SENATE—*Wednesday, April 17, 1991*

(Legislative day of Tuesday, April 9, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

The PRESIDING OFFICER. The prayer today will be offered by guest chaplain Father Paul Peter from St. Adalbert Roman Catholic Church in Omaha.

PRAYER

The Reverend Paul F. Peter, St. Adalbert Roman Catholic Church, Omaha, NE, offered the following prayer:

Let us pray:

In a moment of silence let us remember Senator DAVID PRYOR, that he may have a speedy recovery.

We bow before Thee, O, Heavenly Father, the God of all mankind. You alone are the Master of the universe. You alone are the Father of all people.

At this moment of history we humbly stand to acknowledge our complete and total dependence upon You. Watch over America. Preserve her integrity. Grant peace and order to all nations.

Bless our U.S. Senators. May they always walk in justice, integrity, and with honor. Assist them to grow through hard decisions. Direct them to choose not what is easy but what is right; not what is popular but what is true; not what is glittering but what is enduring. For true peace and justice can come about only when facts are substituted for fallacy; when knowledge replaces ignorance and truth negates the false influences of prejudice.

Filled with love for America, knowing how richly we have all been blessed, we ask You this day, to accept our offerings of loyalty, love, and service. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 17, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair, in his capacity as a Senator from Nebraska, notes the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 832 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Nebraska [Mr. EXON].

NIOBRARA SCENIC RIVER DESIGNATION ACT

Mr. EXON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 33, S. 248, regarding the Niobrara and Missouri Rivers; that the bill be deemed read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (S. 248), as amended, was deemed read a third time and passed as follows:

S. 248

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 [sited] *cited* as the "Niobrara Scenic River Designation [act] *Act* of 1991".

SEC. 2. DESIGNATION OF THE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"( ) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine downstream to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek downstream to the State Highway 137 bridge, both segments to be classified as scenic and administered by the Secretary of the Interior. That portion of the 40-mile segment designated by this subparagraph located within the Fort Niobrara National Wildlife Refuge shall continue to be managed by the Secretary through the Director of the United States Fish and Wildlife Service.

"(B) The 25-mile segment from the western boundary of Knox County to its confluence with the Missouri River, including that segment of the Verdigre Creek from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara, to be administered by the Secretary of the Interior as a recreational river.

"After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section.

"( ) MISSOURI RIVER, NEBRASKA AND SOUTH DAKOTA.—The 39-mile segment from the headwaters of Lewis and Clark Lake to the Ft. Randall Dam, to be administered by the Secretary of the Interior as a recreational river.".

SEC. 3. STUDY OF 6-MILE SEGMENT.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following at the end:

"( ) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek.".

[(b) WATER RESOURCES PROJECT.—If funds are not authorized and appropriated, within 5 years after the date of the enactment of this Act, for the construction of a water resources project on the 6-mile segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek, at the expiration of such 5-year period, the 6-mile segment shall be designated as a component of the national wild and scenic rivers system, by operation of law, to be Administered by the Secretary of the Interior in accordance with sections 4 and 5 of this title and the applicable provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). The Secretary of the Interior shall publish notification to that effect in the Federal Register.]

(b) WATER RESOURCES PROJECT.—If, within 5 years after the date of enactment of this Act, funds are not authorized and appropriated for the construction of a water resources project on the 6-mile segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek, at the expiration of such 5-year period the 6-mile segment shall be

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

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designated as a component of the National Wild and Scenic Rivers System by operation of law, to be administered by the Secretary of the Interior in accordance with sections 4 and 5 of this Act and the applicable provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287). The Secretary of the Interior shall publish notification to that effect in the Federal Register.

SEC. 4. LIMITATIONS ON CERTAIN ACQUISITION.

(a) LIMITATIONS.—In the case of the 40-mile and 30-mile segments of the Niobrara River described in the amendment to the Wild and Scenic Rivers Act made by section 2 of this Act, the Secretary of the Interior shall not, without the consent of the owner, acquire for purposes of such segment land or interests in land in more than 5 percent of the area within the boundaries of such segments, and the Secretary shall not acquire, without the consent of the owner, fee ownership of more than 2 percent of such area. The limitations on land acquisition contained in this subsection shall be in addition to, and not in lieu of, the limitations on acquisition contained in section 6 of the Wild and Scenic Rivers Act.

(b) FINDING; EXCEPTION.—The 5 percent limitation and the 2 percent limitation contained in subsection (a) of this section shall not apply if the Secretary of the Interior finds, after notice and opportunity for public comment, that State or local governments are not, through statute, regulation, ordinance, or otherwise, adequately protecting the values for which the segment concerned is designated as a component of the national wild and scenic rivers system.

SEC. 5. NIOBRARA SCENIC RIVER ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Niobrara Scenic River Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall advise the Secretary of the Interior (hereinafter referred to as the "Secretary") on matters pertaining to the development of a management plan, and the management and operation of the 40-mile and 30-mile segments of the Niobrara River designated by section 2 of this [title] *Act* which lie outside the boundary of the Fort Niobrara National Wildlife Refuge and that segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek.

(b) MEMBERSHIP.—The Commission shall consist of 11 members appointed by the Secretary—

(1) 3 of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville;

(2) 3 of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

(3) 1 of whom shall be a canoe outfitter who operates within the river corridors;

(4) 1 of whom shall be chosen from a list submitted by the Governor of Nebraska;

(5) 2 of whom shall be representatives of the affected county governments or natural resources districts; and

(6) 1 of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

(c) TERMS.—Members shall be appointed to the Commission for a term of 3 years. A member may serve after the expiration of his term until his successor has taken office.

(d) CHAIRPERSON; VACANCIES.—The Secretary shall designate 1 of the members of the Commission, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Commission shall be filled in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

(e) TERMINATION.—The Commission shall cease to exist 10 years from the date of enactment of this Act.

SEC. 6. MISSOURI RIVER PROVISIONS.

(a) ADMINISTRATION.—The administration of the Missouri River segment designated in section 2 of this [title] *Act* shall be in consultation with a recreational river advisory group to be established by the Secretary. Such group shall include in its membership representatives of the affected States and political subdivisions thereof, affected Federal agencies, organized private groups, and such individuals as the Secretary deems desirable.

(b) BRIDGES.—The designation of the Missouri River segment by the amendment made by section 2 of this [title] *Act* shall not place any additional requirements on the placement of bridges other than those contained in section 303 of title 49, United States Code.

(c) EROSION CONTROL.—Within the Missouri River segment designated by the amendment made by section 2 of this [title,] *Act*, the Secretary shall permit the use of erosion control techniques, including the use of rocks from the area for streambank stabilization purposes, subject to such conditions as the Secretary may prescribe, in consultation with the advisory group described in subsection (a) of this section, to protect the resource values for which such river segment was designated.

SEC. 7. NATIONAL RECREATION AREA STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake and complete a study, within 18 months after the date of enactment of this section, regarding the feasibility and suitability of the designation of lands in Knox County and Boyd County, Nebraska, generally adjacent to the recreational river segments designated by the amendments made by section 2 of this [title] *Act* and adjacent to the Lewis and Clark Reservoir, as a national recreation area. The Secretary may provide grants and technical assistance to the State of Nebraska, the Santee Sioux Indian Tribal Council, and the political subdivisions having jurisdiction over lands in these 2 counties to assist the Secretary in carrying out such study. The study under this section shall be prepared in consultation with the Santee Sioux Tribe, affected political subdivisions, and relevant State agencies. The study shall include as a minimum each of the following:

(1) A comprehensive evaluation of the public recreational opportunities and the flood plain management options which are available with respect to the river and creek corridors involved.

(2) An evaluation of the natural, historical, paleontological, and recreational resources and values of such corridors.

(3) Recommendations for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic protection and integrity, recreational activities, or management and administration of the corridor areas.

(4) Alternative cooperative management proposals for the administration and development of the corridor areas.

(5) An analysis of the number of visitors and types of public use within the corridor areas that can be accommodated in accordance with the full protection of its resources.

(6) An analysis of the facilities deemed necessary to accommodate and provide access for such recreational uses by visitors, including the location and estimated costs of such facilities.

(b) SUBMISSION OF REPORT.—The results of such study shall be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 8. STUDY OF FEASIBILITY AND SUITABILITY OF ESTABLISHING NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK.

(a) IN GENERAL.—The Secretary of the Interior shall undertake and complete a study of the feasibility and suitability of establishing a national park in the State of Nebraska to be known as the Niobrara-Buffalo Prairie National Park within 18 months after the date of enactment of this Act.

(b) AREA TO BE STUDIED.—The areas studied under this section shall include the area generally depicted on the map entitled "Boundary Map, Proposed Niobrara-Buffalo Prairie National Park", numbered NBP-80,000, and dated March 1990. The study area shall not include any lands within the boundaries of the Fort Niobrara National Wildlife Refuge.

(c) RESOURCES.—In conducting the study under this section, the Secretary shall conduct an assessment of the natural, cultural, historic, scenic, and recreational resources of such areas studied to determine whether they are of such significance as to merit inclusion in the [national park system.] *National Park System.*

(d) STUDY REGARDING MANAGEMENT.—In conducting the study under this section, the Secretary shall study the feasibility of managing the area by various methods, in consultation with appropriate Federal agencies, the [nature] *Nature* Conservancy, and the Nebraska Game and Parks Commission.

(e) SUBMISSION OF REPORT.—The results of the study shall be submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this [title.] *Act.*

Mr. EXON. As I understand, the motion to reconsider has been laid on the table?

The PRESIDING OFFICER. The Senator is correct.

NIOBRARA SCENIC RIVER DESIGNATION

Mr. EXON. Mr. President, I am pleased that the Senate has passed the Niobrara River legislation. The amendments I have offered represent a compromise between several different versions of Niobrara Scenic River legislation.

Scenic river designation will preserve the scenic character and pastoral landscape of the Niobrara for future generations. It is a biological masterpiece very much deserving of this kind of protection and recognition.

The history of the Niobrara River during the past several decades has been a difficult one. The push for scenic river designation began over 10 years ago when a group of landowners began circulating petitions to have a portion of it added to the Wild and Scenic Rivers System. In 1985, I introduced the first Niobrara scenic river bill. A few months later, a group came to me asking that I hold off while they worked for local protections. I held off for over 2 years, but nothing happened.

In recent months, there has been another push for local protections and this bill will serve as a necessary and helpful backstop. This compromise marks a landmark opportunity for a new era of cooperation.

We have worked to meld together several different Niobrara bills in this legislation. Throughout this debate I have worked hard to protect landowner rights along the Niobrara. Some in the area were concerned that scenic river designation would end up giving the Federal Government free rein to grab up land and make any changes it sees fit. That is not the case.

This legislation establishes a limited partnership, if you will, between landowners and the Federal Government. This legislation strictly limits the Federal Government's authority to condemn land as long as local protection efforts are successful. It is not my intention, nor the intention of any sponsors of the various Niobrara bills, for there to be widespread use of condemnation. Condemnation is very rare under the Wild and Scenic Rivers Act. If the local protections and management are successful, there will never have to be any condemnation.

Mr. President, this bill will be very good for Nebraska. With scenic river designation we will preserve for decades to come the beauty of this incredible place. Scenic river designation can also be leveraged into some important economic development. The recreation industry along the Niobrara has been growing in recent years and this legislation will fuel those efforts.

The world is changing at an amazing pace. It is hard to imagine what it will be like in 50 or 100 years. We send our children and grandchildren into a great unknown. By laying groundwork like this, though, we can be assured there will be a safe haven in an uncertain world.

Mr. President, at this time I also thank my good colleague and friend from Nebraska, Senator KERREY, for being cosponsor of this legislation.

I also ask unanimous consent at this time that support of this legislation in the form of a letter from the Governor of Nebraska be printed in the RECORD and also an article from the Omaha World-Herald of April 13, be printed in the RECORD.

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

STATE OF NEBRASKA,
Lincoln, NE, March 13, 1991.

Hon. BRUCE VENTO,
Chairman, Subcommittee on National Parks and Public Lands, Rayburn House Office Building, Washington, DC

DEAR CONGRESSMAN VENTO: I am writing to indicate my support for the passage of H.R. 614.

Over the years the scenic river debate in Nebraska has grown acrimonious. This issue needs to be resolved and we need to move on to preserve the section of the Niobrara River that is the subject of H.R. 614. However, it is important that we protect the river in a way that is consistent with the established farming and ranching lifestyles of the area.

Unfortunately, Nebraska does not have an establishing policy for protecting unique river areas. The last attempt to create a state protected river system occurred in 1980. That attempt failed.

We currently have a bill before the Nebraska unicameral to make it easier for county boards to use zoning to protect rivers or streams with special values. At this point it is not certain if that bill will be approved. However, that bill should be viewed as a supplement to and not as a substitute for the carefully designed federal legislation proposed.

