's past and can take remedial action.

Mr. President, the High Risk Drivers Act of 1993 has the support of the American Association of Retired Persons, Mothers Against Drunk Driving, the American Insurance Association, and a number of Senators who have led the fight for transportation safety. Senator LAUTENBERG was the lead sponsor of legislation establishing a national uniform minimum drinking age of 21. Senators EXON and MIKULSKI have been strong supporters of transportation safety legislation, including the law requiring drug and alcohol testing of airline and rail crews and commercial drivers. With their support and the support of our colleagues, we can reduce this unnecessary slaughter on our highways.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 738

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 "High Risk Drivers Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicles miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicles crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to

reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 4. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

TITLE I—YOUNG DRIVER PROGRAMS

SEC. 101. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Programs for young drivers

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety programs resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets three of the eight criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets four of such criteria;

"(iii) in the third year of receiving such grants, meets five of such criteria;

"(iv) in the fourth year of receiving such grants, meets six of such criteria; and

"(v) in fifth year of receiving such grants, meets six of such criteria.

"(2) GRADUATED LICENSING PROGRAM.—

(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The eight criteria referred to in paragraph (1)(B) are as follows:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under age 21 years of age.

"(C) The State requires that all front seat and rear seat occupant of any motor vehicle shall use safety belts.

"(D) The State requires that the license of a driver under 21 years of age be suspended for a period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(E) The State conducts traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(F) The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including

enforcement, officers, judges, and prosecutors) upon request at all times.

"(G) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(H) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) EXTENDED APPLICATION OF PROVISIONAL LICENSE REQUIREMENT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full drier's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).

"(2) PROVISION OF INSURANCE INFORMATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(3) READILY DISTINGUISHABLE LICENSES FOR YOUNG DRIVERS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that the provisional driver's license, or full driver's license, of any driver under 21 years of age be readily distinguishable from the licenses of drivers who are 21 years of age or older, through the use of special background, marking, profile, or any other features, consistent with any guidelines developed by the Secretary in cooperation with the American Association of Motor Vehicle Administrators; and

"(B) employs the Social Security number as a common identifier on every driver's license so as to facilitate the transfer of traffic records among State.

"(4) DRIVER TRAINING PREREQUISITE.—For purposes of this section, a State is eligible for a supplemental grant in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(5) REMEDIAL DRIVER EDUCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, driving under the influence of alcohol, or driving while intoxicated.

"(6) PROVISIONAL LICENSE REQUIREMENT AFTER LICENSE SUSPENSION OR REVOCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any driver whose driving privilege is restored after license suspension or revocation resulting from a traffic safety violation shall for at least 1 year be subject to the following:

"(A) The restored license shall be immediately suspended, for a period to be determined by the Secretary, upon the driver's conviction of any moving traffic safety violation, except that the Secretary may by regulation define limited circumstances under which the State may waive this immediate suspension requirement.

"(B) A full driver's license shall be issued only after the driver has held a provisional license for at least 1 year with a clean driving record, as described in subsection (e)(2)(B).

"(C) The driver shall be—

"(i) deemed to be driving while intoxicated if the driver has a blood alcohol concentration of .02 percent or greater; or

"(ii) prohibited from operating a motor vehicle with such a blood alcohol concentration.

"(7) RECORD OF SERIOUS CONVICTIONS; HABITUAL OR REPEAT OFFENDER SANCTIONS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permit traffic record for at least 10 years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(8) OVERSIGHT OF ALCOHOL SALES TO UNDERAGE DRINKERS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount appropriated to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State exercises effective oversight of colleges and universities that provide or allow the selling of alcohol to underage drinkers as defined by State law or regulation.

"(g) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $18,000,000 for each of the fiscal years ending September 30, 1994, and September 30, 1995, $20,000,000 for the fiscal year ending September 30, 1996, and $22,000,000 for each of the fiscal years ending September 30, 1997, and September 30, 1998.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 102. PROGRAM EVALUATION.

(a) EVALUATION BY SECRETARY.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23,

United States Code (as added by section 101 of this Act).

(b) REPORT TO CONGRESS.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (a) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

TITLE II—OLDER DRIVER PROGRAMS

SEC. 201. OLDER DRIVER SAFETY RESEARCH.

(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(e) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 2000, and $1,500,000 is authorized for each of the fiscal years 2000 through 2005, to support older driver programs described in subsections (a), (b), (c), (e), and (f).

TITLE III—HIGH RISK DRIVERS

SEC. 301. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and the Driver License Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 302. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.●

By Mr. BUMPERS:

S. 739. A bill to amend the Internal Revenue Code of 1986 to simplify the limitation on using last year's taxes to calculate an individual's estimated tax payments; to the Committee on Finance.

SMALL BUSINESS TAX ACT OF 1993

● Mr. BUMPERS. Mr. President, today I am introducing legislation that will resolve a crisis the Congress created in November 1991 for certain small businesses and individual taxpayers. The crisis was created when the Congress repealed the safe harbor these taxpayers relied upon to avoid a penalty for underpayment of estimated taxes.

My reform proposal avoids the economic and political problems created by the estimated tax reform proposed by the Senate Finance Committee last fall. As my colleagues will remember last October I nearly prevailed on a motion to strike the committee's proposal.

I was not ready then to present my own proposal for solving the estimated tax crisis. I am now ready to do so and my proposal for reform is contained in the legislation I am introducing today.

This legislation restores a safe harbor for all taxpayers regarding penalties for underpayment of estimated taxes. This safe harbor is based on the taxpayer's tax liability for the previous year. By relying on the tax liability of a taxpayer in the previous year, we avoid the expense and penalties that are now being imposed on taxpayers who cannot rely on any safe harbor based on their previous year's tax liability.

I am happy to report that this proposed estimate tax reform generates $600 million in revenue to use to reduce the budget deficit. I am not proposing that these revenues be expended for any purpose other than deficit reduction.

NOT THE OPENING BID

I have developed this proposal in consultation with the key small business representatives in Washington. They represent the taxpayers who need a safe harbor so they can avoid penalties for underpayment of their estimated taxes.

Let me be clear about the limits of their endorsement and my endorsement of this proposal. When the President's deficit reduction and investment program is consider, it might be tempting for the administration or the congressional tax writing committees to extract a higher price for reform of the estimated tax crisis. Last year's estimated tax safe harbor reform proposal would have raised $3.9 billion in revenue and I am sure that the administration or the Finance Committee would find many different ways to spend $3.9 billion.

The small business community wants reform of the estimated tax system and needs a safe harbor based on their previous year's tax liability. It supports this legislation, but I can guarantee the administration and tax writing committees that the small business community will fight any proposed estimated tax payment reform that costs more than $600 million. This is as much as the small business community is willing to pay for remedying the safe harbor problem which, after all, was created by the Congress, not by small business taxpayers. If the price of reform is greater than this, the small business community would prefer no reform at all.

The small business community is reluctant to pay any price for remedying the safe harbor problem. This problem was created by the Congress in November 1991. This is not a case where the small business community has a longstanding problem with the tax system and is proposing reform. It is, in fact, quite outrageous to ask the small business community to pay any price to remedy the problem Congress created. By proposing a reform that raises $600 million in revenue for the Government the small business community expects that the reform will be enacted expeditiously and in the form proposed.

The small business community will not be lured into paying a higher price for reform of the estimated tax payment mess. This is a generous offer and it is not the opening bid.

UNDERPAYMENT PENALTIES AND SAFE HARBORS

Let me take a minute to explain the crisis created by the November 1991 repeal of the safe harbor for certain small businesses.

Ever since the current estimated tax and tax withholding systems were instituted taxpayers have faced penalties if they do not make estimated tax payments, or have withheld enough taxes. These penalties for failing to make sufficient estimated tax payments, or to have enough taxes withheld, can be substantial. Most taxpayers have their tax withheld from their paychecks, but many taxpayers, particularly sole proprietors, partners and S corporation shareholders make estimated tax payments instead. In both cases, there are penalties for not paying enough taxes to the Government in a timely manner as income is earned by the taxpayer.

Under current law these underpayment penalties are imposed if a taxpayer does not make estimated tax payments, or have withheld, 90 percent of one's current year tax liability. It is, however, often difficult for a taxpayer to determine in the middle of the tax year the appropriate amount of taxes to pay, or have withheld, to satisfy the 90 percent standard. So, the Congress has established a safe harbor which waives any penalties for underpayment of estimated taxes if a taxpayer makes estimated tax payments or has withheld an amount equal to 100 percent of the taxpayer's previous year's tax liability.

This 100 percent previous tax year safe harbor is a standard that is easy to use because it looks to the taxpayer's previous year's tax liability. All taxpayers know how much they paid in tax for the previous year, so this 100 percent previous tax year safe harbor is an objective standard that does not rely on a moving target focusing on the taxpayer's current year tax liability. This safe harbor has been in our tax laws since at least 1954.

In November 1991, the 100 percent safe harbor was repealed for certain taxpayers. Starting in 1992 certain taxpayers were barred from using the 100 percent previous tax year safe harbor to avoid penalties for underpayment of estimated taxes. These taxpayers were, in effect, required to make estimated tax payments equal to 90 percent of the current year's tax liability. They could not use any safe harbor based on their previous year's tax liability.

The repeal of the 100 percent previous tax year safe harbor created the mess that leads to introduction of this legislation today to restore a safe harbor for these taxpayers based on the previous year's tax liability.

The November 1991 law did not provide a workable, objective standard on which these taxpayers could rely. Rather it set a floating standard based on the current year's tax liability. This is the problem; the repeal of the safe harbor leaves these taxpayers in an untenable and costly situation.

The taxpayers who lost the old 100 percent previous tax year safe harbor are described by a formula. The November 1991 law provides that taxpayers could not use the 100 percent previous tax year safe harbor if the taxpayer had adjusted gross income of more than $75,000 in the current tax year and their income for the current year was more than $40,000 higher than the income for the previous tax year. Only these taxpayers lost the 100 percent previous tax year safe harbor.

Let me be clear. The 100 percent previous tax year safe harbor continued to be available to all taxpayers who did not fit this floating standard. Most taxpayers can still use the 100 percent previous tax year safe harbor. They are not affected by the November 1991 law either because they do not have over $75,000 in AGI or their income for the current year is not more than $40,000 greater than their previous year's tax liability.

The problem is that taxpayers often don't know until the end of the current tax year whether they can use the 100 percent previous tax year safe harbor. They often don't know if their adjusted gross income will exceed $75,000 of if the increase in income will exceed $40,000. They might meet one of these two tests and not the other. They might have a surge in income in the last quarter that will take them over the $75,000 and/or $40,000 thresholds. Their income doesn't always come in predictable amounts or at predictable times.

If they assume that they can use the 100 percent previous tax year safe harbor and at the end of the year it turns out that they are, in fact, barred from using it, they can get hit with substantial penalties for underpayment of estimated taxes in the second, third or fourth quarters of the year.

It is an absolute nightmare because the 1991 law requires these taxpayers or their accountants to compute their taxable income for each estimated tax period (months ending in May, August, and December regardless of the business' tax year) within a two week window to determine how much in estimated tax payments to make. This is simply an impossible burden. All of these calculations are tentative and subject to change. And, depending on the final, yearend tax situation of the taxpayer, these complicated calculations may be wholly unnecessary. They

might well qualify to use the 100 percent previous year safe harbor, which requires only that they multiply that tax liability by 25 percent and pay that amount each quarter. This is simplicity itself and it compares with the nightmare for the taxpayers who can't use any safe harbor based on their previous year's tax liability.

Many taxpayers are being caught by this nightmarish game of chance. They are guessing wrong, assuming that they can use the 100 percent previous tax year safe harbor, and assuming that they do not need to make estimated tax pavements equal to 90 percent of their current year's tax liability. For these taxpayers there will be substantial penalties for guessing wrong. My proposal will solve this problem and eliminate this game of chance. Simplicity and certainty is what my bill will provide.

REFORM PROPOSED IN H.R. 11

As my colleagues will remember the Finance Committee last fall proposed to restore a safe harbor to higher income taxpayers based on their previous year's tax liability. That was the good news. But, unfortunately, the safe harbor was not set at 100 percent, 110 percent, or even 115 percent of the taxpayer's previous year tax liability; it was set at 120 percent.

Even more outrageous, the proposed reform did not apply only to the higher income taxpayers who needed reform, who wanted an objective safe harbor based on their previous year's tax liability. It repealed the 100-percent safe harbor for everyone who can use it now and hit all of them with the 120-percent requirement as well.

Higher income taxpayers wanted and needed a safe harbor based on their previous year's tax liability—an objective standard—and wanted to avoid trying to comply with unworkable floating standard from the November 1991 law. They did not, however, support paying 120-percent of their previous year's tax liability.

But, applying this new 120-percent safe harbor to everyone else was completely unjustified. It hit all taxpayers, including the tens of millions of taxpayers who had not lost the 100-percent safe harbor in November 1991 and had no need for any reform. The new safe harbor hit every partner in every partnership, every sole proprietor and every shareholder of an S corporation who earned more than a minimal amount of income. All of them would be forced to pay more estimated taxes to avoid a penalty for underpayment of estimated taxes. For them H.R. 11 would simply have accelerated their tax payments, with no offsetting benefit.

An acceleration of tax payments is, in effect, a tax increase. If the Government has the use of the taxpayer's money earlier, it enjoys the time value of the money. It doesn't have to borrow as much, which reduces its costs. And, for the taxpayer the opposite is true. The taxpayer loses use of the money and might in some cases even have to borrow funds to make up the difference. In the many cases where the taxpayer makes more than enough payments of estimated taxes, the taxpayer will later have to wait for a refund. What we have here is the Government extracting interest free loans from taxpayers. The Congressional Budget Office and Joint Tax Committee certainly score the acceleration as a revenue increase and this is an accurate reflection of the reality from the perspective of a small business owner.

It can be said that small businesses can avoid paying the 110-percent, 115-percent, or 120-percent amount by simply paying 90-percent of their current year's tax liability. But, using the 90-percent standard—which looks to the taxpayer's current year tax liability—requires these taxpayers to hire and pay accountants to help them make the complex quarterly estimated tax calculations and to avoid an underpayment penalty at the end of the year.

This choice isn't really a choice. They would be forced to make estimated tax payments equal to 110 percent, 115 percent, or 120 percent of their previous year's tax liability as the lesser of two evils, even when this means that they will be filing for a tax refund the following April. They would pay early and then file for a refund, giving the Government the interest free use of their money in the meantime.

To be fair to the Finance Committee, this 120-percent safe harbor proposal as applied to all taxpayers came from the Bush administration and many Members of the committee did not like the proposal. But, they did adopt it and sent it to the Senate floor for debate.

Responding to the outrage over this proposal in the small business community, I took the floor last October to move to strike the 120-percent safe harbor. I said that this onerous provision in H.R. 11, if adopted, was likely to precipitate a reaction in the small business community reminiscent of the reaction to section 89 or the automobile mileage logs. I said that I thought my colleagues would remember those issues and would not want to vote for a provision that will generate the same hostility in the small business community.

I won that vote 57–37. Unfortunately I needed 60 votes to prevail since I was moving to waive a Budget Act point of order against my amendment. It is, of course, extremely rare for a Member to win a vote to waive the Budget Act. But, the absolute margin in favor of my motion was a powerful statement in opposition to the reform proposal of the Finance Committee. It was clear that an overwhelming majority of the Senate wanted this provision deleted from the bill.

The 57 votes I received last year were particularly significant since I did not offer any proposal for making up the revenue that would have been lost had the 120-percent safe harbor proposal been stricken from the bill.

In that debate I made it clear that I did not object to reform that would set a new and higher safe harbor rate for the higher income taxpayers, including unincorporated businesses, who lost the 100-percent safe harbor in November 1991 and who wanted reform. It was and is my understanding that these higher income taxpayers were and are willing to pay estimated taxes in an amount equal to 110-percent of their previous year's tax liability—not 120-percent. They are willing to meet a standard that is higher than the old 100-percent standard. But, I did and do object to any proposal to impose a 120-percent safe harbor and to a repeal of the 100-percent safe harbor for all the other taxpayers who can still use it.

DESCRIPTION OF LEGISLATION

The legislation I am introducing today retains the 100-percent previous year tax safe harbor for those who can now use it. It restores an estimated tax safe harbor based on a previous year tax liability for the small business taxpayers who lost their safe harbor in November 1991. It would require certain higher income taxpayers to pay 110-percent of their previous year's tax liability, not 100-percent. So, this reform comes at a price for the higher income taxpayers who want a safe harbor, a price that these taxpayers are willing to pay to regain the use of a safe harbor.

The new 110-percent safe harbor only applies to higher income taxpayers. It has virtually no effect on the taxpayers who can currently use the 100-percent safe harbor.

Here's what it says:

The new 110-percent safe harbor applies to the estimated tax payments made by a taxpayer in year three. It applies to a taxpayer who has over $150,000 in adjusted gross income in year two and whose income in year two exceeds his income in year one by more than $40,000.

These taxpayers may avoid a penalty for underpayment of estimated taxes in year three if they make estimated tax payments in year three equal to 110-percent of their tax liability in year two.

This sounds complicated, but it isn't. Let me put this in the form of an outline:

Year one: Taxpayer has $110,000 AGI;

Year two: Taxpayer has $150,001 AGI;

Note: Taxpayer's AGI in year two is over $150,000 and it exceeds previous year's AGI by more than $40,000.

Year three: Taxpayer has safe harbor if he makes estimated tax payments equal to 110-percent of year two tax liability.

If this taxpayer's adjusted gross income in year two did not exceed

$150,000 or his or her AGI in that year did not increase by more than $40,000 from his or her AGI in year one, the taxpayer would have a safe harbor in year three if he or she made estimated tax payments equal to 100-percent of their tax liability in year two. That's the safe harbor under current law.

I ask unanimous consent that an outline of current law and this bill be printed at this point in the RECORD.

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

ESTIMATED TAX PAYMENT OPTIONS: CURRENT LAW AND BUMPERS BILL

Option 1: Current Law and Bumpers Proposal: Taxpayers avoid penalty for underpayment if they make estimated tax payments equal to 90% or more of current year tax liability.

Option 2: Current Law and Bumpers Proposal: Most taxpayers can avoid penalty for underpayment if they make estimated tax payments equal to 100% of their tax liability in the immediately previous year. This is a "safe harbor."

Current Law: But, some taxpayers do not have Option 2—they have no "safe harbor"—and only have Option 1. The taypayers who only have Option 1 are those with more than $75,000 AGI and whose income is over $40,000 greater than their AGI in the immediate previous year.

Option 3: Bumpers Proposal: Under the Bumpers bill all taxpayers would have a "safe harbor." Most taxpayers would be able to continue to use Option 2 (100% of their previous year's tax liability). But, taxpayers whose AGI in the previous tax year exceeded $150,000 and whose AGI in that tax year exceeded their AGI in the immediate previous year by more than $40,000 can avoid a penalty for underpayment if they make estimated tax payments equal to 110% of their tax liability in the immediately previous year. This is their new "safe harbor."

Mr. BUMPERS. This reform solves the problem created by the November 1991 law. It provides a safe harbor based on a taxpayer's previous year's tax liability for all taxpayers. For most the safe harbor remains at 100-percent of their previous year's tax liability. For some it would be 110-percent.

I cannot say that there are no taxpayers who currently can use the 100-percent safe harbor who would now have to make estimated tax payments under the 110-percent standard. But, I can say that the number who would have to do so is sure to be negligible. I cannot make a categorical statement about the impact of the 110-percent safe harbor on those who can still use the 100-percent safe harbor because the November 1991 law is based on one's current year tax liability. This bill applies the new 110-percent safe harbor based on one's previous year's tax liability. The two groups of taxpayers are not precisely the same, but it is a fair approximation of the same group.

The key point is that my bill sets a 110 percent safe harbor, unlike the Finance Committee's 120 percent proposal of last year, and it would not impose the 110 percent safe harbor on taxpayers who are now able to use the 100 percent safe harbor. It would restore a safe harbor for the small business taxpayers who lost the use of a safe harbor in November 1991 and not penalize those who didn't.

Further, those taxpayers will know that they are subject to the higher safe harbor before they start making the increased estimated tax payments. They will not have to guess what their income will be quarter by quarter during the tax year and guess whether they must make the increased estimated tax payments.