Too often the debate over the Niobrara has been of the either/or variety: either the protection of the river is to be provided at the federal level or it is to be provided at the local level. Too seldom have some of the competing interests given serious though to how well we might do the job if all levels of government work together.

However, it is apparent from a review of H.R. 614 and its companion Senate legislation that Congressmen Hoagland and Bereuter and Senators Exon and Kerrey understand the importance of a cooperative effort. They desire that state and local governments in Nebraska have meaningful involvement in the development of the management plan and that Nebraskans also accept much of the responsibility for managing the river once it is designated. I add my wholehearted concurrence with their desires and my pledge to do whatever I can to obtain active Nebraska participation in protecting the Niobrara following Congressional action.

Sincerely,

E. BENJAMIN NELSON,
Governor.

[From the Omaha World-Herald, Apr. 13, 1991]

NIOBRARA CLAIMS MISLEADING

Rep. Bill Barrett makes claims on today's More Commentary page that deserve to be taken with a measure of skepticism.

Barrett, taking issue with an editorial suggesting that he wants a study of the Niobrara River because he lacks the votes to defeat the scenic river bill, writes that he will do all he can to stop the bill "because a very strong majority of 3rd District residents oppose it."

Barrett says "the most recent poll" showed that 78 percent of Nebraskans don't want federal control of the river.

His reference apparently is to a survey made last June by the Wirthlin Group, a Washington organization. Rep. Doug Bereuter said at the time that the survey used misleading questions.

The question that produced the 78 percent figure indicated that a choice was being debated as to whether to protect the river with federal, state or private methods. The question didn't inform participants that such a thing as a scenic rivers bill existed. And even through no state plan was on the table, state and private options carried equal weight.

True, about 78 percent of the participants said they preferred state or private methods. But whether that result reflects an informed view of the scenic rivers issue remains open to serious doubt.

Barrett understandably didn't mention an earlier World-Herald Poll in which the scenic rivers bill was described to the people who were interviewed. It received indications of support from 74 percent of the participants statewise and 65 percent of the participants in Barrett's congressional district.

Another contention of Barrett's that deserves skepticism is his assertion that the House and Senate scenic rivers bills "don't offer special landowner protection."

The legislation does offer special protection. Its limit on the authority of the federal government to acquire property along the river are much stricter than the current law provides.

Barrett contends that other language in the bill negates the protection. "Negates" is too strong a word for what would be accomplished by the language in question. The Secretary of the Interior would have the authority to suspend the limits in cases where it was demonstrated that the river was not being adequately protected. The rest of the time, the limits would remain in force.

The Niobrara is one of the country's more precious natural assets. It is still relatively unspoiled at a time when private and public interests have developed some other waterways to the point that they can scarcely be called rivers. How tragic it would be if significant portions of the valley fell into the hands of irresponsible developers and the law still contained nothing to preserve its beauty and ecological significance for future generations.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, is my leader's time reserved?

The PRESIDING OFFICER. The Senator is correct.

NATIONWIDE RAIL STRIKE

Mr. DOLE. Mr. President, for over 3 years, the administration, the carriers, and the unions have been working to avoid what has now happened: A nationwide railstrike that threatens the precarious economic recovery we have embarked upon and the livelihood of literally millions of workers whose jobs are dependent upon the efficient transport of parts and finished products.

DIRE CONSEQUENCES OF RAIL STRIKE

To say that the economic consequences of this strike are dire for all Americans is no understatement.

Our automobile industry—already suffering from consumer cutbacks—will be forced to shut down. Ford has said it will begin idling workers within 48 hours and Chrysler has said it will totally shut down in 3 days. I do not need to remind Members that this is in an industry that is already reeling

from an unemployment rate that currently hovers around 17 percent.

Other industries that will be dramatically affected by the strike include nonrailroad employees at freight warehousing and transfer points, the wood products industry, and the coal mining industry. And of course, the agriculture industry—which is of particular concern to this Senator from Kansas—will also be hit hard. I have been hearing from lots of agriculture businesses who have indicated the disastrous consequences to their industry which in many cases is already suffering from historically low prices.

Indeed, this is the time of year when fertilizer is shipped for spring planting. Obviously, any prolonged interruption of rail service will impede the efforts of farmers to get their crops planted. The result of all this spells extreme hardship for the agricultural community and ultimately higher prices for consumers.

Finally, let us not forget the impact that this rail strike is having on thousands of commuters who depend on rail service to get to their jobs.

IMMEDIATE ACTION MUST BE TAKEN

Mr. President, the Congress has a job ahead of it, and we must do this job quickly. Railroad workers may be on strike today, but the American people can not afford to have Congress go on strike too in the face of a national emergency.

As the budget negotiations made clear last year with the threatened shutdown of the Federal Government, this great body has a habit of postponing tough decisions and tough votes until a real emergency exists.

The rail industry has now shutdown, and we will very soon see the shutdown of the American economy if we do not act now.

I think everyone agrees that labor disputes are best handled if the parties are able to resolve their differences on their own through the collective-bargaining process.

But this process has reached a stalemate with 8 of the 11 involved unions unable to reach agreement.

The Presidential Emergency Board offered its report in January and all cooling off periods have now expired.

The time has now come for Congress to act based on that report. While I cannot say I agree with everything in it, I believe it is balanced and, as Secretary Skinner has said, should form the nucleus for any congressional settlement of the dispute.

I know that the administration has been working around the clock to avert the disaster we now have on our hands. It is now time for Congress—Republicans and Democrats—to step up to the plate and work with administration to end this rail strike now.

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

The PRESIDING OFFICER. The remainder of the leader time is reserved. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Parliamentary inquiry, Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senator is correct. The period for morning business extends until 10:30.

Mr. BIDEN. Mr. President, I ask unanimous consent I be able to proceed for 12 minutes under morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for up to 12 minutes.

CHINA: ROGUE ELEPHANT ON WEAPONS PROLIFERATION

Mr. BIDEN. Mr. President, I rise today to address a topic that I think is as important to future United States and world security interests as any that I have spoken to. But we seemed not to want to speak to it very much recently.

Mr. President, I rise today to address the topic of Chinese weapons proliferation, a subject that, I am sorry to say, we may be returning to again and again in the days and weeks ahead.

If true, recent press reports of Chinese involvement in the proliferation of medium-range ballistic missiles to Syria and Pakistan and nuclear weapons technology to Algeria, open a very new chapter in Chinese flouting of international norms of behavior, in my opinion.

It appears that China is becoming a rogue elephant among the community of nations. Last year when the Bush administration was defending its policy granting China most-favored-nation trade status, so-called MFN, we heard a great deal from the President and administration spokespersons about the positive effect of maintaining our relationship with the present Chinese leadership. This, as the Presiding Officer knows as well or better than anyone, relates to the events in Tiananmen Square and what our response should and should not be.

For example, we were told by Assistant Secretary of State Solomon that maintaining ties with Beijing enables us to raise our concerns about Chinese proliferation of ballistic missiles and weapons of mass destruction. We were specifically told that.

This was cited as one of the benefits of high-level dialog and why we should not engage in serious activity designed to demonstrate our condemnation of their actions in Tiananmen Square.

We were told: Look, one of the things you are going to have to pay for if you withdraw MFN is that we are going to lose our ties with Beijing and the people in Beijing, and one of the reasons we have to keep those ties, keep the access, is because we, the administration, are concerned about the proliferation of ballistic missiles and weapons of mass destruction.

Let me give some other examples of what the administration told the Foreign Relations Committee—on which the Presiding Officer sits—last year, about Chinese proliferation. We were told at the time, "The Chinese are on record * * * as saying they would not sell a particular class of intermediate range missiles, the M–9, to Syria."

We are also told, "We have no indications that the Chinese have ever delivered intermediate range missiles beyond those previously sold to Saudi Arabia or the M–9 to anyone."

Finally, Assistant Secretary of State Solomon told me, "The Chinese went on record saying that they would be prudent, they would not be exporting these kinds of weapons to unstable areas in the Middle East and we will hold them to that public pledge."

Mr. President, if reports that have been published now in the Washington Times and Time magazine are correct, these Chinese pledges appear to have been worthless. But I fear that this administration may be less than steadfast in holding the Chinese to their pledges if, in fact, as reported, they have been breached by the Chinese. If the Chinese have broken their pledge, my concern now is whether the administration will attempt to hold them to the pledge that they made.

I cannot help but sense that the administration has developed a "China syndrome," marked by a refusal to acknowledge or accept that Chinese diplomats are perfectly willing to tell us one thing while Chinese arms merchants go ahead and do another. One day we are told that the Chinese are prepared to live by "international guidelines" prohibiting the export of medium-range missiles. The next day, we read in the press that the Chinese are selling medium-range missiles to Syria and to Pakistan. I would not suggest that these two regions are stable areas of the world at the moment.

One day we are told that the Chinese will be prudent and responsible in exporting nuclear weapons technology and that such exports will be subject to international inspections. The next day we read in the press that the Chinese are assisting Algeria—that is right, Algeria, that stable nation of Algeria—in producing nuclear weapons technology.

This is not to say that the Bush administration has failed to communicate our concerns to the Chinese. But on Assistant Secretary Solomon's last trip to China, we saw the Bush administration's China syndrome more clearly than ever.

After his meeting with the Chinese leadership, Mr. Solomon said, "The Chinese have indicated that they will honor the parameters" of the missile technology control regime. The very same day, China's foreign Minister said, "Those countries that did not attend the MTCR"—that is the Missile Technology Control Regime—"that did not attend the MTCR meeting should not be called upon to assume corresponding obligations to an agreement reached among some other countries." An apparently contradictory statement on the same day.

In other words, while Mr. Solomon might wish it to be otherwise, apparently the Chinese do not feel bound to live by or live up to this international regime. While in Beijing, Mr. Solomon also said that there was no evidence that the Chinese had completed any new missile deals. A few days later, we read in the press about Chinese plans to sell medium-range missiles to Pakistan and to Syria.

Mr. President, after the Iraqi invasion of Kuwait, we heard speech after speech on this floor about how other nations had helped Saddam Hussein build his deadly arsenal, and how we must make sure that this terrible tragedy is not repeated.

Mr. President, press reports now tell us that what is happening is the Chinese are selling medium-range missiles to Syria. I realize that we have a newfound relationship with Mr. Assad, but let me go on record again and again and again. I see little or no distinction between Mr. Assad and Saddam Hussein, and I caution those who think that Saddam has seen the second coming to look at whether or not Mr. Assad is likely to see the second coming.

I would respectfully suggest, Mr. President, as far as I am concerned, Syria's dictator, Mr. Assad, is little better than Saddam Hussein, and yet according to the press, the Chinese are proceeding to help another Mideast dictator build another deadly arsenal.

That is why I am working with my colleagues on the Foreign Relations Committee, Mr. President, Democrats, and Republicans, to craft legislation to create an arms supplier cartel. If the key nations are willing to participate, and that is a very big if I might add, Mr. President, but several have already indicated their willingness to do so, such a cartel can be effective in controlling the spread of these dangerous weapons.

I might also note parenthetically that no matter what the legislation that I am able to craft, if I am able to craft it, Mr. President, it is going to depend upon a sense of urgency on the part of the President to see to it that such a cartel comes into being.

In this regard, I find myself in total agreement with Assistant Secretary Solomon. On that same trip to China, he said that if we want to try to limit proliferation of deadly weapons to the Middle East "China is going to have to be a player." Skeptics say the Chinese have made a firm decision to sell their missiles and their conventional weapons because they need hard currency that such sales provide. They say that China will never be a member in good standing of an arms supplier cartel, and that may be; that may be how it will turn out.

But China receives a lot more hard currency from trade with the United States than it does from arms sales to the Third World. Last year, the Chinese had a trade surplus with the United States of more than $10 billion, and it is climbing, Mr. President.

So I submit to my colleagues that we do have, in fact, the leverage we need to ensure at least the ear of, if not the active participation and good faith of, the Chinese in terms of their participation in any arms supplier cartel, and it is called MFN. If China continues to behave as a rogue elephant on weapons proliferation, we should be prepared to retaliate with a clear and unequivocal message that they will understand; that is, denying China most-favored-nation status.

We had a similar debate several years ago about dealing with Saddam Hussein, whether we should deny him the economic benefits of Commerce, the United States and other civilized nations. We were told, no, we can work this out. I have seen nothing to indicate the likelihood of the Chinese changing their attitude, short of some reason to change their attitude supplied by us and other Western countries.

Mr. President, we are planning to hold closed hearings with the administration and representatives of the intelligence community in the very near future to get to the bottom of this question to find out whether or not the press reports are accurate.