REVENUE ESTIMATE

As I have said, this reform bill raises $600 million over 5 years because the November 1991 law is scheduled to expire at the end of 1996. This bill sets the new 110 percent estimated tax safe harbor permanently into law. This means that it raises $2.6 billion in 1997. It loses $2 billion in 1994 because it restores the safe harbor to taxpayers who lost it in November 1991.

It loses no revenue in 1993 because it applies to tax years beginning after December 31, 1993.

So, it is a strange revenue estimate, but on a net basis it raises $600 million over 5 years with no revenue loss in the first year. Obviously this is important for parliamentary reasons.

COALITION OF SUPPORTERS

I am introducing this legislation on behalf of a coalition of the American Institute of Certified Public Accountants, the National Federation of Independent Businesses, National Small Business United, National Society of Public Accountants, and the National Association of Enrolled Agents. They endorse this legislation, find that it solves the estimated tax safe harbor crisis in a fair and equitable way and reluctantly accept the $600 million cost that will be paid for this reform.

Let me be clear. None of these groups is happy at the prospect of paying any price for the estimated tax payment reform proposed here. They do not feel it is fair that any price be paid to solve a problem that the Congress, not they, created. But, they are realistic and they want to restore a workable safe harbor for the small business taxpayers who lost their safe harbor in November 1991.

ACCEPTANCE OF THIS OFFER

This is a proposal for reform that is acceptable to the taxpayers who need reform and it raises revenue to apply to the deficit.

It has no effect on the taxpayers who can use the 100 percent safe harbor. It will not lead to the revolt we witnessed last year.

I know that the Finance Committee would like to avoid a fight on this issue. I assume it would prefer a reform proposal that would generate $3.9 billion in revenue. But, that option is simply not available. This option, and $600 million in revenue, is available.

This is the way to solve the estimated tax crisis and I look forward to working with the Finance Committee and the Administration to secure its enactment into law.●

By Mr. COHEN:

S. 740. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority and certain tax expenditure; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

EXPEDITED RESCISSION LEGISLATION

● Mr. COHEN. Mr. President, last week I offered an amendment to the budget resolution calling for expedited rescission authority. I was pleased that 64 of my colleagues joined me in opposing a motion to table that amendment.

Yesterday, Senator CRAIG and I introduced legislation to give the President expedited rescission authority. The Craig-Cohen bill is a companion bill to the one introduced by Congressman STENHOLM in the House and would apply to appropriation measures only.

I am now introducing legislation that would grant expedited rescission authority to both appropriations and tax expenditures.

Under current law, a rescission request does not take effect unless Congress affirmatively approves the request within 45 days. The Congress can—and often does—choose simply to ignore these requests, allowing them to wither on the vine.

Rescission authority needs to be strengthened for it to be more effective in reducing Government waste. The question, of course, is what is the best way to strengthen rescission authority without undermining the balance of powers between the legislative and executive branches.

One way to expand rescission authority without upsetting the balance of power is through expedited rescission authority. Under this authority, Congress would be required to vote on rescission requests within 20 days. Rescissions would not take effect without congressional approval, but Congress could no longer simply choose to ignore rescission requests.

There is broad bipartisan support for expedited rescission.

The expedited rescission authority we are calling for is similar to the bill passed by the House last year by an overwhelming vote of 312 to 97. Congressman STENHOLM has reintroduced this legislation, and the House is expected to vote on this bill as early as today.

In his 1988 budget, President Reagan proposed "a change of law that would require the Congress to vote 'up or

down' on any proposed rescission, thereby preventing the Congress from ducking the issue by simply ignoring the proposed rescission and avoiding a recorded vote."

Last November, then President-elect Clinton expressed an interest in the expedited rescission bill that passed the House last year. In President Clinton's words, expedited rescission is "functionally almost identical" to the procedures he used as Governor of Arkansas to reduce wasteful spending.

Last month, two scholars—Thomas Mann of the Brookings Institute and Norman Ornstein of the American Enterprise Institute—endorsed expedited rescission in their testimony before the Joint Committee on the Organization of Congress of which I am a member.

Past efforts to strengthen rescission authority have been criticized because they would effect appropriated spending only. I think those criticisms are legitimate. Wasteful spending is not limited to appropriations bills. Tax expenditures, as my colleague from New Jersey, Senator BRADLEY, recently pointed out in the Wall Street Journal, also have been a source of wasteful spending. A wasteful tax credit is no different than a wasteful appropriation and, as such, should be subject to rescission authority.

Expedited rescission authority will not significantly reduce the deficit, and we certainly do not offer this proposal as a panacea to deficit reduction. Much harsher medicine will have to be swallowed to achieve that goal. By the same token, we should employ every possible tool in our efforts to reduce the deficit. I think expedited rescission should be one of those tools.

I realize that expedited rescission does not go far enough for some of my colleagues and goes too far for others. For this very reason, expedited rescission offers a responsible and workable alternative to both the status quo and proposals that would shift too much power to the President.

Last November, the American people voted for increased accountability in Washington. Expedited rescission provides greater accountability by requiring Congress to vote on rescission requests. Congress would no longer be able to duck the tough votes.

Expedited rescission by itself will not balance the budget, but it will enhance accountability and reduce Government waste. I believe it is a step in the right direction and urge my colleagues to support expedited rescission authority when it comes before the Senate.●

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 742. A bill to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Park, and for other purposes; to the Committee on Energy and Natural Resources.

KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK ACT OF 1993

● Mr. AKAKA. Mr. President, I rise today on behalf of myself and Senator DANIEL INOUYE, to introduce legislation to reestablish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, located on the big island of Hawaii.

The Advisory Commission was originally authorized for a 10-year period under the National Parks and Recreation Act of 1978, the bill which established the Kaloko-Honokohau National Historical Park. Unfortunately, since the National Park Service did not acquire a sufficient land base for park operations to begin until October 1990, the 10-year period expired without the Commission being established.

My bill simply reauthorizes the Friends of Kaloko-Honokohau to complete its original mandate. The Commission will advise the Director of the National Park Service on the historical, archeological, cultural, and interpretive programs, for the park. Particular emphasis will be given to traditional native Hawaiian culture demonstrated in the park.

Mr. President, Congress intended Kaloko-Honokohau Historical Park to be dedicated to the preservation and perpetuation of traditional native Hawaiian culture and activities. The reestablishment of Friends of Kaloko-Honokohau is a necessary step in achieving this goal.●

By Mr. SIMON:

S. 743. A bill to require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes; to the Committee on the Judiciary.

ILLEGAL DRUG PROFITS ACT OF 1993

● Mr. SIMON. Mr. President, I rise today to introduce important legislation suggested by Mayor Richard M. Daley of Chicago at a Judiciary Committee hearing—legislation that will give this Nation's law enforcement agencies a new weapon in our efforts in the war against drugs and crime.

Mr. President, we all know only too well that our Nation is faced with a terrible crisis. While Government studies report a decrease in casual drug use, there are more people using dangerous drugs like cocaine—and its derivative crack—in greater quantities than ever before. The ravaging effects of illegal drug use do not discriminate between young and old, rich and poor, black and white. We, as a nation, are all victims.

The manufacture, distribution, and use of illegal drugs are pervasive problems which have a substantial and damaging effect on the health and general welfare of the American people. The prospect of illegal and untaxed profits from the manufacture and distribution of drugs is a substantial incentive to such activity and contributes greatly to this national tragedy.

While over the past few years Congress has passed a number of initiatives to help end this tragedy, much more needs to be done. We must constantly seek out new ideas. We cannot let down our guard until we have solved the problem.

As Mayor Daley suggested, one way to do this is by tracking down the illegal cash in the drug system.

Individuals owe taxes on earned income, from whatever source—even criminal drug enterprises. But criminals rarely pay taxes on illegal profits, and often attempt to launder illegal revenues through legitimate businesses. We need the highest possible scrutiny of drug traffickers, and others who facilitate the transfer of illegal drug profits. Such scrutiny of the financial operations of major drug trafficking organizations is a vital part of the battle to take our streets back from the drug dealers.

But how will the IRS identify the individuals and organizations to scrutinize? As Mayor Daley pointed out in his testimony before the Judiciary Committee last session, every day of the year alleged drug offenders or their friends walk into court and post bail with enormous amounts of cash—cash which might well come from the very crimes of which they are accused—cash which may represent illegal and untaxed drug profits—cash which may well represent the devastation of more American lives. The drug dealers have been telling us in our State and Federal courts who among them have the real money, but we haven't been listening.

This legislation I am introducing today will help us listen to major drug dealers as they identify themselves. This bill requires clerks in both State and Federal courts to inform the Internal Revenue Service and criminal prosecutors of all incidents in which an alleged drug offender or money launderer or racketeer posts a substantial bail in cash. The IRS will be able to use this information to identify and investigate major drug dealers and other powerful criminals and use the civil and criminal tax penalties of the Internal Revenue Code to cut down their financial empires.

We already have laws which require honest American businesspeople to report large cash transactions between them and their clients and customers. This has been one of our tools in identifying the flow of illegal cash into legitimate businesses. If we put this requirement on honest Americans, isn't it time we got at the large amounts of cash held by the drug dealers?

Mr. President, the fight against drugs is for the health and future of all Americans, and we need all the help we

can get in this battle. I thank Senator BIDEN and Mayor Daley for their help in crafting this important legislation, and I urge my colleagues to join me in adding this potent weapon to our arsenal.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 743

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 "Illegal Drug Profits Act of 1993".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(3) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (d).●

By Mr. SIMON:

S. 744. A bill to provide for drug-testing of Federal prisoners on release from prison; to the Committee on the Judiciary.

FEDERAL PRISONER DRUG TESTING ACT OF 1993

● Mr. SIMON. Mr. President, I rise today to introduce legislation to mandate drug testing for Federal prisoners as a condition of probation, parole, or supervised release.

Mr. President, between 1980 and 1987, the number of defendants sentenced to Federal prison for drug offenses almost tripled. This is the fastest growing segment of the Nation's prison population. Roughly 60 percent of all Federal prisoners today are serving sentences for drug-related offenses. Many of them were using illegal drugs prior to or during the commission of the crime for which they were imprisoned.

Unfortunately, illegal drug use and drug-related activity does not necessarily cease as a result of incarceration. Surprisingly, many inmates carry out well-organized criminal endeavors with drugs and other contraband smuggled in by staff and visitors.

But currently, there is no requirement for mandatory drug testing to determine whether a released inmate is using one or more illegal substances. Nor is being drug-free a condition of release.

As a result of this gap in our system, prisoners using drugs are released and returned to our communities. One could predict that a prisoner using drugs would, upon release, commit drug offenses or other crimes either while under the influence of drugs or in order to obtain illegal drugs. A cycle of crime, arrest, prosecution, and incarceration is perpetuated. This is obviously unacceptable. This situation certainly helps to explain a recidivism rate that, according to the Bureau of Justice Statistics, is greater than 40 percent for Federal prisoners.

To break this destructive cycle, we in Congress must act to ensure that inmates using illegal drugs are not released into our communities.

In furtherance of this goal, my legislation provides that any Federal inmate eligible for supervised release or parole must pass a urinalysis test within 15 days of release on probation or supervised release and must submit to two periodic drug tests thereafter. Supervised releasees and probationers face the possible revocation of their sentence and return to prison if they test positive for an illegal substance.

Mr. President, the benefits of this legislation to our communities and our criminal justice system are potentially great. I urge the cosponsorship and support of my colleagues.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 744

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

SECTION 1. FEDERAL PRISONER DRUG TESTING.

(a) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and";

(3) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to 1 drug test within 15 days before or after release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to further imprisonment for failing the test, and either the defendant denies the accuracy of the test or there is another reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts, after consultation with the Secretary of Health and Human Services, may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering action against a defendant who fails a drug test.".

(b) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended in the first sentence—

(1) by striking "and that" and inserting ", that"; and

(2) by striking the period and inserting ", and that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days before or after release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to further imprisonment for failing the test, and either the defendant denies the accuracy of the test or there is another reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts, after consultation with the Secretary of Health and Human Services, may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering action against a defendant who fails a drug test.".

(c) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, as in effect pursuant to section 235(b)(1)(A) of the Comprehensive Crime Control Act of 1984 and section 316 of the Judicial Improvements Act of 1990 (18 U.S.C. 4201 note), is amended—

(1) in the first sentence by striking ". and" and inserting ", that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance, and"; and

(2) by inserting after the first sentence the following: "The result of a drug test administered in accordance with the preceding sentence shall be subject to confirmation only if the results are positive, the parolee is subject to further imprisonment for failing the test, and either the parolee denies the accuracy of the test or there is another reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts, after consultation

with the Secretary of Health and Human Services, may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering action against a parolee who fails a drug test.".●

By Mr. SIMON:

S. 745. A bill for the relief of Hardwick, Inc.; to the Committee on the Judiciary.

HARDWICK, INC. RELIEF ACT OF 1993

● Mr. SIMON. Mr. President, I rise today to introduce a resolution, Senate Resolution 91, and its accompanying bill, S. 745. These proposals ask the U.S. Court of Federal Claims to advise the Senate on the merits of legal or equitable claims that Hardwick, Inc., may have against the United States.

Hardwick, Inc., is a family-run construction company, owned by an elderly couple in Beardstown, IL. The company was first organized in 1923 and grew into a multimillion dollar operation. By the mid-1970's, Hardwick employed 50 to 75 men during peak seasons. The company could bond 8 to 10 million dollars' worth of work, fully owned its equipment, and had a quarter of a million dollars in the bank.

Then, in 1977, the U.S. Government awarded the Hardwicks a contract to construct a levee near Brunswick, MO. The project, however, soon turned into a financial quagmire. The Hardwicks allege that, due to errors by the U.S. Corp of Engineers, the levee project entailed enormous cost overruns, rendering the company insolvent. The elder Hardwicks, the original owners of the company, have been left in personal bankruptcy. Their family farm—the only property they have left—is now in jeopardy of foreclosure.

As a result of this unfortunate situation, the Hardwicks have been involved in a contract dispute with the U.S. Government for over a decade. Last year, a decision in the case appeared to be imminent. However, before the court could rule, the Federal circuit issued a decision in an unrelated case, called *UNR Industries, Inc.* v. *United States*, 962 F.2d 1013 (Fed. Cir. 1992). This decision altered the jurisdictional rules for bringing a case in the Court of Federal Claims. As a result, the court determined that it would have to dismiss the Hardwick's claim, as well.

In doing so, the court acknowledged the injustice in dismissing the case after so many years of litigation based on an unforeseen change in the law. The judge urged the Hardwicks to seek congressional redress, telling the Hardwicks that "you may very well be able to proceed * * * to obtain a congressional reference * * * It would appear to me on the basis of my opinion in UNR that you would have a meritorious case in Congress."

This is exactly what the congressional reference resolution I have introduced accomplishes. However, I should emphasize, Mr. President, that a congressional reference resolution is not the same as a private relief bill. As explained in 28 U.S.C. §2509, a congressional reference resolution simply asks the U.S. Court of Federal Claims for a nonbinding recommendation on the merits of the Hardwick's legal or equitable claims against the U.S. Government. In short, the congressional reference procedure gives an injured party a forum for determining the merits of its grievance, which the Senate may then decide whether or not to enforce.

Mr. President, the Hardwicks have suffered enough. They must not be left without a forum for determining the merits of their claims. I urge my colleagues to join me in this just cause.

At this time, I ask unanimous consent to offer this bill into the RECORD.

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

S. 745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of money not otherwise appropriated, to Hardwick, Inc., of Beardstown, Illinois, the sum of $ for all of its claims and demands against the United States relating to Contract DACW 41-77-C-0126 for the construction of Levee Unit L-246, Stage I, near Brunswick, Missouri. Payment of this sum shall be in full satisfaction of all claims of Hardwick, Inc., formerly known as Hardwick Brothers Company II against the United States arising out of such contract.●

By Mr. D'AMATO:

S. 746. A bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for stage 3 aircraft; to the Committee on Finance.

INVESTMENT TAX CREDITS—AIRCRAFT NOISE REDUCTION LEGISLATION

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation that would assist the U.S. airline industry in meeting Federal aircraft noise reduction standards, and benefit the public in securing much needed relief from excess aircraft noise. I am joined by my distinguished colleagues Senators BOXER and LIEBERMAN who are original cosponsors of this bill.

This bill also would provide a real economic stimulus to the ailing aerospace industry with respect to the performance of modification work required to accomplish the goal of reducing aircraft noise. It is supported by the Air Freight Association, the National Airport Watch Group—a coalition of 163 citizens groups across the Nation—as well as by the Natural Resources Defense Council.

Simply stated, the legislation provides a 10 percent investment tax credit [ITC] to be available to aircraft owners for completing noise modification alterations to their aircraft. The ITC would expire by the end of 1996. Such an incentive would induce aircraft owners to quiet their fleets at the earliest possible time. It would benefit communities that are burdened with disproportionate amounts of aircraft noise, and assist the aviation industry to meet Federal noise standards, and create jobs in the industries that retrofit aircraft with hush kits or re-engine them.

The greater New York metropolitan area contains the vast preponderance of the Nation's aircraft noise impacted citizens—about one-third of such persons. Virtually every aircraft in the U.S. fleet cycles into and out of the New York City area from as frequently as several times per month to once every month or two; this includes the noisiest aircraft known as stage 2. While aircraft noise concerns must be addressed, the aviation industry has tremendous economic importance for the New York metro region, as well as for many other areas in the country. Finding ways in which aviation and residential communities can coexist is a difficult challenge and one that Congress must undertake.

The Aircraft Noise and Capacity Act of 1990 gave the Federal Government broad authority over the issue of aircraft noise. This law directed the Secretary of Transportation to issue regulations establishing a national aviation noise policy. It also phases out virtually all stage 2 aircraft by the year 2000. According to the FAA, when the phase out is completed, the number of people exposed to significant aviation noise will be reduced from 2.7 million to 400,000. The reduction in the New York metropolitan area is expected to be from approximately 700,000 to fewer than 100,000 people.

I would like to outline some specific provisions of this bill:

It would provide a 10-percent ITC for the costs incurred by taxpayers for aircraft noise modifications which return aircraft to service between January 1, 1992, and December 31, 1996. Thus, the ITC has a finite lifespan of 5 years;

The ITC would apply to noise modifications of aircraft from stage 2 to stage 3 noise levels, as defined by Federal Aviation Administration Regulations, part 36;

The ITC would apply against the alternative minimum tax as well as against the regular corporate tax.

The gross cost of the ITC has been estimated at approximately $120 million per year, and is expected to be offset many, many times over by accompanying job creation, industrial stimulus and economic multiplier effects. These estimates were performed by aerospace industry experts.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD at the conclusion of my remarks. I urge my colleagues to support this worthwhile legislation.

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

S. 746

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

SECTION 1. INVESTMENT CREDIT FOR STAGE 3 AIRCRAFT MODIFICATIONS.

(a) ALLOWANCE OF CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the stage 3 aircraft modification credit."

(b) AMOUNT OF CREDIT.—Section 48 of such Code is amended by adding at the end the following new subsection:

"(c) STAGE 3 AIRCRAFT MODIFICATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the stage 3 aircraft modification credit is the stage 3 aircraft modification percentage of the basis of each stage 3 aircraft modification property placed in service during the taxable year.

"(2) STAGE 3 AIRCRAFT MODIFICATION PERCENTAGE.—The stage 3 aircraft modification percentage is 10 percent.

"(3) QUALIFIED STAGE 3 AIRCRAFT MODIFICATION PROPERTY.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified stage 3 aircraft modification property' means tangible property—

"(i) which is an integral part of and modification of a nonstage 3 aircraft (including the installation of different engines or the retrofit of the existing engines with sound attenuation devices),

"(ii) which is certificated by the Federal Aviation Administration and is made to qualify the aircraft for the stage 3 noise level requirements, and

"(iii) the original use of which begins with the taxpayer.

"(B) STAGE 3 NOISE LEVEL.—The term 'stage 3 noise level' has the meaning given such term by section 36.1(f)(5) of title 14, Code of Regulations (as in effect on February 15, 1993).

"(C) NONSTAGE 3 AIRCRAFT.—The term 'nonstage 3 aircraft' means an aircraft with a maximum gross takeoff weight in excess of 75,000 pounds which did not meet the stage 3 noise level requirements before the stage 3 aircraft modification property was installed.