We will find out what the Chinese are doing and what, if anything, the administration is doing to stop whatever it is the Chinese are doing. I hope we have learned a lesson from the Persian Gulf. I know I have learned some lessons. I voted against an early use of force against Iraq.

I hope others will admit that maybe they should learn some lessons as well, Mr. President. I hope that we will be able to understand that folks like Assad do not change overnight, and patterns of misbehavior in the international community like the Chinese have been engaged in are not going to change absent some significant protests and significant actions by the United States and other Western nations.

I am hopeful about the peace process that Secretary Baker is pursuing between Israel and its neighbors. But I must confess I am not optimistic that we can cure the Bush administration of its "China syndrome." Nonetheless, we must try, Mr. President. The way to start is by confronting the Chinese about their arms sales policy. We must stop this rogue elephant in its tracks, and we must prevent the arming of another Mideast dictator.

I ask unanimous consent that the press articles to which I have referred to be printed in the RECORD.

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

[From the Washington Post, Apr. 11, 1991]

CHINA HELPS ALGERIA DEVELOP NUCLEAR WEAPONS

(By Bill Gertz)

Algeria is developing a nuclear weapons program with the help of the Chinese government, according to U.S. officials.

Details about the nuclear program were disclosed recently in a secret CIA briefing to members of Congress. The disclosure is based on intelligence reports that a nuclear reactor is being built at a site along Algeria's Mediterranean coast.

The CIA also disclosed that despite U.S. diplomatic efforts, the Chinese continue selling ballistic missiles to Third World countries, supplying advanced arms to Pakistan, Iran, Syria and Libya.

According to the CIA, the Chinese have made or plan deliveries of M-9 and M-11 intermediate-range ballistic missiles and Silkworm anti-ship missiles to Iran, Syria and Pakistan in the next several months.

China was the first nation ever to export intermediate-range missiles with the delivery of 1988 of CSS-2 East Wind missiles to Saudi Arabia. Some U.S. officials suspect the Saudi CSS-2 are nulcear-tipped.

The White House voiced its objections to the CIA for holding the congressional briefing because the intelligence information is expected to fuel political opposition from Congress to President Bush's efforts to improve U.S.-Chinese diplomatic relations.

The military nature of the Algerian-Chinese nuclear program could disrupt U.S.-Chinese ties.

U.S. officials have sought Chinese cooperation in halting the proliferation of missiles and weapons technology but have been rebuffed by Beijing, which is more interested in obtaining her currency through the weapons sales, the officials said.

The exact location of the Algerian nuclear reactor facility was not disclosed.

But according to the officials who declined to be named, the Chinese government is providng the nuclear reactor to Algeria and the reactor and a related research facility are the central components of the weapons program.

The reactor facility was photographed by a U.S. spy satellite in the early stages of construction.

More alarming to the officials, however, are intelligence reports that the Beijing government is supplying nuclear-weapons technology and military advice on how to match nuclear weapons to various aerial and missile delivery systems, the sources said.

The Bush administration has protested the Chinese-Algerian nuclear cooperation through diplomatic channels to the Beijing government.

The intelligence indicates that the nuclear program is designed for more than the production of electrical power and will be used to build weapons.

"There are no electrical-power generation facilities at the reactor and no electric-power transmission lines are nearby," said one official. "This is clearly a military nuclear reactor for weapons production."

A key indicator of the military nature of the nuclear facility was the discovery of a Soviet-made SA–5 surface-to-air missile battery nearby, which signaled an apparent defense against aircraft or missiles.

According to the administration sources, the Algerians want to build nuclear weapons to counter a perceived threat from the radical regime of Libya's Col. Moammar Gadhafi. Relations between Algiers and Tripoli have been strained in the past.

Libya is developing a ballistic-missile program known as the Fatah. Mobile transporters and missiles have been photographed by U.S. spy satellites at what is believed to be a missile test center.

China also has provided technical assistance to Iraq and Pakistan for their respective nuclear weapons programs, according to the officials.

The State Department had no immediate comment on the Algerian-Chinese nuclear program.

[From Time magazine, Apr. 22, 1991]

CHINA: FOR SALE: TOOLS OF DESTRUCTION

(By Bruce W. Nelan)

Even if China raised no cheers for George Bush's concept of a new world order, it did not hinder allied action against Iraq during the gulf war. Its acquiescence, though often reluctant, included abstaining in a key vote in the United Nations Security Council. Now that the war is over, however, Beijing is breaking ranks on at least one front. New evidence indicates that the Chinese are peddling missiles and nuclear technology to Third World customers in defiance of multilateral efforts to ban such sales.

Beijing's experts have secretly built a nuclear reactor that is now nearing completion in the Algerian desert, American officials say. U.S. intelligence has also learned that China has sent Pakistan parts for its M–11 missile system, which can propel an 1,100-lb. warhead 180 miles, and is negotiating the sale to Syria of its M–9 missile, with a range of 375 miles. With the Chinese missiles, Pakistan could target major cities and military installations in India, and Syria could put all of Israel under threat.

Mobile launchers for the M–11 arrived in Pakistan last month along with dummy missile frames for practice launches. Pakistani air force technicians are now undergoing training in China. Both of the Chinese missiles are considered more accurate and reliable than the Soviet-designed Scuds that Iraq rained on Israel and Saudi Arabia during the war.

Washington's evidence on the reactor in Algeria comes from satellite photographs and other intelligence data. "Most of the structure is finished," says a U.S. official. "We don't know if any nuclear fuel is there. We don't think it is in operation." What worries the watchers is that the reactor was built in secret and that its capacity—estimated at between 15 and 40 megawatts—is too small for generating electricity but too large for research. The likely conclusion, they say, is that its purpose is to produce plutonium for nuclear weapons.

If China covertly delivers nuclear fuel to Algeria or transfers M–9 missiles to Syria, it is violating specific, public commitments. The sale of missiles to Pakistan would not break any formal Chinese pledges but would overstep the guidelines set by the Missile Technology Control Regime (MTCR) agreed on by 15 countries. Even though China is not a party to that agreement, under U.S. law the violation could trigger economic sanctions against Beijing.

The Chinese Foreign Ministry's traditional reply to reports of such sales is that they are "utterly groundless." One reason for U.S. National Security Adviser Brent Scowcroft's controversial visit to Beijing in December 1989 was his effort to head off the M–9 sale to Syria. He got a general promise that China would not sell medium-range missiles to Middle East countries and a specific statement that China had no plans to sell the M–9 to Syria.

Asked last week about the nuclear-reactor project, a Foreign Ministry official in Beijing said, "We have never heard of that," and promptly changed the subject. Even in public, Chinese leaders make little pretense of being serious about controlling missiles and conventional armaments. They repeat pious slogans about eliminating nuclear weapons but otherwise imply that they will do what they wish with their "prudent and responsible" arms sales.

China never signed the nuclear non-proliferation treaty and did not take part in the recent MTCR conference in Tokyo. Because China did not attend, says Foreign Minister Qian Qichen, "it is not committed to implementing the agreement."

In China's faltering economy, the military has strong incentives to sell weapons abroad, even if it causes political problems. "When an arms deal happens to clash with the country's foreign policy," explains a Chinese defense analyst, "the military may operate independently, leaving damage control to the government." Some experts also believe the generals have had more political influence over such decisions since they crushed the pro-democracy movement by rolling tanks into Tiananmen Square in June 1989.

China's defense budget is so low—officially just in excess of $6 billion for 1991—that the 3.2 million-member People's Liberation Army has for years raised extra money by producing consumer goods for sale at home and expensive weaponry for customers abroad. The defense establishment has thus become a major hard-currency earner, though its overseas sales to Third World countries fell from $4.7 billion in 1987 to $1.1 billion in 1989.

The pressure to modernize the arsenal by raising money through arms sales is stronger than ever. Chinese commanders were shaken by the performance of U.S. high-tech hardware in the gulf war. Just three weeks ago the government decided to increase defense spending 12%.

No matter who is making the decisions in Beijing, China's current recklessness is leading toward confrontation. The U.S. asked Beijing last month for an explanation of the Algerian reactor project but so far has received no reply. If the Chinese continue on their present course and complete the deals with Algeria and Syria, relations between Washington and Beijing could become chillier than at any time since before Richard Nixon first went to China.—Reported by Jaime A. FlorCruz/Beijing and Jay Peterzell/Washington

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[From the Christian Science Monitor, Mar. 29, 1991]

CHINA WILL IGNORE UNITED STATES PRESSURE TO STOP SELLING ITS MISSILES

(By James L. Tyson)

BEIJING. China has spurned an accord limiting the sale of missiles overseas, even though Iraqi missile attacks during the Gulf war attested to the dangers of such trade.

The rejection by China conflicted with assertions by a leading United States diplomat, who met this month with Chinese officials as part of efforts by Washington to develop international restraints on missile sales.

China is one of just a handful of countries that have sold medium-range missiles abroad.

Foreign Minister Qian Qichen noted at a press conference Wednesday that China has not signed the missile technology control regime (MTCR) and did not attend a recent meeting in Tokyo of 15 signatories of the agreement. The MTCR limits sales in medium-range missiles and related technology.

"Those countries that did not attend the meeting should not be called upon to assume corresponding obligations to an agreement reached among some other countries," Mr. Qian said.

However, US Assistant Secretary of State Richard Solomon said after a two-day visit this month that, "we have the missile-technology control regime and the Chinese have indicated that they will honor those parameters."

The US is encouraging Beijing to join its effort to build a broad framework to control the spread of missile technology, Mr. Solomon said.

"As we try to find a multilateral mechanism to prevent the inflow of weaponry, China is going to have to be a player," Solomon said on March 12.

China's missiles sales have long worried US officials seeking to limit the spread into volatile regions of weapon systems capable of delivering nuclear or other devastating warheads.

United States intelligence services learned in 1988 that China had completed a $2 billion sale of CSS–2 medium-range ballistic missiles to Saudi Arabia.

Since then, there has been no evidence that China has completed another similar deal, according to Solomon.

After dismissing the MTCR as unsuitable for China, Qian said, "As for China's arms exports, in this, China has always been acting in a very prudent and responsible way.

"Actually, I think I can say that China's arms sales are very, very limited, so we hope that the largest weapons exporters in the world can adopt responsible and effective measures of self restraint."

The total value of China's arms sales to the third world from 1986 to 1989 exceeded the total for Britain or France, according to the Congressional Research Service.

China's trade in arms has declined in recent years, but it remains a major supplier of weaponry to developing countries.

Mr. BIDEN. I thank the Chair and my colleagues who may be listening.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

REGISTRATION OF MASS MAILINGS

The filing date for 1991 first quarter mass mailings is April 25, 1991.

Mass mailing registrations should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224–0322.

A SIGNIFICANT ADDRESS BY GEN. NAT ROBB

Mr. HELMS. Mr. President, several weeks ago the North Carolina National Guard Association met for breakfast in the U.S. Capitol, and Nat Robb delivered a significant address.

Nat is a remarkable citizen. His full name is Nathaniel H. Robb, Jr. He is adjutant general of North Carolina. He holds the rank of major general and he is serving our State and the National Guard well.

Mr. President, I believe it is well to include in the RECORD some of Nat Robb's cogent observations relating to the future strategy for America's Armed Forces. Let me offer a few excerpts, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

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

FUTURE STRATEGY FOR U.S. ARMED FORCES

The future structure of the armed forces of the United States, to include the reserves and National Guard, is very much on the minds of the members of Congress and our military leaders. But, one of the most valued lessons that has come out of Operation Desert Storm is that the concept of "total force" worked, and it worked well.

National Guard and reserve units of all types, including combat (artillery), stood shoulder to shoulder with the active components in Saudi Arabia, Iraq, and Kuwait. General Carl E. Vuono, Chief of Staff, United States Army testified before the House Armed Services Committee that these units made a substantial contribution to the success of Desert Storm. The ability of the National Guard and reserves to perform under fire was validated and Congress should be more convinced than ever that the cliche, "more bang for the buck," is now fact.

The statistics are impressive. More than 1,000 National Guard and reserve units were mobilized involving more than 160,000 citizen-soldiers. It is interesting that even the National Guard Infantry Brigades that were not deployed had previously been rated by the Army as "deployable."

The point I want to make is that the present force structure of the National Guard and reserves should be preserved to the greatest extent possible. Fiscal contraints alone would dictate this when four reserve units can be supported for the same cost as one similar type active component unit.

I am also very concerned about, and strongly oppose, the so-called "Glenn Provision" of the Defense Authorization Bill. This provision would replace 30 percent of our Active Guard/Reserve personnel with active component personnel. The provision in the Senate bill would replace up to 5 percent of the present AGR force each year over the next six years.

This action would effectively terminate the employment of between 100 and 200 fulltime members of the North Carolina National Guard. Based on the exceptional performance of National Guard and Reserve units presently managed under the AGR program, I fail to see the rationale of the "Glenn Provision."

Finally, there is the important issue of caring for our citizen-soldiers returning from the Middle East. These brave men and women, many on very short notice, left their jobs, businesses, and families to perform their patriotic duty. We, as a grateful country, owe them tangible evidence of our pride and thanks. In this regard, I am proposing that members of the National Guard and reserves who served in the Middle East be allowed a 30-day "transition leave" benefit. This proposal would permit 30-day leave with pay and benefits after returning to their "home of record." This downtime would greatly assist them in assimilating back into their jobs, businesses and, more importantly, family life. I have presented this idea to the National Guard Association of the United States for further research.

Sincerely,

NATHANIEL H. ROBB, Jr.,
Major General (NC),
NCARNG, Adjutant General.

IN REMEMBRANCE OF RICH CASTRO

Mr. WIRTH. Mr. President, this morning in Denver, at the Basilica of the Immaculate Conception, hundreds of people crowded in standing-room only conditions, to pay tribute to one of Colorado's brightest lights, Richard Castro. And I would like to take this opportunity to join in mourning the passing of my friend, Rich Castro—and to say a few words about his life in politics and his passion for human rights.

Rich Castro was a young man when he died suddenly this weekend. His death was a great shock to me—and like many of my fellow Coloradans, I feel a profound sense of loss in his passing.

Although Rich's life was short in years, it was long in terms of public service and activism. Rich was a tireless volunteer, and always found time to play a constructive role in national, State and local community affairs. He was one of Colorado's youngest State legislators, a prolific writer, a municipal official and a champion for public education, equal rights, immigration reform and social justice. His greatest passion was human rights—and he devoted most of his professional life to the cause of racial equality and harmony.

Rich was a very modest man. He was always soft-spoken and seldom confrontational. His style was to conciliate, to heal and to persuade through force of reasoned argument. His greatest gift, I think, was his ability to engage in political debate without diminishing his capacity for friendship and good humor.

Rich was always true to his convictions, and never afraid of a fight—but he placed such a high value on human dignity and compassion for all people—that even his political opponents valued his friendship.

My deep regret is that Rich and I only recently had the opportunity to work more closely together. Rich served as an adviser to the Senate Democratic Task Force on Hispanic issues, and it was only in the last few years that we developed a close friendship. I came to value his judgment and advice a great deal—and will certainly miss the unique perspective he brought to national issues.

Rich Castro was a man who changed lives, who touched people, who made a difference. He was a voice for politics at its very best. His greatest legacy is that he went through life with a passion for doing the right thing—never afraid of controversy—and making friends along the way.

GREAT LAKES SEDIMENT REDUCTION ACT OF 1991

Mr. GLENN. Mr. President, I ask unanimous consent that the text of S. 829, the Great Lakes Sediment Reduction Act of 1991, be printed in the RECORD. I introduced the Great Lakes Sediment Reduction Act of 1991 yesterday on behalf of myself, Mr. LEVIN, Mr. DURENBERGER, Mr. METZENBAUM, and Mr. RIEGLE.

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

S. 829

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 "Great Lakes Sediment Reduction Act of 1991".

SEC. 2. PURPOSES.—It is the purpose of this Act to promote effective and efficient source reduction of sedimentation in federally authorized commercial harbors, channel maintenance project sites, and areas of environmental concern in the Great Lakes basin.

SEC. 3. FINDINGS.—Congress finds that—

(1) sedimentation in the Great Lakes System degrades the aquatic environment through transporting pollutants, increasing turbidity, decreasing oxygenation, destroying fish habitats, and causing other adverse effects;

(2) sedimentation impairs local uses and creates direct costs to the Federal Government, the States, local governments, manufacturers, and the maritime industry in harbor and public waterworks maintenance, decreased shipdraft, and other effects;

(3) the Federal Government spends approximately $33 million each year for maintenance dredging at federally authorized harbors in the Great Lakes System currently total approximately $33,000,000 per year;

(4) because the Great Lakes are a drinking water source, and a relatively closed hydrologic system, the cost of disposal of dredge materials can exceed dredging costs;

(5) over 50 percent of Great Lakes dredge spoils require disposal in confined disposal facilities at a cost 100–700 percent higher than open lake disposal;

(6) a significant portion of such materials originate from upstream erosion and runoff and can be abated through preventive measures;

(7) Great Lakes basin watersheds draining into federally authorized commercial harbors, channel maintenance project sites, and areas of environmental concern are vast with only a small percentage of the total acreage generating significant volumes of sediment.

(8) well targeted upstream erosion and runoff prevention measures could more than pay for themselves in dredging savings;

(9) while there are programs underway to reduce erosion and runoff, none is specifically directed at reducing loads of federally authorized commercial harbors, channel maintenance project sites, and areas of environment concern in the Great Lakes; and

(10) environmental studies in support of the Remedial Action Plans and Lakewide Management Plans lack adequate data about bedload transport from tributaries to the Great Lakes.

SEC. 4. DEFINITIONS.—As used in this Act, the term—

(1) "Materials Balance Model" means a quantitative and qualitative accounting of material flux and hydrodynamics within a river system designed to assess the origin, transport, and characteristics of sediment and related pollutant loadings into specific aquatic sites such as harbors, channels and areas of environmental concern;

(2) "Secretary" means the Secretary of the Army;

(3) "Great Lakes System", "Remedial Action Plan" and "Lakewide Management Plan" shall have the same meaning as that provided in section 118(a)(3) of the Clean Water Act;

(4) "erosion" means the detachment of soil particles by the action of water, wind, and other factors diminishing the productivity of a land resource base;

(5) "Administrator" means the Administrator of the United States Environmental Protection Agency;

(6) "runoff" means non-point source pollution from urban, rural, and other sources, including soil and chemical contaminants; and

(7) "sedimentation" means the deposition of materials which fills harbors, streams, and lakes and degrades water quality; and

(8) "bedload" means sediment that moves downstream in a river at a rate slower than the river discharge rate.

SEC. 5. (a) MATERIALS BALANCE MODELS.—For each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or Area of Concern, the Secretary, acting through the United States Army Corps of Engineers, in cooperation and coordination with the Administrator, and in consultation and coordination with the Great Lakes States (acting through the Great Lakes Commission), United States Soil Conservation Service, United States Geological Survey, and United States Fish and Wildlife Service, shall develop a Materials Balance Model which—

(1) includes, based on existing data, all subwatershed areas of each such river system or set or river systems which contribute significant upstream loadings of sediment and related pollutants to such federally authorized harbors, channel maintenance project sites, and Areas of Concern;

(2) measures the stream discharge rate, total suspended solids loadings, and bedload transport;

(3) measures additional parameters, such as nitrate, phosphate, persistent toxic substances and heavy metals on a river-by-river basis in accordance with any agreement between the Secretary and the host State and any other relevant non-Federal entity reached pursuant to section 5(d) of this Act;

(4) estimates the percent of total sediment loadings into such harbors, channels and Areas of Concern originating from each subwatershed of river system; and

(5) characterizes the physical nature of the sediment materials.

(b) METHODS.—In developing such Materials Balance Models, the Secretary shall—

(1) build upon data generated in earlier studies and programs including the Environmental Protection Agency's 1984 Harbor Sediment Program, Assessment and Remediation of Contaminated Sediments Program, Saginaw Bay studies under the Great Lakes Erosion and Sedimentation Program, International Joint Commission's 1982 "Guidelines and Register for Evaluation of Great Lakes Dredging Projects", and other studies;

(2) provide data to the International Joint Commission in a format compatible with the joint surveillance and monitoring program, and other programs contained in Annex 7, 11, 12, 13, and 14 of the Great Lakes Water Quality Agreement of 1978;

(3) support ongoing tributary monitoring programs through utilizing existing tributary loading stations;

(4) coordinate modeling activities, to the extent feasible, with the Environmental Protection Agency's mass balance modeling activities; and

(5) provide tributary bedload transport data to the Environmental Protection Agency in a form that can be readily integrated into present and future mass balance models for Remedial Action Plans and Lakewide Management Plans.

(c) SCHEDULE.—The Secretary shall develop the Materials Balance Models according to the following schedule:

(1) within 26 months following the date of the enactment of this Act, the Secretary shall develop 20 Materials Balance Models, including a model for the river system or set of river systems depositing sediments into each of the following Areas of Concern and commercial ports: the Port of Cleveland (Cuyahoga River), the Port of Toledo (Maumee River), the Port of Ashtabula (Ashtabula River and Harbor), the Ports of Duluth and Superior (St. Louis River), the Port of Detroit (Rouge and Detroit Rivers), the Calument Harbor and Indiana Harbor (Grand Calumet River and Indiana Ship Canal), the Ports of Bay City and Saginaw (Saginaw River and Bay), the Port of Waukegen (Waukegan Harbor), the Port of Buffalo (Buffalo River), the Port of Rochester (Genesee River), the Port of Green Bay (Fox River and Southern Green Bay), the Port of Sheboygan (Sheboygan River), the Port of Tonawanda (Niagara River), the Port of Milwaukee (Milwaukee Estuary), the St. Lawrence River, Port of Lorraine (Black River), Port of Erie (Erie Harbor) and other river systems feeding highly sedimentated commerical ports;

(2) within 48 months following such date of enactment, the Secretary shall develop models for river system depositing sediments into 10 additional federally authorized commerical harbors and channel maintenance project sites; and

(3) within 72 months following such date of enactment, the Secretary shall develop models for river systems feeding all remaining federally authorized commerical harbors and channel maintenance project sites.

(d) ADDITIONAL MODELING PARAMETERS.—For purposes of subsection (a)(3), evaluations of additional modeling parameters shall be carried out on a 50-percent cost share basis with a non-Federal entity.

SEC. 6. SEDIMENT REDUCTION ANAYLYSES—

(a) Within 18 months following the date of the enactment of this Act, the Secretary, with the concurrence of the Administrator, and in consultation and coordination with the Great Lakes States (acting through the Great Lakes Commission), United States Soil Conservation Service, the United States Geologic Survey, and other relevant Federal agencies, shall—

(1) develop an analytical method to project the effectiveness and efficiency of sediment source reduction approaches and scenarios in reducing upstream sediment loadings into specific Great Lakes federally authorized commerical harbors, channel maintenane project sites and areas of concern;

(2) utilize such method to conduct sediment load reduction anaylses in conjunction with each Materials Balance Model developed pursuant to section 5(a) of this Act to estimate the potential effectiveness and efficiency of upstream sediment source reduction approaches and scenarios to reduce sedimentation in Great Lakes federally authorized commerical harbors, channel maintenance sites and Areas of Concern.

(b) In developing and utilizing such analyses, the Secretary shall consider only those sediment reduction approaches and scenarios which are consistent with the United States Environmental Protection Agency's guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990, the relevant State nonpoint source pollution control programs, recommendations of any relevant Remedial Action Plans and programs and measures contained in Annex 3, and its supplement, of the Great Lakes Water Quality Agreement of 1978.

Sec. 7. Cost-Effective Grants To States.—(1) The Secretary shall make grants available to States for projects at reducing erosion and runoff that leads to sedimentation of federally authorized commerical harbors, channel maintenance project sites, and Areas of Concern. Projects receiving funding under this section must—

(A) be proposed by a State or States, or proposed by a State or States at the request of a remedial action planning committee, local government, port authority, or any other governmental or public or private entity;

(B) be consistent with the recipient State's non-point source pollution control program under applicable provisions of section 319 of the Clean Water Act, the United States Environmental Protection Agency guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990, and the recommendations of any relevant Remedial Action Plans and Lakewide Management Plans;

(C) be administered by agencies designated in the State's nonpoint source management program;

(D) improve water quality; and

(E) have the potential to reduce projected dredging costs, including environmental dredging, to an extent greater than the cost of the project within the lifetime of the

project and the impact of the project on the system, as estimated by the relevant Materials Balance Model, where completed. For projects proposed for river systems not yet incorporated into a Materials Balance Model, the Secretary shall use existing data to conduct a preliminary estimate of potential impact on sediment loads, and award the grants to projects with probable cost-effectiveness.

(2) In making such grants, priority shall be placed on projects which—

(A) will reduce sedimentation of materials containing persistent toxic pollutants, as listed by the International Joint Commission; and

(B) are located in watersheds of Areas of Concern, as listed by the Environmental Protection Agency.

(3) Grants under this section shall be in such amounts and subject to such conditions as the Secretary shall determine.