"(4) SPECIAL RULE FOR CERTAIN PURCHASES AND LEASES.—For purposes of paragraph (3)(A)(iii), a qualified stage 3 aircraft modification property shall be treated as originally placed in service by a person if it is sold to such person or is leased by such person within 3 months of the date such modifications are made.".

(c) STAGE 3 AIRCRAFT MODIFICATION CREDIT ALLOWABLE AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—Subsection (c) of section 38 of such Code (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR STAGE 3 AIRCRAFT MODIFICATION CREDIT.—

"(A) LIABILITY FOR TAX.—In the case of the stage 3 aircraft modification credit, the credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(i) the sum of—

"(I) the taxpayer's tentative minimum tax liability under section 55(b) for such taxable year determined without regard to the stage 3 aircraft modification credit, plus

"(II) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(ii) the sum of the credits allowable against the taxpayer's regular tax liability under part IV (other than section 34 and the stage 3 aircraft modification credit).

"(B) APPLICATION OF THE CREDIT.—Each of the following amounts shall be reduced by the full amount of the credit determined under subparagraph (A):

"(i) the taxpayer's tentative minimum tax under section 55(b) for the taxable year, and

"(ii) the taxpayer's regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 34 and the stage 3 aircraft modification credit).

If the amount of the credit determined under subparagraph (A) exceeds the amount described in clause (ii) of subparagraph (B), then the excess shall be deemed to be the adjusted net minimum tax for such taxable year for purposes of section 53."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 38(c) of such Code is amended by striking "The credit" and inserting "Except as provided in paragraph (3), the credit".

(2) Paragraph (2) of section 55(c) of such Code is amended—

(A) by striking "For provisions" and inserting "(A) For provisions", and

(B) by adding at the end the following new subparagraph:

"(B) For provision allowing the stage 3 aircraft modification credit against the tax imposed by this section, see section 38(c)(3)."

(3) Section 49(a)(1)(C) of such Code is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the basis of any qualified stage 3 aircraft modification property.".

(4)(A) The section heading for section 48 of such Code is amended to read as follows:

"SEC. 48. OTHER CREDITS."

(B) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 48 and inserting the following:

"Sec. 48. Other credits."

(e) EFFECTIVE DATE.—The amendments made by this section apply to stage 3 aircraft modification property completed after December 31, 1991, and placed in service after December 31, 1991, and before January 1, 1997.●

By Mr. ROTH:

S. 747. A bill to suspend temporarily the duty on Pigment Red 254; to the Committee on Finance.

S. 748. A bill to extend the temporary suspension of duty on 7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene; to the Committee on Finance.

S. 749. A bill to suspend temporarily the duty on Pigment Blue 60; to the Committee on Finance.

S. 750. A bill to suspend temporarily the duty on pectin; to the Committee on Finance.

S. 751. A bill to suspend temporarily the duty on 6-Acetyl-1,1,2,3,3,5-hexamethyl Indan; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

● Mr. ROTH. Mr. President, today I am introducting five miscellaneous duty suspension bills on behalf of two constituent companies in my home State of Delaware. It is my understanding that these bills are noncontroversial. I am introducing them because they will help lower the overall costs of production for the companies involved, which will, in turn, bolster their competitiveness.●

By Mr. BUMPERS:

S. 752. A bill to modify the boundary of Hot Springs National Park, and for other purposes; to the Committee on Energy and Natural Resources.

HOT SPRINGS NATIONAL PARK ACT OF 1993

● Mr. BUMPERS. Mr. President, today I am introducing legislation to modify the boundary of Hot Springs National Park in Hot Springs, AR.

This is a noncontroversial bill that would modify the boundary of Hot Springs National Park by deleting 297.8 acres of privately owned property from the park. The areas proposed for deletion are not necessary for the management and operation of the park and would not affect the park's mission to protect and preserve the famous thermal springs.

The boundary modification will also add approximately 1.7 acres of land to the park. Of this amount 1.67 acres is already owned by the Park Service but falls outside the authorized boundary. The remaining 0.03 acre is part of a larger piece of property already within the park boundary. The addition of these parcels will help protect the critical recharge zone of the hot springs.

This legislation will not only result in a more manageable boundary but will help safeguard the natural resources of the park. This legislation has the support of the city of Hot Springs and National Park Service.

Mr. President, I ask unanimous consent that the text of bill be printed in the RECORD.

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

S. 752

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

(a) The boundary of Hot Springs National Park is modified as depicted on the map entitled "Proposed Boundary Map Hot Springs National Park", numbered 128/80015, and dated August 5, 1985.

(b) Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.●

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 759. A bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center, and for other purposes; to the Committee on Labor and Human Resources.

MARGARET WALKER ALEXANDER NATIONAL AFRICAN-AMERICAN RESEARCH CENTER ACT OF 1993

• Mr. COCHRAN. Mr. President, today I am introducing legislation to provide for the establishment of the Margaret Walker Alexander National African-American Research Center.

This center will be located at Jackson State University in Jackson, MS. The University's challenges and opportunities include providing effective programs and services to meet the needs of both black and white populations in the Jackson metropolitan area. The research center will provide an opportunity for the university to interpret the African-American experience for all Mississippians and for others from across our Nation.

This national research center will be named in honor of Margaret Walker Alexander, professor emeritus in the department of English at Jackson State University and a noted author and poet. She is perhaps best known for her Civil War novel "Jubilee," her volume of verse "For My People," and for her biography about her novelist friend, "The Daemonic Genius of Richard Wright."

The primary purposes of the center will be the preservation of 20th century African-American materials and archival resources. The facility will serve as a national center for the study, research, and teaching of African-American literature and history and as a repository for papers and memorabilia relating to the life of Margaret Walker Alexander and other individuals noted for their work in African-American literature, history, and the civil rights movement.

Since there is currently no national oral history research facility focusing exclusively on 20th century African-Americans, this center will provide much needed resource materials to inform present and future generations of African-American contributions to our Nation.

Mr. President, I urge other Senators to support the establishment of the Margaret Walker Alexander National African-American Research Center.•

By Mr. WARNER:

S. 760. A bill for the relief of Letèane Monatsi; to the Committee on the Judiciary.

LETEANE MONATSI RELIEF ACT OF 1993

• Mr. WARNER. Mr. President, I introduce an act for the relief of Leteane Monatsi. Leteane, the adopted son of Dr. Robert Edgar, of Virginia, is originally from Lesotho in southern Africa. His natural parents are both deceased. Regrettably, Leteane's circumstances are extreme, and can only be remedied through the extraordinary relief afforded by enactment of a private immigration bill.

Leteane has osteogenesis imperfecta, a debilitating bone disease more commonly known as brittle bones and characterized by multiple fractures during one's early developing years. Because of the lack of medical care available to Leteane while he was growing up in Lesotho, he now has severe and crippling physical disabilities and is permanently confined to a wheelchair. He speaks English well, but functions academically at a third-grade level due to learning disabilities which result from severe early malnutrition.

Dr. Edgar is a distinguished member of the Department of African Studies at Howard University's College of Arts Sciences. He was a Fulbright lecturer in history at the University of Lesotho when he met Leteane and was struck by his plight: the child, then 14 years old, weighed all of 20 pounds. While the two became very close, stringent adoption laws in Lesotho prevented Dr. Edgar from adopting Leteane prior to his return to the United States. However, Dr. Edgar was able to establish guardianship for Leteane. In an effort to provide needed help to the young man, Dr. Edgar obtained a student visa, enabling him to bring Leteane to the United State to attend the Stonewall Jackson Special Education School in Arlington, VA, in 1987. Dr. Edgar also arrange for Leteane to receive needed medical attention, including several surgical procedures at Children's Hospital to correct his crippled limbs. While Leteane experienced some relief, he will never be able to walk.

Dr. Edgar has legally adopted Leteane Monatsi, although the process has not resolved any problems. Lesotho's laws would not permit the adoption to go through until Leteane reached the age of 18. Unfortunately, however, U.S. immigration law does not recognize adoptions which take place after a child reaches age 16. As a result of this contradiction, Leteane Monatsi, now 22 years old, has no legal status in the United States. Dr. Edgar is understandably concerned about his adopted son's future, particularly in the event that something should happen to Dr. Edgar, himself.

My staff and I have spent countless hours exploring possible avenues of administrative relief for Dr. Edgar and his son, but to no avail. Neither the U.S. Immigration and Naturalization Service nor the courts have any remedy available in this unique and tragic situation.

Leteane's options if he were forced to return to Lesotho are very bleak. As stated earlier, both of his parents are deceased; he has no other family capable of caring for him, and it is unlikely he will ever be fully able to care for or support himself. Perhaps most tragic of all, Lesotho's resources for assisting handicapped individuals are virtually nonexistent. To return Leteane to Lesotho would be to condemn him.

I recognize fully well that private relief legislation is not so much the court of last resort, but rather the only resort. It exists to offer relief when absolutely no existing statute or policy can provide remedy. Few cases are quite as singular and atypical as this one, or as demanding of extraordinary solution. Leteane Monatsi was born in a time and place when the help he so desperately needed was, and is, impossible to acquire. Dr. Edgar sought to remedy Leteane's problems and also to provide him with the love of a parent he did not have. After some 8 years together, it is unthinkable that Leteane could be taken from Dr. Edgar due to an unfortunate inconsistency which exists between the law of the United States and that of Lesotho. Dr. Edgar has gone out of his way to abide by the laws of both nations and to provide his adopted son with legal status in this country, in addition to a home and sound care. I believe it is right and appropriate for Congress to exercise its prerogative in the realm of private immigration relief in this very special case. I will work to the best of my ability to see this desperately needed measure enacted successfully and I urge my colleagues to support it at the appropriate time.•

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 761. A bill to amend the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska; to the Committee on Energy and Natural Resources.

ALASKA FEDERAL LANDS ACT OF 1993

• Mr. STEVENS. Mr. President, Alaska shoulders more than its fair share of the Federal lands. Federal lands are costly to State and local governments.

The local governments can not impose a property tax on the Federal Government.

We are not able to develop the Federal lands to produce jobs and an economy.

Payments in lieu of taxes provide Federal funds to local governments which have tax-exempt Federal lands within their boundaries.

PILT funding is designed to relieve the fiscal burden which Federal lands impose on local governments by severely reducing the property tax base.

The PILT Act directs the Secretary of the Interior to make annual payments to each unit of local government where entitlement lands are located.