SEC. 8. MEMORANDUM OF AGREEMENT.—

Within 180 days following the date of the enactment of this Act, the Secretary shall enter into a Memorandum of Agreement with the Administrator regarding:

(1) cooperation and coordination with the Environmental Protection Agency in developing Materials Balance Models pursuant to this Act; and

(2) coordination of the Corps of Engineers activities pursuant to this Act with ongoing Environmental Protection Agency activities, including—

(A) mass balance modeling of toxic substances within the Great Lakes System; and

(B) Environmental Protection Agency biological assessments of Great Lakes basin river systems for purposes of developing ecologically relevant water quality criteria for suspended solids;

(C) cooperation and coordination with the Environmental Protection Agency in the development of the sediment load reduction analysis pursuant to section 6 of this Act; and

(D) cooperation and coordination in any other matters relevant to activities pursuant to this Act.

SEC. 9 (a) AUTHORIZATIONS.—For the purpose of carrying out the provisions of sections 5 and 6 of this Act, there are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1993 through 1997.

(b) AUTHORIZATION FOR GRANTS.—For the purpose of carrying out the provisions of section 6 of this Act, there are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1993 through 1997.

SADDAM HUSSEIN, UNNATURAL DISASTER

Mr. LIEBERMAN. Mr. President, yesterday the President of the United States announced a policy of establishing safe havens within Iraq for the orderly distribution of food, medicine, clothing, and shelter to the Kurdish refugees. Those havens will be protected, at least on a temporary basis, by United States and allied military forces.

This is an important, significant step in the right direction. In my remarks in this Chamber a week ago, I called for a dramatic increase in our assistance to the Kurds, saying, "there will be no safe havens unless their safety is assured by a military presence (and) protected by the use of force if they are violated." I hope that this new international effort will quickly provide relief for a devastated people. The scale of this disaster is immense, and an enormous, unprecedented humanitarian effort must be made.

But the problem goes beyond hunger, disease, shelter. The problem goes to the doorstep of Saddam Hussein. This is no ordinary relief campaign. We are not dealing with the consequences of an earthquake, tornado, hurricane or other natural disaster. We are dealing with an unnatural disaster by the name of Saddam Hussein. And unlike an earthquake or hurricane that comes and goes, Saddam continues to afflict his people to this day. He is the reason Kurds are dying. He must go. And more can and must be done to get rid of him.

Safe havens are only a temporary solution. The Kurds deserve safe passage home. They have homes, beds, farms, food, clothing in their villages in Iraq—at least in villages that have not been destroyed by Saddam's aggression. But they are afraid to go home. They are risking death from natural causes because of their fear of death by Saddam Hussein. The fact that a human being would choose to confront hunger, thirst, homelessness, and disease rather than confront Saddam Hussein is strong testimony to how evil he is, and how important it is for us to get him out of power. We must do more to lift from there afflicted people the terrible choice they face. We must give them hope, where currently there is none.

I wish we had acted sooner. I wish we have shot down the helicopters the minute we saw them fly against the rebels in Iraq. I wish we had called for a stop to the armed assaults against Iraqi civilians, and used air power to stop them if our warnings did not suffice. While such acts might not have kept the rebels from losing their battle against Saddam's forces, we could have prevented the wholesale slaughter of innocent lives, and perhaps we could have prevented the mass exodus of Kurds from their homeland.

Even now, we should make clear to Iraq's ruler and to his terrorized people that there will be no more killing fields. The Kurds cannot go home until they know they have no more to fear from Saddam Hussein.

We need not get involved in a ground war or a civil war to come out on the side of innocent people and against a one-sided slaughter. But we cannot pretend that we have nothing to do with the internal affairs of Iraq. Yesterday's announcement by the President provides proof that we have been involved in Iraq's internal affairs, and we are about to become more involved.

The people of Iraq want our help. Our troops have been greeted as liberators by nearly every Iraqi they see. The regime in charge of Iraq does not deserve our respect or our deference. A terrorist is claiming to run a country, and the international community of civilized nations cannot let him get away with it. We must use all reasonable economic, diplomatic and military means to bring about the downfall of Saddam's regime.

America, with its allies, must pursue a concerted policy of defeating the menace of Saddam Hussein once and for all, and bringing him to justice for his crimes. The people of America and of Iraq want such justice. International morality demands it.

TRIBUTE TO FORMER SENATOR JOHN TOWER

Mr. HEFLIN. Mr. President, I was profoundly and deeply moved by the tragic and senseless deaths of former Senator John Tower, his daughter Marian and 21 others in that fiery plane crash in my neighboring State of Georgia. His loss weighs heavily upon me and upon this body which is at the same time trying to cope with the death of another of our members, Senator John Heinz. Although Senator Tower has not served in this Chamber for over 7 years, his spirit still lurks these Halls and his influence still shapes any discussion of national defense.

Senator Tower perhaps did more to spur the successful military buildup of the United States during the 1980's than did any other Senator. His commitment to a strong defense was deeply held and his expertise in these matters was sharply honed and second to none. Although many people knew the John Tower who presided over the Senate Armed Services Committee from 1980 until 1984, few knew he served in the Navy in World War II and remained in the Naval Reserve throughout his tenure in the Senate. It was this patriotism and this belief in his convictions that led John Tower to press for the military buildup that he knew would help preserve this country from her foes whether they be cold war powers or Third World dictators. John was a staunch ally to President Reagan and their diligent efforts have been amply rewarded by the dwindling friction between the United States and the Soviet Union as well as our resounding success in both Panama and the Persian Gulf.

When John Tower left the Senate, the people of Texas lost one of their staunchest defenders and ablest legislators. He served four terms while few people expected he would win reelection in the democratic stronghold of Texas. After leaving the Senate, John's beliefs and abilities would not allow him to stray far from public service. He served 2 years as the United States' chief negotiator at the strategic arms reduction talks. John again applied his

ability and his drive when he undertook the task of heading the Commission which delved into the Iran-Contra affair.

I am saddened to think that some people might remember John more for the time when he failed to win approval as the Secretary of Defense than for the accumulation of his innumerable successes and achievements. I supported John Tower because I believed strongly in his knowledge and understanding of the Defense Department and because I believed in the man. His patriotism and his work ethic would serve well as an example for us all.

My thoughts and prayers are with the family and friends of John and Marian Tower as they try to cope with this tremendous loss. As I attended services for John Tower in Dallas, I realized that above all, John should be remembered as a loving father, a devoted Texan, and a proud American.

THE POINTS OF LIGHT FOUNDATION—CELEBRATION OF SERVICE AND SERVICE AMBASSADOR AWARDS

Mr. KENNEDY. Mr. President, I commend the Points of Light Foundation for its efforts to encourage all Americans to participate in community service. The Foundation is a private nonprofit organization whose board is composed of 24 Americans from business, industry, the academic world, and voluntary service groups. The foundation's mission is to help make community service a greater part of the lives of every American, and thereby contribute to the ongoing struggle against illiteracy, poverty, homelessness, alcohol and drug abuse, delinquency, and the plight of the elderly.

On Monday, April 15, the foundation launched their 12-day "Celebration of Service" to honor Americans who have been trail-blazers in community service, to enhance public awareness of the problems facing society and the need for personal involvement to alleviate them, and to identify worthwhile programs that can be used in all parts of the country to challenge others to become involved.

Each day during the Celebration of Service, the Points of Light Foundation will recognize one or two Americans as Service Ambassadors, people who have made a difference by participating in service programs. Today, I join with the Points of Light Foundation and Senator BRADLEY in commending Ms. Elizabeth Flood of Newark, NJ, an exemplary American who has made a significant contribution to her community and her country.

It is a privilege to work with the foundation, and I ask unanimous consent that appropriate background information on its good works may be printed in the RECORD.

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

THE POINTS OF LIGHT FOUNDATION—BACKGROUND

The points of Light Foundation is a private non-profit, non-partisan umbrella organization whose board is comprised of 24 Americans drawn from business, industry, academia and voluntary service groups. The Foundation's mission is to help make direct and consequential community service aimed at serious social problems central to the life of every American and to increase the opportunities people have for that kind of service through their workplace, schools, churches and civic organizations. We also will serve as a catalyst in the creation of new voluntary service initiatives.

The Foundation and its board recognize the crucial role government programs must play in this struggle but believe these approaches cannot be the only ray of hope on the horizon. Illiteracy, poverty, homelessness, alcohol and drug abuse, delinquency and the plight of the elderly are problems that continue to defy government's best efforts. This void can only be filled by a redoubled effort from the private sector, by the profound and personal commitment of individuals to helping others.

Beginning Apr. 15, the Foundation is launching a 12-day Points of Light Celebration that is designed to honor those people who have been trailblazers in the community service effort; to sharpen public awareness of the problems facing society and the need for personal involvement to help alleviate them; and to identify worthwhile programs that can be replicated in other parts of the country and challenge others to get involved. Literally thousands of disparate groups and individuals have already been mobilized as part of this effort.

In conjunction with the Celebration, the Foundation will unveil a nationwide advertising campaign, created pro bono by Saatchi & Saatchi and the Advertising Council, that will bring the message of service into the home of every American. The slogan, "Do Something Good, Feel Something Real," stresses the sense of personal accomplishment that volunteers get from their work. The campaign will seek the help and cooperation of the media, businesses, schools, unions, religious groups and individuals. In addition, a toll-free 800 number will act as a national center for providing key information for community service efforts.

The Foundation is assisting or has helped to establish numerous successful service programs. These include:

One-to-One, a mentoring program for disadvantaged youth.

StarServe, a school-based community service effort.

Into the Streets, a college-based community service program operated by the Campus Outreach Opportunity League.

Naming of individual Points of Light Representatives, Leadership Companies and Partnerships.

The Foundation's mandate is long-term. After the Celebration of Service is over, we will pursue our mission on several fronts. First, we will evaluate our advertising campaign and toll-free telephone service in an effort to improve the response; and second, we will continue and improve our efforts to serve as a broker and coordinator for new programs. There are no easy answers. We are engaged in a day-to-day struggle that requires day-to-day commitment and energy.

POINTS OF LIGHT FOUNDATION HONORS ELIZABETH FLOOD

Mr. BRADLEY. Mr. President, our Nation's greatest resource is its people. Nowhere is this more evident than in our tradition of volunteers—the thousands of people who contribute their time, energy, and talents to improve the lives of others.

Everyday, in towns across the country, volunteers work in schools, hospitals, shelters, parks, and service organizations. They work with children, the elderly, the handicapped—and those who just need help in getting back on their feet. They ask for nothing back—other than to improve the quality of life for others.

The Points of Light Foundation was created to spotlight the contribution of volunteers in our society and to encourage others to get involved in projects in their communities. This week, the Points of Light Foundation is honoring volunteers from throughout the country who are making a difference in the lives of others.

I am proud that one of the recipients of the Service Ambassador Award, as well as the Presidential Volunteer Action Award, is Elizabeth Flood of Newark, NJ. For Ms. Flood, volunteering is a way of life. Since 1978, she has conducted a daily after school care program for the children who live in her public housing unit in Newark.

Over the years, the program has grown to help over 250 children. Ms. Flood has designed projects that help direct the childrens' energy and creativity toward music, dance, and art. Older children tutor younger children, helping schoolwork as well as instilling a sense of responsibility.

Each year, Elizabeth Flood and her family help to feed the homeless in Newark. This is done as a lasting tribute to the memory of her son, who died of asthma and who had showed a deep concern for the homeless.

Elizabeth Flood epitomizes the spirit of volunteerism. She shows us the impact that one individual can have on improving the quality of life in her community. She can take great pride in the many lives she has touched—and I am proud to be her Senator.

People like Elizabeth Flood and the other recipients of the Service Ambassador Award and Presidential Volunteer Action Award enrich our lives and our communities. They deserve our gratitude and our appreciation for their selfless and compassionate response to so many of the challenges facing our Nation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period of morning business is now closed.

FUTURES TRADING PRACTICES ACT

The PRESIDING OFFICER. Under the previous order the Senate will proceed to the consideration of S. 207, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 207) to amend the Commodity Exchange Act to authorize appropriations for and enchance the effectiveness of the Commodity Futures Trading Commission, to curb abuses in the making of trades and the execution of orders at designated contract markets, to provide greater representation of the public interest in the governance of such contract markets, to enhance the integrity of the United States financial markets by providing for Federal oversight of margins on stock index futures, clarifying jurisdiction over innovative financial products and providing mechanisms for addressing intermarket issues, and for other purposes.

The Senate resumed consideration of the bill.

COMMITTEE MODIFICATION

Mr. LEAHY. Mr. President, in behalf of myself and Senator LUGAR, and for the Committee on Agriculture and Forestry, I send a modification of the committee substitute to the desk and ask that the committee substitute be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The committee modification is as follows:

Beginning on page 159, strike line 4 and all that follows through page 168, line 11, and insert the following new title:

TITLE III—INTERMARKET COORDINATION

SEC. 301. MARGIN ON STOCK INDEX FUTURES.

Section 2(a)(1)(B) (7 U.S.C. 2a) is amended by adding at the end the following new clause:

"(vi)(I) Notwithstanding any other provision of this Act, any contract market in a stock index futures contract (or option thereon) shall file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for the stock index futures contract (or option thereon).

"(II) The Board may at any time request any contract market to set the margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request.

"(III) Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this clause only to the Commission.

"(IV) Nothing in this clause shall supersede or limit the authority granted to the Commission in section 8a(9) to direct a contract market, on finding an emergency to exist, to raise temporary emergency margin levels on any futures contract or option on the contract covered by this clause.

"(V) Any action taken by the Board under this clause directing a contract market to alter or supplement a contract market rule shall be subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. The review shall be based on the examination of all information before the Board at the time the determination was made. The court reviewing the Board's action shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 302. EXEMPTION AUTHORITY.

Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsection (c) or (d), it shall be unlawful"; and

(2) by adding at the end the following new subsections:

"(c)(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, may (on application of any person) exempt any agreement, contract, or transaction (or classes thereof) otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods, from any of the requirements of subsection (a), or from any other provision of this act except section 2(a)(1)(B), if the Commission determines, after notice and opportunity for hearing, that the exemption would be consistent with the public interest.

"(2) The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) unless the person seeking the exemption demonstrates to the satisfaction of the Commission that—

"(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

"(B) the agreement, contract, or transaction—

"(i) will be entered into solely between institutional participants;

"(ii) will be entered into in connection with a line of business or for hedging or risk management purposes; and

"(iii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

"(3) For purposes of this subsection, the term 'institutional participant' shall be limited to the following persons or classes thereof that the Commission determines have the financial and other qualifications adequate to fulfill the terms and conditions of the agreement, contract, or transaction:

"(A) A bank or trust company (acting in an individual or fiduciary capacity).

"(B) A savings and loan institution.

"(C) An insurance company.

"(D) A registered investment company under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

"(E) A commodity pool subject to regulation under this Act.

"(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K).

"(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80a–1 et seq.), or a commodity trading advisor registered under this Act.

"(H) If otherwise authorized to engage in such transactions by law, any governmental entity (including the United States, any State, or any foreign government) or political subdivison thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

"(I) A broker-dealer registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another institutional participant.

"(J) A futures commission merchant, floor broker, or floor trader registered under this Act acting on its own behalf or on behalf of another institutional participant.

"(K) Such other persons that the Commission determines have such financial and other qualifications.

"(d)(1) To the extent that a swap agreement or class of swap agreements (as defined in section 101 of title 11, United States Code) may be considered to be subject to regulation under this Act, the Commission shall, by rule, regulation, or order, following notice and an opportunity for a hearing, exempt (effective as of October 23, 1974) from all of the prohibitions and requirements of this Act, including section 2(a)(1)(B), such swap agreement or class of swap agreements if—

"(A) the Commission determines that the exemption is consistent with the public interest;

"(B) each party to the swap agreement is a person included in one of the categories specifically enumerated in subparagraphs (A) through (K) of subsection (c)(3) at the time it enters into the swap agreement;

"(C) the creditworthiness of any party having an actual or potential future obligation under the swap agreement would be a material consideration in entering into or determining the terms, including pricing, cost or credit enhancement terms, of the swap agreement; and

"(D) the swap agreement is not one of a fungible class of agreements that is standardized as to its material economic terms and is not entered into and traded on or through a multilateral transaction execution facility: *Provided, however,* That the foregoing shall not be deemed to preclude any arrangement or facility, between and among parties to swap agreements, that provides for netting of payment obligations resulting from such swap agreements.

"(2) To the extent that any demand deposit, time deposit, or transaction account (as defined in subsections (b)(1), (c)(1), and (e), respectively, of section 204.2 of title 12, Code of Federal Regulations (as in effect on the date of enactment of this subsection)) whether indexed or otherwise, may be considered to be subject to regulation under this Act, the Commission shall, by rule, regulation, or order, following notice and an opportunity for a hearing, exempt from all prohibitions and requirements of this Act, including section 2(a)(1)(B), any such deposit or account if—

"(A) the deposit or account is offered by—

"(i) a United States financial institution that is insured by a United States governmental agency or United States chartered corporation; or

"(ii) a United States branch or agency of a foreign bank that is licensed under the laws of the United States and regulated, supervised, and examined by United States Federal authorities having regulatory responsibilities for the financial institutions or under the laws of any State and regulated, supervised, and examined by State authorities providing regulatory supervision comparable to that provided by United States banking authorities, and the regulators oversee the financial integrity and customer protection of the deposits; and

"(B) the Commission determines that the exemption would not be contrary to the public interest.

"(e) The granting of an exemption under this section shall not affect the authority of the Commission under any other provision of this Act to conduct investigations in order to determine compliance with the requirements or conditions of such exemption or to take enforcement action for any violation of any provision of this Act or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions or requirements.".

SEC. 303. HYBRID COMMODITY INSTRUMENTS.

Section 4c (7 U.S.C. 6c) (as amended by section 203(a) of this Act) is further amended by adding at the end the following new subsection:

"(h)(1) Nothing in this Act shall be considered to govern or in any way be applicable to any transaction in or involving an instrument which meets the following requirements.

"(A) To the extent that an instrument has an embedded or otherwise attached commodity option, the instrument derives less than 50 percent of its value at the date of issuance from the value of the commodity option; and

"(B) To the extent that an instrument has an embedded or otherwise attached contract of sale or a commodity for future delivery, on the date of issuance, it is expected that less than 50 percent of the value gained from and payable on the instrument will be due to movement in the price of the commodity or commodities specified in the instrument or in the terms and conditions of the transaction pursuant to which the instrument was issued.

This subsection shall not affect any other exclusion or exemption from this Act, of any transaction, including exemptions granted by any rule, regulation or order of the Commission.

"(2) Except as provided in paragraph (1), nothing in this subsection shall affect the jurisdiction granted to the Commission over any transaction under this Act.".

SEC. 304. INDEX PARTICIPATIONS.

Subsection (f) of section 4c (7 U.S.C. 6c(f)) is amended to read as follows:

"(f)(1) Nothing in this Act shall be considered to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.

"(2) Nothing in this Act shall be considered to govern or in any way be applicable to any contract traded on a national securities exchange whereby any party to the contract acquires any interest in a stock index participation unit approved for trading by the Securities and Exchange Commission by order dated April 11, 1989, or pending such approval on or prior to December 31, 1990.

"(3) The Commission shall utilize its authority under this Act to facilitate the registration of any person who is a person associated with a broker or dealer, or an associated person of a broker or dealer (as defined in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) for the purposes of marketing stock index futures (or options thereon) to the public.".

Mr. LEAHY. I thank the Chair.

Mr. President, we discussed this issue at some length yesterday. Senators spoke also at some length about it. I will reiterate that we have before the Senate a major piece of legislation, one designed to do everything from audit trails to substantially strengthen enforcement procedures under the CFTC to make sure the people of this country can have confidence in the futures markets of the United States.

The futures markets of the United States have been one of the major commercial factors allowing the United States to grow as the No. 1 trading country of the world. It has certainly been vitally important in the United States, being the major agricultural producer and exporter in the world, as well as its involvement in everything from precious metals to other commodities.

I will not go over again some of the reasons why this legislation has been stalled for several years, in the face of the turf fights and unfortunately the ego of at least one, perhaps more people, not within this Chamber, but within the executive branch of government.

But having said all of that, I think we have put together a piece of legislation supported by every member of the Senate Agriculture Committee, Republican and Democrat alike, that is designed to do the one thing we set out to do, to make sure, notwithstanding the fact that the vast majority of the men and women who work in the commodities markets are totally honest and follow the rules, to make sure those few who are tempted to do otherwise will find if they succumb to temptation, it will bring about immediate action, enforcement, and very severe penalties.

This is necessary to protect the honest people who work in these markets, but also to protect the thousands and thousands of Americans, individual Americans, and American businesses who rely upon these markets either for their own personal investment or just to carry forward the commercial aspects of the United States itself.

Mr. President, I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. LUGAR].

Mr. LUGAR. Mr. President, I rise to support the committee modification introduced by the chairman of the Agriculture Committee, Senator LEAHY. This modification makes minor changes to the Agriculture Committee-reported bill to reflect more completely the agreement between the CFTC and the Treasury Department.

Members will recall, in our recitation yesterday of the history of this legislation, that we pointed out the enormous efforts to bring compromise with elements of the administration, various agencies involved, Members of Congress. As a matter of fact, this bill as a whole represents very substantial compromise supported by Wendy Gramm, Chairman of the CFTC, and the Treasury Secretary, Nicholas Brady on issues dealing with the jurisdiction and coordination of regulatory efforts between the CFTC and the SEC.

The modification also has CFTC and Treasury concurrence. It is an appropriate fine-tuning of the overall compromise. This modification may not be embraced by all parties, but it strikes, in my judgment, a reasonable balance between the competing interests and addresses some of the criticisms leveled at the Agriculture Committee.

The committee amendment amends S. 207, the basic underlying bill, as reported from the Agriculture Committee, in basically two respects. First of all, in the section dealing with hybrid instruments, this modification clarifies that the objective of the legislation is to shift jurisdictional authority from the CFTC to the SEC if an instrument is more like a security than a futures contract. This clarification is needed because the Agriculture Committee's version prompted concern that the Agriculture Committee was trying to effectuate a massive transfer of the SEC's existing jurisdiction in stock index options and other options to the CFTC.

In fact, nothing could be further from the truth. The objective of the committee-passed version was to exclude from the reach of the Commodities Exchange Act and thus the CFTC those instruments that were more like the security than like a commodity futures contract. This modification clarifies that position.

Second, the modification clarifies the language dealing with swaps transactions to ensure that the overall bill does not unintentionally adversely impact the growing swaps industry.

It provides flexibility to the swaps industry while seeking to ensure we do not inadvertently permit the creation of the equivalent of a nonregulated futures market.

I emphasize, Mr. President, the discussion preceding this portion of the bill brought about very highly technical but likewise agreeable results. It was a listening process and a learning process.

In my opinion, this clarification will be helpful to those involved in the swaps industry and at the same time not inadvertently create a situation where there is no regulation and such instruments literally fall between the

cracks even while the two large agencies are thinking about their jurisdiction.

I conclude, Mr. President, by saying that the contentions issues of this debate comes in the areas in which the CFTC has clearly had jurisdiction regarding the futures products. There is clear recognition on the part of the Agriculture Committee, on the part of Senator LEAHY and myself, that we are trying to make clear as best we can that new products should be accessible to investors.

These new products are called hybrids, a hybrid between a security and a future. And the basic question is which agency the CFTC or the SEC should regulate the product. In yesterday's debate, I went into detail on the type of hybrid instrument we were likely to see. In fact, it was an instrument that was become quite common, a debt security, which looks like a bond, has a term of maturity, has a regular interest payments, and has a stated interest on the face of the security. It looks like a security. But it also has a futures component.

The example I used yesterday suggested that the payment of interest would vary from the regular 8.4 percent in the illustration that I had, up and down, depending upon the price of oil, from a base price of $30 a barrel.

The hybrids are created to give investors the benefit of a security and normal payments, and at the same time give the benefits of the fluctuation of various markets, such as energy or agricultural, markets.

The question is, clearly, who should regulate these new instruments. The bill, S. 207, says they should be regulated by the SEC or the CFTC, depending upon the preponderance of the value coming from that particular instrument. And the bulk of the instruments that have come forward, these hybrids, these new innovations, are valued predominantly as securities.

What I have mentioned again today clearly falls into that category. Ultimately, in all, the differentials created by the futures component amount to about $96 in the illustration yesterday, and the bond finally pays out $1,000. So it turns out as a security under S. 207, the CFTC gives over jurisdiction to SEC under this example.

I do not want to characterize or dispute what is in front of us, Mr. President. It is a tempest in the teapot, although I fail to see why there has been such unusual contention over a fairly common sense demarcation line. If something, is valued as a security, it goes to SEC, or if it is valued primarily as a futures component, to the CFTC.

Nevertheless, the amendment we have now clarifies this even further and makes clear that we are trying in every way we can to bring about correct jurisdictional assignment.

For all of these reasons, Mr. President, I favor adoption of this amendment.

The PRESIDING OFFICER. Who seeks recognition? Does any other Senator seek recognition at this time?

If no Senator seeks recognition, the Chair, in his capacity as a Senator from Virginia, suggests the absence of a quorum.

Mr. LEAHY. Will the Chair withhold? Parliamentary inquiry. If there is no Senator seeking recognition, and if a quorum call is not in, what would be the regular order?

The PRESIDING OFFICER. The question would occur on the substitute amendment as modified.

Mr. LEAHY. Mr. President, I have been in many discussions, and I certainly do not want to preclude any rights of anybody, since the distinguished chairman of the Banking Committee is here, and he intends to speak.