Alaska is currently only the 10th highest PILT recipient because:

Only 40 percent of the Federal land in Alaska is included in PILT calculations—those Federal lands within the organized boroughs.

PILT calculations include population statistics so Alaska will never receive as much as some of the Western States with high populations and relatively high Federal acreage.

This bill would amend the definition of "units of local government" for the

purpose of determining PILT payments to include Federal lands which are not within organized boroughs.

Alaska is unique in that 60 percent of the Federal lands are located outside of the organized boroughs—and there are hundreds of villages located within these unorganized boroughs which receive no PILT payments.

This oversight in the act fails to recognize 60 percent of the Federal lands in Alaska for payment in lieu of taxes.

Hundreds of poor rural Alaskan communities surrounded by Federal lands are denied funding through the PILT Program.

This bill will resolve a great injustice. The villages in Alaska that are surrounded by tax-exempt Federal lands should be compensated for loss of property tax revenues and for the inability to use the lands for any development.

Most of these villages lack adequate sewer and water systems and do not have health facilities within 200 or 300 miles.

The increase in Alaskan PILT payments will directly benefit villages which are in desperate need of resources to sustain basic necessities for their remote existence.

The increased amount of funds the State and villages would increase by about $2.5 million. Currently, the local governments in Alaska receives about $4.5 million a year from PILT.

Although $2.5 million a year will only scratch the service in improving the living conditions in the villages—it will help. And it is much needed.

This bill would not increase PILT funding—it will only change the way the PILT fund is divided. It would not reduce any other State's PILT funds by very much.

It is a matter of fairness—60 percent of the Federal lands in Alaska are not included under current PILT calculations.

Alaska is the only State not fully compensated for all of their Federal lands. Even the territories and the District of Columbia are fully compensated.

This legislation would not increase the current entitlement ceiling for PILT. It merely provides a small additional share of the PILT distribution to those Alaskan communities that are outside organized boroughs.

I would appreciate the support of the other Senators to see that Alaska finally receives PILT funds for all of the Federal lands in the State—not just 40 percent of them.●

Mr. MURKOWSKI. Mr. President, I join the senior Senator from Alaska in offering an amendment to the Payment in Lieu of Taxes Act. This act provides payments to local governments which have tax-exempt Federal lands within their borders.

Nearly 70 percent of all the land in Alaska is Federal land. In fact Alaska is so vast and contains so much Federal land that 34 percent of all the Federal lands in the United States are in Alaska.

There are 51 million acres of Park Service land in Alaska. That is 70 percent of all Park Service acreage; 15 percent of land in State.

There are 76 million acres of U.S. Fish and Wildlife Service refuges. That is 85 percent of all Fish and Wildlife Service lands; 21 percent of land in State.

There are 90 million acres of BLM lands. That is 34 percent of all BLM lands; 25 percent of land in State.

And there are 57 million acres of wilderness already designated in Alaska. That is 60 percent of all the wilderness designated in the United States; 16 percent of land in State.

That is more Federal land than any other State, but somehow, Alaska ranks 10th in PILT payments. Why is that? Why should the State with the most Federal land receive less than nine other States?

The reason is that 60 percent of the Federal lands in Alaska are outside of organized boroughs. In Alaska, a borough is an equivalent unit of local government to another State's county. The way that the PILT law is currently written, villages located outside of organized boroughs receive no PILT payments.

Mr. President, Alaska has hundreds of villages outside of boroughs. These villages have desperate needs for funding. The very basic services usually provided by local government are wanting in many of our villages. We struggle to find funding for clean drinking water systems, for sewer systems, and for education and health care services. These villages are often surrounded by Federal land, but the land provides no tax base.

Mr. President, this is a situation that this Congress can and should correct. The current law has simply overlooked the fact that Alaska has so much land outside an organized unit of local government. I suspect this was a simple oversight that came about because no other State has any land outside an organized unit of local government. Members considered their home State and the PILT formula seemed to work correctly. But in Alaska, PILT does not work as it was intended.

If this bill passes, it will not raise the current entitlement ceiling for PILT payments nationwide, but it would send an additional $2.5 million to the villages of Alaska; $2.5 million may not sound like much, but its an important and much-needed $2.5 million when spread into the very poor villages of bush Alaska.

I urge my colleagues to support this small bill that will mean so much to the people in the many remote villages of Alaska.

By Mr. PRYOR (for himself, Mr. BAUCUS, Mr. BOREN, Mr. BREAUX, and Mr. SARBANES):

S. 762. A bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes; to the Committee on Finance.

PENSION SIMPLIFICATION ACT OF 1993

● Mr. PRYOR. Mr. President, during the 102d Congress, I introduced the Employee Benefits Simplification Act, S. 1364, with, then chairman of the Finance Committee, and now Secretary of the Treasury Lloyd Bentsen. We were joined by 32 of our distinguished colleagues who cosponsored this bill.

The pension simplification legislation was included as part of both tax bills passed by Congress in 1992, but was vetoed by President Bush for other stated reasons.

Mr. President, this year, and in this new 103d Congress, support for pension simplification is still strong. House Ways and Means Chairman ROSTENKOWSKI has included pension simplification legislation in his Tax Simplification Act of 1993, H.R. 13, and today I am offering substantially identical legislation in the Senate.

The Pension Simplification Act is a significant first step toward reducing the costs associated with providing pension benefits. The bill achieves this result by eliminating many of the complexities and inconsistencies in the private pension system which will, in turn, promote the establishment of new pension plans by both large and small employers.

Mr. President, included in the bill are changes which would:

Simplify the definition of highly compensated employee;

Allow 501(c)(3) organizations access to cash or deferred arrangements under section 401(k) of the Internal Revenue Code;

Eliminate the need to perform complicated and expensive tests by providing safe harbors for section 401(k) deferred compensation plans;

Repeal the current historically performed test on leased employees and create a control test based on common law;

Clarify the present law treatment of national Voluntary Employee Beneficiary Associations [VEBA's];

Modify the minimum participation requirements to focus rules on the areas where abuses are more likely to occur;

Clarify the manner in which the benefit limit rules apply to State and local government plans;

Clarify that disability benefits will not be adversely affected by the pension limits; and

Increase the number of allowable participants for salary reduction SEP's from 25 to 100 and make the participation rules for SEP's more consistent with the general rules governing pensions.

Mr. President, in addition to these provisions, there are a number of others designed to simplify and improve the consistency of the law.

The bill also takes the next step toward improvement of our Nation's private retirement system by establishing the National Commission on Private Pension Plans to take a comprehensive look at the private pension system. The Commission will conduct studies and public hearings on the status of our Nation's retirement system, and then, report to Congress on September 1, 1994 with recommendations to improve the system. The Commission would disband immediately after its report.

The idea of the Commission was first introduced by Senator Bentsen in 1992. The Commission was appropriated for in the fiscal year 1993 budget, however, because the authorizing legislation, H.R. 11, was vetoed, the Commission was never authorized.

Given the importance and complexities of the issues dealing with our private retirement system, it is of critical importance to call on all available resources to do our homework before taking the critical next step. I believe the Commission will help assure that this next step is in the right direction.

Mr. President, I ask unanimous consent that the bill be included in the RECORD.

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

S. 762

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

SECTION 1. SHORT TITLE; AMENDMENTS OF 1986 CODE.

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

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act 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 Internal Revenue Code of 1986.

TITLE I—SIMPLIFIED DISTRIBUTION RULES

SEC. 101. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee."

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(e)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) (as in effect before the amendments made by this Act) shall apply.

SEC. 102. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 103. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:

	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1993.

SEC. 104. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1993.

TITLE II—INCREASED ACCESS TO PENSION PLANS

SEC. 201. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) REPEAL OF PARTICIPATION REQUIREMENT.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(c) CONFORMING AMENDMENTS.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 202. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1993, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 203. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

TITLE III—NONDISCRIMINATION PROVISIONS

SEC. 301. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d).".

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—

"(A) IN GENERAL.—If no employee is treated as a highly compensated employee under paragraph (1), the officer who has the highest compensation for the year shall be treated as a highly compensated employee.

"(B) EXCEPTION.—This paragraph shall not apply to any organization exempt from tax under this subtitle with respect to a plan if—

"(i) the plan is maintained by more than one employer,

"(ii) either—

"(I) in the case of a plan to which section 410(b)(6)(E) or 403(b) apply, at least 90 percent of the organization's nonexcludable employees are eligible to participate in the plan, or

"(II) in the case of any other plan, a fair cross section of individuals employed by the organization benefit under the plan,

"(iii) all similarly situated participants employed by the organization are eligible on a uniform basis for the same benefits and features under the plan, and

"(iv) the plan was in effect on April 1, 1993, and at all times thereafter, except that in the case of a cash or deferred arrangement adopted by such organization, the date which is 12 months after the date of enactment of this paragraph shall be substituted for April 1, 1993.".

(c) TREATMENT OF FAMILY MEMBERS.—Paragraph (6) of section 414(q) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.".

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(5) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Revenue Act of 1992."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 302. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee).".

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1993.

SEC. 303. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.".

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection."

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

TITLE IV—MISCELLANEOUS SIMPLIFICATION

SEC. 401. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under significant direction or control by the recipient.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1993, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 402. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100.".

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1993.

SEC. 403. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 404. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1994, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1996.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 405. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 406. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to an election if—

"(I) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar year.

"(II) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) TRANSITION PERIOD.—In the case of any election period beginning on or after July 1, 1993, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) FILING DATE.—Notice of election is filed with the Secretary by October 1, 1993.

"(II) INFORMATION.—The notice sets forth the name and tax identification number of the plan sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(iii) REVENUE OFFSET PROCEDURES.—The Secretary shall, by January 1, 1994, notify defined benefit plans that have not made an election under this paragraph for the transition period described in clause (ii) of the adjustment required by subparagraph (H). The revenue offset for the transition period shall apply to plan years beginning on or after July 1, 1993, and before January 1, 1994.

"(iv) EXCESS CONTRIBUTIONS MADE BY NONELECTING PLANS.—To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period described in clause (ii) which exceeds the limitation of paragraph (7), as adjusted by the Secretary for the transition period, the sponsor shall offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan shall return the excess contribution to the sponsor in that taxable year or the following taxable year. Notwithstanding any other provision of this title, no deduction shall be allowed for any contribution made in excess of the limitation of paragraph (7), as adjusted by the Secretary for the transition period, and no penalty shall apply with respect to contributions made in excess of such limitation to the extent such excess contributions are either used to offset subsequent contributions, or returned to the plan sponsor, as provided in this clause.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 percent of current liability.".

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 407. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 408. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.".

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.".

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(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.".

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 409. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end thereof the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 410. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).".

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.".

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more."

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking "the $10" and inserting "$100", and

(2) by striking "$5,000" and inserting "$50,000".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.".

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1993.

SEC. 411. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 412. AFFILIATED EMPLOYERS.

(a) IN GENERAL.—For purposes of Treasury Regulations section 1.501(c)(9)-2(a)(1), a group of employers shall be deemed to be affiliated if they are substantially all section 501(c)(12) organizations which perform services (or with respect to which their members perform services) which are the same or are directly related to each other.

(b) SECTION 501(c)(12) ORGANIZATION.—For purposes of this section, the term "section 501(c)(12) organization" means—

(1) any organization described in section 501(c)(12) of the Internal Revenue Code of 1986,

(2) any organization providing a service which is the same as a service which is (or could be) provided by an organization described in paragraph (1),

(3) any organization described in paragraph (4) or (6) of section 501(c) of such Code, but only if at least 80 percent of the members of the organization are organizations described in paragraph (1) or (2), and

(4) any organization which is a national association of organizations described in paragraph (1), (2), or (3).

An organization described in paragraph (2) (but not in paragraph (1)) shall not be treated as a section 501(c)(12) organization with respect to a voluntary employees' beneficiary association unless a substantial number of employers maintaining such association are described in paragraph (1).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to years beginning after December 31, 1993.

SEC. 413. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a

plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1993.

SEC. 414. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election.".

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base year in applying such section for purposes of this paragraph shall be 1993.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 415. TREATMENT OF EMPLOYER REVERSIONS REQUIRED BY CONTRACT TO BE PAID TO THE UNITED STATES.

(a) IN GENERAL.—Subparagraph (B) of section 4980(c)(2) (defining employer reversion) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) any distribution to the employer to the extent that the distribution is paid within a reasonable period to the United States in satisfaction of a Federal claim for an equitable share of the plan's surplus assets, as determined pursuant to Federal contracting regulations."

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

SEC. 416. CONTINUATION HEALTH COVERAGE FOR EMPLOYEES OF FAILED FINANCIAL INSTITUTIONS.

(a) ENFORCEMENT OF CONTINUATION OF HEALTH PLAN REQUIREMENTS OF ACQUIRERS OF FAILED DEPOSITORY INSTITUTIONS.—Subsection (f) of section 4980B (relating to continuation of coverage requirements of group health plans) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ACQUIRERS OF FAILED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any acquirer of a failed depository institution—

"(i) shall have the same obligation to provide a group health plan meeting the requirements of this subsection with respect to qualified individuals of such institution as the failed depository institution would have had but for its failure, and

"(ii) shall be treated as the employer of such qualified individuals for purposes of this section.

"(B) TAX NOT TO APPLY IF FDIC OR RTC PROVIDE CONTINUATION COVERAGE.—No person shall be subject to any liability under this section by reason of being an acquirer of a failed depository institution if the Federal Deposit Insurance Corporation or the Resolution Trust Corporation elects to relieve such acquirer from its obligations under subparagraph (A). In any such case, the requirements of subparagraph (A) shall apply to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as the case may be.

"(C) ACQUIRER.—For purposes of this paragraph, an entity is an acquirer of a failed depository institution during any period if—

"(i) such entity holds substantially all of the assets or liabilities of such institution, and

"(ii)(I) such entity is a bridge bank, or

"(II) such entity acquired such assets or liabilities from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or a bridge bank.

"(D) FAILED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'failed depository institution' means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver or conservator has been appointed.

"(E) QUALIFIED INDIVIDUAL.—For purposes of this section, the term 'qualified individual' means—

"(i) any individual who was, on the day before the date of the appointment of the receiver or conservator, provided coverage under a group health plan of the failed depository institution by reason of the performance of services for such institution, and

"(ii) any individual who was, on such day, a beneficiary under such plan as the spouse or dependent child of the individual described in clause (i).".

(b) TREATMENT OF DEPOSITORY INSTITUTION FAILURES AS QUALIFYING EVENTS FOR RETIREES OF SUCH INSTITUTIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 4980B(f)(3) is amended—

(A) by striking "The termination" and inserting "(i) The termination",

(B) by striking the period at the end and inserting ", or", and

(C) by inserting after clause (i) the following new clause:

"(ii) the appointment of a receiver or conservator for a failed depository institution from whose employment the covered employee retired at any time.".

(2) CONFORMING AMENDMENT.—Subclause (I) of section 4980B(f)(2)(B)(i) is amended by striking "AND REDUCED HOURS" and inserting ", REDUCED HOURS, AND FAILURES OF DEPOSITORY INSTITUTIONS".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

(2) LIABILITY OF FDIC.—In the case of the Federal Deposit Insurance Corporation or any acquirer from such Corporation, the amendments made by this section shall apply only to failed depository institutions for which the receiver or conservator is appointed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR COVERAGE UNDER FDIC PLAN.—Effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, coverage under the health care continuation plan maintained by the Federal Deposit Insurance Corporation on June 25, 1992, and any other substantially similar plan maintained by such Corporation, shall be deemed to satisfy the obligations of the Federal Deposit Insurance Corporation (and any acquirer from such Corporation) under section 4980B(f) of the Internal Revenue Code of 1986 and section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 with respect to qualified individuals of failed depository institutions.

SEC. 417. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the Majority Leader of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the

Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

"(1)(A) Members of the Commission shall be appointed during the period for terms ending on September 1, 1994.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans.".

SEC. 418. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1995, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.●

By Mr. DURENBERGER:

S. 763. A bill to amend section 1729 of title 38 United States Code, to improve the Department of Veterans Affairs medical care cost-recovery program; to the Committee on Veterans Affairs.

LEGISLATION REGARDING THE VETERANS MEDICAL CARE COST RECOVERY PROGRAM

● Mr. DURENBERGER. Mr. President, it is of great concern to me and the veterans of the State of Minnesota that steps be taken to remove the burden placed on Veterans' Administration medical centers [VAMC] throughout the United States.

I have been at the business of addressing the problems of this Nation's health care system since I came to the Senate in 1978. I commend the President for continuing to focus his attention on the health care crisis in America. However, I can't help but notice that there is not much discussion regarding how the Veterans' Administration will fit in to the final picture. I understand Secretary Brown is eager to reform the VA system and increase access to the system for more veterans. I trust that he will elevate health reform discussions to also focus on the VA health care delivery system.

Mr. President, we all agree that the underlying problem with the VA health system is funding levels. Today, the Veterans' health care system is short of money, staff, and equipment. Rising medical costs and Federal budget constraints have tightened the VA's budget and restrained the health care delivery system, thereby affecting this country's promise to provide medical care to our veterans.

However, the Veterans' system differs from the other Government-supported health programs in that facilities stand alone. When funding falls short of demand, there is no means to shift costs. Congress must consider the effect of funding on access and quality. Current demand in the VA system is high. The average age of World War II veterans is 70 years. The average age of Korean veterans is 62 years. In other words, the VA serves a large veteran population with multiple illnesses. This stresses the delivery system.

The best way to improve the delivery system is to make sure that the buyers make demands on the system. We in Congress are the buyers of health care for the 26 million veterans through the Veterans Affairs Health Administration. Despite our best efforts to date, we have failed to provide adequate funding levels to ensure that all veterans have access to quality care.

It's time we get to the true source of the problem—funding levels. I rise today, Mr. President, to introduce legislation that will provide VA medical centers with the funds they have given up for the past 6 years. From 1987 to 1992, $1.1 billion has been collected through the Medical Care Cost Recovery Program. The Minneapolis VA Medical Center led the Nation in recoveries, collecting $8,575,487 in fiscal year 1992.

The 171 Veterans' hospitals in our Nation have the authority to collect payments from third-party payers when veterans are covered under their own insurance policies, such as workers' compensation, no-fault automobile insurance, or a health insurance plan. This authority sunsets on August 1, 1994. My bill will permanently extend the Government's authority to collect from third-party payers. However, current law demands that the FA medical centers collect from these third-party payers, and send the entire payment to the U.S. Treasury. Not only must these medical centers provide the health care, but they also must provide the staff to collect and process all third-party claims. Although the facilities are funded for staff to collect these funds, all additional staffing expenditures come out of the facilities' budgets. All of this effort, and the VA

doesn't even get to keep any of the revenue it collects.

My bill would provide VA medical centers with an additional revenue source to enable the centers to expand services and treat more veterans. This change is important for three distinct reasons: choice, equity, and productivity.

First, veterans make a choice to have third-party insurance coverage, and they have the choice of where to receive health care services. This is why it is important that patients have confidence in the system. If the VA system does not compete with other hospitals to deliver quality care, those with third-party payers can walk out the door. However, most veterans associate themselves with the VAMC environment and prefer to be treated within the VA health system. Therefore, it is only right that the facility be able to keep the funds it is paid for treating an individual with private insurance, and reserve Federal funds for the uninsured veterans that are now turned away due to inadequate appropriations. In other words, retaining collected third-party payments should not be viewed as paying for care already appropriated by the Federal Government. Rather, it should provide funds to expand access to care and bring more veterans into the system. In addition, our goal to achieve universal coverage through health reform will further level the playing field by equalizing the medical centers' access to third-party payers. In 1987, almost 80 percent of all veterans were covered by private health insurance.

Second, the current veterans' health care delivery system is inequitable. Minnesota has a strong health care delivery system that enhances the VA system. Cooperation between the Minnesota medical community and the Minneapolis and St. Cloud VA Medical Centers allows for superior quality of care to Minnesota veterans. In addition, these facilities are serving veterans nationwide. The Minneapolis VAMC is a referral facility for a number of specialty care procedures, including cardiac, chemical dependency, gastrointestinal, emphysema, and neurology. However, the money does not necessarily follow the patient to the referral facility. Unfortunately, the Minneapolis VAMC is operating at a deficit.