I do not suggest at this moment that we go to the conclusion of this matter which, as the Chair has rightly noted, would be the regular order. But every one of us, when we have meetings within our caucuses, and discussions of how we streamline procedures in the Senate, how we move things along, invariably somebody says, "Yesterday we had *x* number of hours of quorum calls," or *x* amount of time in quorum calls.

Or many times, we will have Senators standing on the floor, if we are here in the evening voting on something, saying, "Why are we voting here in the evening, when we had 2 hours of quorum calls this morning," or this afternoon, or whatever. "Why do we do it now?"

The distinguished Presiding Officer and I both know that many times those quorum calls allow negotiations to go on. Maybe during an hour's worth of quorum calls, you can have negotiations that may save us 10 hours of time on the floor. That is perfectly justifiable.

But I urge Senators, if they want to speak on this matter or are going to offer amendments, come and do it. I am willing to enter into short time agreements, if other Senators are willing. That would require unanimous consent of all the other 99 Members. But this was well laid out yesterday.

We have been talking about this for 3 years. We talked about it at some length prior to the most recent recess, and I hope that Senators will come, say their piece, vote this up or down, and let the legislative process work its way.

I do not see why we need to spend a lot of time in quorum calls. If Senators want to cooperate and get going on this, we can be done by 2 o'clock this afternoon. I mention that because I do not want Senators coming up to me on the floor, if we are here this evening, saying, "Why is this taking so long," that we are ready to wrap it up right now.

I yield the floor.

Mr. RIEGLE addressed the Chair.

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

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am going to make a formal presentation here on the issue that is before us. I want to make some preliminary comments to provide some background as to what brings us to the floor at this time with respect to a portion of the bill that has been brought before the Senate by the Agriculture Committee.

I want to particularly appeal to my colleagues and to professional staff that are assisting Members on this issue to give some very considerable, careful thought to the debate and the discussion as it ensues over the hours ahead. I say that because part of the bill that is in contention, the Title 3 area of the bill, is very technical. It is also very important. It is something that I think each Member has to understand in some considerable detail in order to cast a vote finally that they will have confidence is the best vote and the vote that will serve public policy ends best over the years ahead.

I do not relish the fact that we have a strong difference of opinion here. On one side of this issue is the Banking, Housing, and Urban Affairs Committee, the Agriculture Committee on the other side. But the fact is that we do have a sharp difference of opinion, not universally held, but majority held by Members of the two respective committees on this title III.

I think it is also important to note that in the normal course of events here in Senate when you have an issue that has been around for a long time and an effort is made within a given committee to strike a compromise, and when the administration, in this case in the form of the Treasury Department, gets involved to try to work out a series of unresolved issues, that you can end up late at night, as happened in this case, with a compromise being developed that is a compromise that is the product of fatigue, is the product of frustration, is the product of whomever the parties are to the discussion.

In this instance, not all of the parties that ought to have been in the discussion were in the discussion. It was essentially a sort of a three-cornered discussion between the CFTC on the one

hand, the Commodities Futures Trading Commission, the administration on the other hand, and members of the Agriculture Committee providing sort of the third party at interest in the discussion. The matters, however, range out far more broadly than just those three parties at interest. In fact, in order to argue out and settle this issue in any kind of a reasonable and well-balanced, I think, long-term way, would have required other parties at interest to be present for those discussions and that negotiation. I would include in that group the Chairman of the Federal Reserve, the Chairman of the Securities and Exchange Commission and I think, as well, the Banking Committee in the Senate which, of course, has jurisdiction in the area of securities law.

So at a minimum, instead of a three-cornered discussion yielding the compromise, there should have been, in my view, at least six participants representing various vantage points collected in that discussion and from which the consensus should have been developed.

That did not happen. So the Agriculture Committee, working with the administration and with the CFTC, came up with an approach to its liking in title III and under the normal course of events has now brought this package to the floor and would like to steamroller this package on through.

I am all for the Agriculture Committee in carrying out its work. In fact, I think the remainder of their bill is very well done and I applaud them for it. I think the remainder of their bill, in terms of taking the margin setting requirements for stock index futures and putting that over in the Federal Reserve and doing other things in the reporting and recordkeeping area are important advances. They are things that I enthusiastically support and I think are valuable additions to the law. But that does not solve the problem in title III nor does it relieve any of us from the duty and burden of understanding the intricacies of that title so that we really are in a position to decide how it ought to be done.

I must say to my colleagues in the Senate that I regret this issue was not resolved prior to this time because I think it becomes very difficult to resolve a highly technical issue of that kind on the Senate floor. It is much better done between committees and the respective parties at interest prior to the time that a legislative proposal is fully brought to the floor. But we did not have that opportunity. We were not invited to participate; we were not allowed to participate. And so in a sense we are having to now participate at this point in the process, which makes it more difficult for all involved.

I might say, too, that having been through a lot of legislative efforts over 25 years now in the House and the Senate, I am well aware of the fact that, in a situation like this, a committee that has the bill under its jurisdiction and it is brought to the floor, even if a part of the bill like title III encroaches over into another area under the jurisdiction of a separate and different committee, that the committee bringing the bill to the floor, in this case the Agriculture Committee, has an obvious advantage. They have a head of steam in terms of bringing it here and find themselves in a position where just the general nature of the legislative flow is very favorable to them being able to enact their package, with whatever defects that it may carry.

There is one defect here that I think we really have to try to focus upon and deal with and change. In that regard, I want to cite the leadership of Senator TIM WIRTH and Senator KIT BOND, in a bipartisan way, both members of the Senate Banking Committee, who have been working with others on our committee, including the chairman of the Securities Subcommittee, Senator DODD from Connecticut, and I say with great sadness also the late Senator John Heinz, who was very much involved in the issue and would have been an active participant in support of what is now being offered as an alternative in this title III by Senators WIRTH and BOND.

Those Senators particularly have been very active in attempting to address and resolve this issue going back over a period now of some 2 years. In the previous discussions, the members of the Banking Committee has worked actively with members of the Agriculture Committee and with the administration and the various regulatory agencies to try to come up with a reasonable package that really, in the end, could enlist a consensus and in fact would produce what all could feel was very sound, long-term public policy.

As I said—and I do not want to be unduly repetitive here—unfortunately, in this latest round producing this title III before us now, there was not that kind of participation and so it now has to take place here on the Senate floor in this setting.

I might also say that in our caucuses, in the Democratic caucus over the last 2 weeks, we have had some discussion in the caucus on this issue. I want to just speak to that for a moment and so my remarks for the next short period of time are really addressed to my Democratic colleagues here in the Senate. Those of you that were present at those two caucus luncheons will recall that we had some debate, some animated debate, particularly the one 1½ weeks ago and then again yesterday—on this issue. We talked at that time about the complexity of this issue in just a sheer legal sense.

At the time of the first discussion in the caucus, I indicated then to the majority leader and to my colleagues in the caucus that we would endeavor to hold a hearing at the earliest possible moment in the Senate Banking Committee where we could have present Alan Greenspan, the Chairman of the Federal Reserve Board; a representative of the Treasury Department—unfortunately it could not be the Treasury Secretary, because he is out of the country, so Under Secretary Robert Glauber would have to stand in for him—and also then the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission as well.

So the first oppportunity that we could have those four parties, three regulators and the Treasury Department, present on the same day for a hearing was yesterday morning at 10 o'clock. Prior to that time Chairman Greenspan was traveling and unavailable so we were unable to accommodate him. In any event, the earliest chance for that hearing was yesterday, and so we had that hearing yesterday morning.

Unfortunately, because of the need to get the hearing record reproduced, we cannot have it in its entirety available for distribution to Members as a whole. It would number some dozens of pages, several dozens of pages, that would have to be read in any case. But I am going to summarize part of the testimony of these critical regulatory representatives and the administration, in terms of what they had to say to us yesterday.

I take the time to relate that history because I wish I had been in a position to give this information to our colleagues at an earlier time, 2 or 3 weeks ago. Had this situation been one in which we had been asked to participate at an earlier time we would have done so and, therefore, the information we have now since developed would have been developed at an earlier time and people would not be in a position to have to try to absorb it today or—if the issue is settled today or tomorrow or whenever it is settled—in that very short space of time. But that is the way it is, so it is important people understand that the hearing record of yesterday is a very important part of the, I think, basis for decision that we ought to have available and we ought to clearly understand before we vote.

I will do my best to summarize the high points of that testimonial record from yesterday because I think it goes directly to the heart of the defects of title III, and how those defects are corrected by the Wirth-Bond alternative that will be offered later and cosponsored by myself and several other colleagues on both sides of the aisle.

Having said all of that by way of background, then, I rise in opposition to title III of S. 207, the Futures Trading Practices Act of 1991.

I would say the Banking Committee has received letters expressing concerns about or outright opposition to title III of S. 207 from the following people: from Alan Greenspan, Chairman of the Federal Reserve, from FDIC Chairman William Seidman, from SEC Chairman Richard Breeden, from Mary L. Shapiro, a Commissioner on the SEC, and also a former staff member of the CFTC, and former general counsel of the Futures Industry Association.

We have also received communications of that sort from representatives of the Office of the Comptroller of the Currency, from three former general counsels of the SEC, from the American Bankers Association, the Securities Industry Association, the New York Stock Exchange, the American Stock Exchange, Fannie Mae, and Freddie Mac, as well as numerous others. These letters all raise substantial questions about title III.

It is important to reflect on who it is that is expressing these concerns because they obviously have to be considered as a counterweight or counterbalance to what has already been said yesterday and this morning by representatives of the Agriculture Committee in behalf of their bill.

After reading the letters I just cited and listening to the arguments on both sides of the issue, I myself have come to believe that title III of S. 207 is not flexible enough as written to allow the continuing development in an appropriate way in our financial markets in the United States. Instead, this bill in that area, that narrow area, would freeze an extremely broad interpretation of the current regulatory authority and does not, in my view, leave enough room for innovation and growth in the future.

I think title III will discourage the development of new products because of uncertainty as to where they will trade and who will regulate them. It continues a feature of current law that has continually led to problems and is why we are struggling once again to resolve this issue today, and that is a requirement that a product either be a future or a security and thus trade solely under one or the other regime.

Let me try to explain that in as plain language as I can. In our financial markets today we have securities that are direct, clear security instruments that trade in our securities markets and under the regulatory structure of the SEC.

Over here we have what we call futures contracts. They originally started out with agricultural commodities in this country. Futures contracts are traded on futures exchanges which are regulated under the CFTC. Futures have separate regulatory structures and treatment.

What has happened over the years is that the so-called hybrid products have been developed that mix the two together so we have a new product that is developed, part of which has a securities characteristic and part of which also has a futures characteristic. That is why it is called a hybrid, because it is part of both.

Depending upon how much it is one versus the other raises a question, then; where does it fit in? Where should it trade, in terms of what kind of market should it trade in, but also what kind of regulatory regime will it be treated with? Will it fall over on the securities side, or will it fall over on the futures and the commodity side?

Because this issue has been very contentious over a long period of time, and because of an interpretation of a law that has been in place for some years, we have not been able to crisply and cleanly settle the question of deciding how we deal with these hybrid situations.

If I can try to simplify it to one more level: Many of these hybrid products are so substantially of the securities character that it is easy to make a decision where they fit, so it is easy to decide that it falls over into the securities area and ought to be under the securities regulation system. The same is true of some futures contracts, new ones that are developed, where it is so predominantly a futures contract that there really is no question about it, that it falls over into the other category and falls under that regime.

The problem that is left is ones that are very close and very hard to judge, where there is a large element of futurity, as it is called—the futures element in that product—and also a large amount of securities identification and product in that same particular item that is under question. So it is the ones that are very closely balanced, as between securities and futures, that are the ones we are trying to deal with here in this title III today.

It is very hard to decide how to do it because three different people can look at the same product, a hybrid that has a lot of securities in it and a lot of futures in it, and one of the three people might say, I think it is principally a securities product. Let us put it under the securities regime. The second person might look at exactly the same thing and say, no, I do not agree with that. That is more a futures product. Let us put it under the futures regime. And the third person might look at it and say, I just cannot decide because it is almost 50/50, or it is 51/49. It is such a close call and relates to definitions of, generally, highly technical items. So the third person might say, I am not sure. So we have three people, all experts, looking at the same instrument and coming up with three different judgments.

How do we settle that? One of the ways we try to settle it now is if there is that kind of disagreement, people take the disagreement to court. Anybody who has ever gone to court knows that it is no fun and can take a long time. Additionally, it can cost a lot of money and can take 2 or 3 years, sometimes longer, to resolve an issue.

Somebody who wants to bring that new product to market, looking at the likelihood of a legal fight, may very well say: I do not need this hassle. I will not trade this new product in the United States because the United States cannot get its act together in this area. I will take this particular product and I will go overseas to Europe and I will trade this in Luxembourg, or I will trade this in France, or in Germany, or some other place.