Currently, the VA medical centers receive funding through the Federal appropriations process. The fiscal year 1993 VA medical care appropriation is $14.64 billion, an increase of 7.7 percent. The Minneapolis VAMC's fiscal year 1993 budget is $192 million, an increase of just 0.7 percent over fiscal year 1992. Yet, the center has to absorb cost-of-living increases as well as the usual inflation of medical supply costs. Therefore, it only seems correct that the collected funds remain with the collecting facility. This would provide an incentive and the means to expand underfunded care.

Third, the VA health system is more productive than the civilian system. Productivity simply means that we get better access to quality care for fewer Federal dollars. Statistics prove that Veterans' health facilities deliver care at a lower cost than other hospitals. One way or another, the third-party payer is liable for reimbursement under current law. Therefore, it is more cost-efficient to the Nation's health care delivery system to encourage that care be delivered through the VA center.

In addition, we can encourage greater productivity in the Veterans' system. Currently, under the VA system, patient care is directed toward inpatient services even though outpatient care is proven more cost-effective. The infusion of additional funds, collected from third-party payers, can provide funding for additional outpatient care.

Mr. President, this legislation was borne from constituent meetings with various Minnesota veterans groups highlighting the budgetary problems experienced by the medical centers in Minnesota. The 1.4 million members of the Minnesota and National Disabled American Veterans strongly support this bill. In addition, the Minnesota Veterans of Foreign Wars, the American Legion, and the Jewish War Veterans have conveyed their support for allowing VA medical centers to keep a major portion of the funds collected. I have no doubt that allowing medical facilities to keep the funds they collect from third-party payers will increase the quality of care and provide access to the system for a greater number of veterans.

Mr. President, this proposal makes sense. It will provide some much needed relief to the financially strapped veterans' hospitals. The Veterans Affairs Health Administration can be a leader in the health care reform process. The introduction of my bill will bring us closer to identifying the problems in the current VA health care delivery system. Hopefully, Congress and the administration will be persuaded to refocus our efforts toward debating the solution.

I ask unanimous consent that this bill and a section-by-section summary of the legislation be printed in the RECORD.

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

S. 763

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

SECTION 1. PERMANENT AUTHORITY TO RECOVER COSTS FOR CARE PROVIDED TO CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "August 1, 1994,".

SEC. 2. CREDITING OF THIRD-PARTY PAYMENTS RECEIVED BY DEPARTMENT OF VETERANS AFFAIRS.

Paragraph (4) of section 1729(g) of title 38, United States Code, is amended to read as follows:

"(4)(A)—The unobligated balance remaining in the Fund at the close of business on September 30 of any fiscal year which is in excess of any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the next fiscal year, the expenses, payments, and costs described in paragraph (3) shall, not later than January 1 of the next fiscal year, be deposited to the credit of appropriations available for the operation of Department medical centers, to be allocated to each medical center in proportion to the amounts credited to the Fund during the previous fiscal year that were attributable to care and services furnished through each such medical center.

"(B) Amounts credited under subparagraph (A) may not be offset by reductions in amounts otherwise available to the centers referred to in that subparagraph or in the total amount of funds to be made available to the Department for health care and medical services.".

SECTION-BY-SECTION OF THE VETERANS' HEALTH CARE PROPOSAL

SECTION 1. PERMANENT AUTHORITY TO RECOVER COSTS FOR CARE PROVIDED TO CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES

This provision would remove the current sunset provision in the statute with respect to recoveries from health insurance of veterans with service-connected disabilities when they are treated for their nonservice-connected conditions. The sunset provision was included in the authority to pursue these recoveries as part of the Omnibus Budget Reconciliation Act of 1990 and amended by the Veterans' Benefits Act of 1992. The Medical Care Cost Recovery program was established in P.L. 99-272 (COBRA).

The Office of Management and Budget (OMB) estimates that this proposal will raise $46 million in fiscal year 1994 and $1.17 billion over four years. However, the Administration cites a sunset date of October 1, 1993. The sunset date was amended to August 1, 1994 (sec. 604, P.L. 102-568).

SECTION 2. CREDITING OF THIRD-PARTY PAYMENTS RECEIVED BY DEPARTMENT OF VETERANS AFFAIRS

(A) Revises the rules relating to crediting of third-party reimbursements received by the United States for the costs of medical services and hospital care furnished by the Department of Veterans Affairs. This provision allows the balance of funds to be returned to each medical center in proportion to the amounts collected.

(B) This provision prohibits any amounts credited to medical centers from being offset by reductions in amounts otherwise available to such facility or in the total amount of funds made available to the Department for health care and medical services.●

By Mr. WOFFORD:

S. 764. A bill to exclude service of election officials and election workers from the Social Security payroll tax; to the Committee on Finance.

SECURITY TAX WITHHOLDING AND ELECTION WORKERS ACT OF 1993

● Mr. WOFFORD. Mr. President, the collection of Social Security taxes is

harming local governments' ability to retain the people we need to run fair elections. Today I am introducing legislation to remedy this problem.

Most election officials serve out of a sense of civic duty. Indeed the registration commissioners of Lancaster County, PA, well described election workers when they wrote:

The payments for their services are minimal in comparison to the dedication they give to responsibilities in providing service to thousands of voters. These individuals are the true backbone of our election process.

Many communities often find it hard to recruit election officials. But the withholding of Social Security taxes is making that task more difficult. It is causing people to not work on election day. In fact, some are just up and quitting their posts.

In addition, the paperwork costs associated with collecting Social Security taxes from election workers unnecessarily burdens our local officials. The amount of money from each person is so small—I wouldn't be surprised if local governments spent more to process the withholding than they collected.

Very simply, the legislation I am introducing would exempt election workers, who make less than $500 annually, from the Social Security payroll tax. Similar legislation was passed last year as part of H.R. 11, which failed to become law.

Mr. President, I urge my colleagues to support this legislation and I ask unanimous consent that its full text appear following my remarks.

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

S. 764

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

SEC. 1. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$500 with respect to service performed during 1994, and the exempt remuneration amount determined under section 218(c)(8)(B) with respect to service performed thereafter".

(2) AMENDMENT TO FICA.—Section 3121(b)(7) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$500" with respect to service performed during 1993, and the exempt remuneration amount determined under section 218(c)(8)(B) of the Social Security Act with respect to service performed thereafter".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking "$100" and inserting "$500 with respect to service performed during 1993, and the exempt remuneration amount determined under section 218(c)(8)(B) with respect to service performed thereafter".

(2) AMENDMENT TO FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking "$100" and inserting "$500 with respect to service performed during 1993, and the exempt remuneration amount determined under section 218(e)(8)(B) of the Social Security Act with respect to service performed thereafter".

(c) AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking "on or after January 1, 1968," and inserting "at any time";

(2) by striking "$100" and inserting "$500 with respect to service performed during 1994, and the exempt remuneration amount determined under subparagraph (B) with respect to service performed thereafter"; and

(3) by striking the last sentence and inserting the following new sentence: "Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.".

(d) INDEXATION OF EXEMPT REMUNERATION AMOUNT.—

(1) IN GENERAL.—Section 218(c)(8) of the Social Security Act (as amended by subsection (c)) is further amended—

(A) by inserting "(A)" after "(8)"; and

(B) by adding at the end the following new subparagraphs:

"(B) The Secretary shall, on or before November 1 of 1993 and of every year thereafter, determine and publish in the Federal Register the exempt remuneration amount which shall be effective with respect to service performed during the following calendar year.

"(C) The exempt remuneration amount determined under subparagraph (B) shall be the larger of—

"(i) the dollar amount in effect under subparagraph (A) with respect to service performed during the calendar year in which the determination under subparagraph (B) is made, or

"(ii) the product of—

"(I) $500, and

"(II) the indexing ratio described in subparagraph (D).

"(D) For purposes of subparagraph (C)(ii)(II), the indexing ratio is the ratio of—

"(i) the deemed average total wages (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subparagraph (B) is made, to

"(ii) the average of the total wage (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)(1)) reported to the Secretary of the Treasury or his delegate for 1991 (as published in the Federal Register in accordance with section 215(a)(1)(D)),

with such product, if not a multiple of $100, being rounded to the next higher multiple of $100 where such product is a multiple of $50 but not of $100 and to the nearest multiple of $100 in any other case.".

(2) CONFORMING AMENDMENT.—Section 209(k)(1) of such Act (42 U.S.C. 409(k)(1)) is amended by inserting "218(c)(8)(D)(i)," after "215(b)(3)(A)(ii),".

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1993.●

By Mrs. BOXER (for herself, Mr. DECONCINI, and Mr. FEINGOLD):

S. 765. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve protection of benefits under group health plans, to provide for adequate notice of adoption of material coverage restrictions under such plans, and to provide for effective remedies for violations of such title with respect to such plans; to the Committee on Labor and Human Resources.

HEALTH INSURANCE PROTECTION ACT OF 1993

● Mrs. BOXER. Mr. President, I introduce the Health Insurance Protection Act of 1993 with my colleagues, Senators DECONCINI and FEINGOLD.

This bill is based upon what—this Senator thinks—is a very fair and basic principle: If a working man or woman relies upon his or her employer for insurance protection—that employer cannot pull the rug out from that individual when they become seriously ill.

It is that simple.

The bill I introduce today amends ERISA [the Employee Retirement Income Security Act of 1974] by:

Making it unlawful to cancel or reduce benefits for a person in a group health plan because the person suffers from one or more particular diseases or medical conditions;

Making it unlawful for a group health plan to discriminate among diseases or medical conditions with respect to the maximum benefits an individual may receive in his or her lifetime;

Requiring that any significant change in a person's insurance coverage may not take effect without giving the affected person 60 days notice of the proposed change in language which is easily understood by him or her; and

Providing that where health benefits are given under a self-insured plan—a plan where employers, rather than buying an insurance policy choose to pay medical costs for employees out of company funds—the plan description and summary will contain a statement which indicates that it is a self-insured plan and not a policy of insurance and therefore the employee may be responsible for some part of the medical care.

This bill is partially in answer to a shameful practice that has arisen and been sanctioned by our courts, Mr. President. Namely, the fifth circuit court in the H&H Music case found that an individual, once covered by a very generous group health insurance plan, could be retroactively terminated from that plan after contracting AIDS.

Imagine, Mr. President, if you or someone you care about contracted a serious life-threatening disease or illness—only to find out that your employer—whom you counted on to be