That is what has been happening. What section 3, offered by the Ag Committee, would do is, they say, look, we will figure out how to deal with these middle cases, these situations that are kind of in the middle. We will have a 50-percent test and we will say if it is more than 50 percent securities, it falls on the securities side of the line; if it is more than 50 percent futures, it falls on the futures side of the line. So we will just set a nice 50-percent test and that will solve the problem.

That does not solve the problem. That is fiction and a myth of a solution. Because if you go back to my illustration and you are trying to decide which side of the line it falls on, if you go back to the case with the three experts and one of the experts said it falls on the securities side, and the second expert said, no, it falls on the futures side, and the third expert is pulling out his hair saying I do not know which side of the line it falls on, then you have not settled it. Many of these products are going to fall right close to the center in terms of this combination, this hybrid effect. So it is one thing to say there is a 50-percent test; it is another thing to be able to apply it as a practical matter.

So I say, now I really am in a dilemma because if these products are going to be developed and they have a certain value and we have to make a regulatory decision, how do we go about doing it in the case where it is a very close call and different people see it different ways?

We thought about that for a long time and we have come up with an answer, which is in the alternative being offered by members of the Banking Committee under the heading of the Wirth-Bond proposal, which we think provides a better answer.

By the way, when we put that alternative to our witnesses in the hearing yesterday, when we put it before Alan Greenspan and asked him whether our alternative was better, he said, yes, he thought it was better public policy.

Then we asked Mr. Glauber, speaking for the administration, if he thought it was better public policy, and he acknowledged as well that, in fact, the

alternative that we are offering is better public policy.

So then we asked the head of the SEC and he also said the alternative that we were offering is a better answer to that problem. That was three of the four witnesses.

Not surprisingly, when we got to the fourth witness, who was the head of the Commodity Futures Trading Commission, the response from that person was, no. The alternative in the Agriculture Committee's version was preferred and, not surprisingly so, because it tilts in the CFTC's favor. So they like that one better.

But it was very significant that the other three, three out of the four, clearly expressed themselves as saying that the Wirth-Bond alternative in section 3 was the better public policy and would serve the country better into the future if enacted.

We say, how would it work? The way the Wirth-Bond alternative would work is we would say, look, if you have a new product that is almost evenly balanced between its composition as a security and a future and is in this 51–49 or 48–52 category as a blended product, that rather than try to fight it out in court, that may take a long period of time and may actually drive the product out of the United States into a foreign market where they do not have these hassles, why do we not have a situation where those middle situations can trade either place? In other words, let the market itself, the people who are bringing that product into existence decide whether they want to trade it in the securities markets under the securities law regime or in the futures market under the futures law regime and let the market itself decide.

I realize sometimes it almost seems like an alien notion to say that the market should decide rather than a group of law writers sitting here in the U.S. Congress. But in effect, what we are trying to do here, if we accept the proposition in the Agriculture Committee's bill, is to say, look, we will figure this out for the market; you market folks, stand aside; we are going to have a nice bright line here that is going to make it clear as to where the jurisdictions begin and end, and where you can trade and where you cannot.

Our view is fundamentally different. We say in this category in the center, the jump-ball category where you have nearly an equal mix between securities or futures, that the market itself will decide where it wants to go. If it opts to go over into the securities area and trade there, and that is where the market traffic moves and it can become robust in that area and become a new product that has financial significance and economic value to our country, then so be it. That will be the choice that the market itself makes.

If, on the other hand, the market forces decide to take it to the futures market and it developes and becomes robust and a significant item, fine and dandy. In other words, the market itself can make the judgment as to whether this blend should take that particular kind of hybrid product.

Someone might say, well, that is not a perfect answer either. We live in a world that very seldom gives us perfect answers. We live in a world of less than perfect answers. But I think in a situation like this where there is going to have to be an arbitrary line drawn under the approach suggested by the Agriculture Committee, which in turn will set off endless legal fights and battles and will create lots of income for high-priced lawyers that are paid $400 an hour, $500 an hour, $600 an hour and leave these issues up in the air for 2, 3, or 4 or 5 years, will virtually guarantee that they leave the United States and go to a foreign market where they can do that literally overnight. That is just not good, sound national policy. It is not good, sound national financial market strategy.

I think if we are going to have to rely on somebody to make the judgment, and I do not think it ought to be a staff member at 11 o'clock at night who comes up with an idea—with no disrespect to any Senate staff member—I do not think it should be somebody who works for one or the other regulatory bodies; I do not think it should be a member of the administration who may be fatigued, frustrated, has a backache at 11 o'clock at night and finally says, all right, let us do it this way; I'm sick of this; let us get it over with. I do not think we can decide it that way and cannot imbed it in law for years and years to come based on that kind of a process, especially when a number of the key parties of interest were not present and participating.

I think it is far more preferable in a situation like that to let the market itself decide. Markets are not perfect either, but markets have the great value of sorting out, in a sense equilibrating the judgments of everyone who wants to participate. In financial markets, in order to participate, you have to have a financial stake, you have to put some money on the table at some point if you want to participate. When people are putting their own money at risk in a financial market, they tend to pay more attention and be more careful about it.

So if I have to trust somebody's judgment in the end, I think the market forces, the whole blend of market forces, will probably tend to lead in a direction that gives us a durable and sounder long-term answer than we will get any other way.

Bear in mind, we are talking only about hybrid instruments that have elements of both securities and futures.

But also it is important to think about this point: If you leave that kind of a definition, the 50-percent definition test, which is subject to dispute and interpretation, you also create, I think, a perverse incentive for someone who is formulating a new product, to craft that product and take it right up to the 50-percent line, in a sense get your nose pressed right against that window as much as one can without presumably going over the 50-percent line into the other guy's backyard.

I do not think it is wise for us to create a legal line here that is so fixed in terms of establishing this jurisdiction that it encourages people to work up to the line and try to find a way to in effect create a situation where maybe they can inch over the line and somehow have the effect through the interpretive process of pulling that over into their backyard.

There is a lot of money at stake. These are markets that can develop into multibillion-dollar markets, and so you have financial incentives driving the creation process and the effort to try to secure market dominance or monopoly of that particular instrument, if you are clever enough to devise it.

So I think if we are going to have hybrid situations that are right in the middle, we probably ought to have them be in a situation where the market itself decides. I think that would give us the best answer in the end. And I think it will keep those products in the United States. It will provide jobs for American people, provide income for American people, as well as provide tax revenue for our Government. I think in that sense it is good economics as well.

Let me move ahead with some more of my prepared remarks.

A second problem on which we have to focus is that both versions of S. 207, the agriculture bill, fail to grant the CFTC sufficient exemptive authority. The financial products are now extensively regulated under Federal and State law. As a result, the CFTC should be authorized to grant exemptions from some or all or none of the requirements of the Commodities Exchange Act as they deem such exemptions to be in the public interest.

For example, the CFTC should be able to determine that a new product is not conducive to exchange base trading but should still be subject to other provisions of the CEA.

I want to be clear. I would strongly resist any exemptive provisions that would exempt financial products from appropriate regulation. We need regulation. We have it for a reason. We want it to be strong, fair, and balanced. But I think, at the same time, we should avoid regulatory structures that result in duplicative regulation. We often fall into that quandary without so intending.

Having said this, I want to again commend the Agriculture Committee

for their efforts to resolve the jurisdictional uncertainties that currently surround new products. I think the efforts of that committee to undertake these complex and highly technical and contentious issues are commendable and they do help improve public policy in that area.

I say again it is clear that title III of S. 207 moves in the wrong direction. So it has to be treated separate and apart from the remaining very positive elements of this Agriculture Committee bill.

I mentioned we had before us yesterday in our hearing these key regulators, all of whom are the prinicipal parties at interest. I asked them for their professional opinion on the Wirth-Bond substitute as opposed to title III now in the agriculture bill. When I asked them which proposal would be better public policy for our country—and I had to squeeze a little bit with respect to Mr. Glauber to get an answer, but he was forthcoming—when I asked them to measure it by the yardsticks of which proposal would give us more innovation, would foster competition, and would provide regulatory certainty for a broad range of financial products, three of the four, including Glauber, said the Wirth-Bond alternative was the better alternative and was preferable.

I asked them which one would give us greater legal certainty so we would keep these issues out of court, and again they indicated, three of the four, that the Wirth-Bond alternative would give us greater legal certainty than would the proposal as drafted in title III of the administration's bill and is now incorporated in the Agriculture Committee version.

I want to quote a little bit from Alan Greenspan because he is the regulator who I think is most at arm's length on this. He is the one who does not have a direct jurisdictional stake in this and therefore I think can be fairly said to be the most detached and the most dispassionate in looking at the sheer merits of the issue.

Yesterday he said as follows:

In recent years a wide variety of new products have been developed to serve the investment and risk management needs of the public. Many of these products have had some of the economic attributes of futures and their legality has been called into question by the exclusivity provisions of the CEA. For example, over the last 10 years, the swaps market—have developed and grown to involve transactions with $3 trillion in notional principal amount.

Just to explain, a swap transaction is an individually customized agreement in which parties agree to make payments to each other based on changes in interest rates or the value of oil or other products.

Swaps are used to manage risk by protecting financial institutions and others from fluctuations in interest rates or the prices of goods and instruments in which they deal.

Returning to Chairman Greenspan's testimony, and I again quote him, he said:

The exclusivity provisions of the Commodities Exchange Act have cast a pall over this market, particularly in the area of swaps linked to prices for goods such as oil. Investors and financial institutions have been concerned that such transactions might be interpreted to be the economic equivalent of contracts of sale for future delivery under the CEA and therefore be considered illegal off-exchange futures. Thus, an active market in swaps related to prices of goods did not develop until the CFTC took administrative action to indicate that it would not view them as illegal off-exchange futures. Even with this exemption, there continues to be concern that developments in the swaps markets may run afoul.

This is still Greenspan speaking. He then said:

This specter has almost surely inhibited innovation, not only in the swaps markets, but in other financial markets.

This is not the first time Chairman Greenspan has expressed that concern. He did so in a letter to me dated March 27, where he expressed his strong concerns about S. 207 as it had been reported out of the Agriculture Committee. He said in that letter:

The approach taken by S. 207 will continue to preserve impediments to innovation and hybrids and risk management products and may well forestall developments in the swaps markets that could reduce systemic risk.

There he is talking about something bigger than just losing a market. He is talking about systemic risk, which means the chance for a financial and an economic catastrophe. He goes on to say:

The 50-percent value test embodied in the bill is arbitrary, as will be any procedure for determining the value of the commodity component of a financial instrument, and could yield anomalous results for similarly structured instruments.

The exemptive authority given to CFTC under this bill is narrow, and in some cases would prohibit the Commission from making appropriate exemptions.

This is Greenspan talking. He continues:

The hearing requirement could lead to a cumbersome exemptive authority, which itself would pose an obstacle to innovation. Further, the regulatory exemption, once granted, itself creates uncertainty, as they may be revoked at a future date.

In a separate letter from Greenspan comparing the Wirth-Bond alternative to S. 207 as revised by the CFTC, Greenspan wrote this:

The approach taken by the Bond-Wirth alternative goes further than the CFTC alternative to alleviate the difficulties for the financial markets created by the provisions of the CFTC, and therefore is, in our judgment, preferable, particularly in the area of swaps, bank deposits, and lending instruments.

I ask unanimous consent to make those two letters from Alan Greenspan and his testimony at yesterday's hearing part of the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. RIEGLE. As I noted earlier, Mr. Glauber, who is the Under Secretary of the Treasury for Finance, testified at yesterday's hearing that he believes that the Wirth-Bond alternative is better public policy than S. 207 as reported or as revised.

I think this is important in light of the statements that we have been hearing that the administration, really Treasury, supports S. 207 as revised by the CFTC.

So the Treasury's position on S. 207 is really two positions. On the one hand, they say they support the dead of night agreement, and on other hand, when they came up to testify yesterday before our committee, and were asked directly and point blank whether the alternative fashioned by the Senator from Missouri and the Senator from Colorado is better public policy in this area, the Treasury Department had to testify that the alternative developed by Bond and Wirth is better public policy.

That is what we are here to try to do, it seems to me—to try to enact better public policy. That is the test we have to meet, not some other test. I know sometimes the steamroller gets rolling. The steamroller can really get rolling.

We can end up saying, well, we are for public policy; that this is as good as it should be. And here is a chance for public policy that is better than that, but we cannot take the better policy because we are locked into the public policy that is not so good. This may be better than what we have now, but if we are going to change the law, and I think we ought to, then let us change it so we do the best possible job. Let us not just cave in to the pressures from the CFTC.

I respect that organization. There is a very aggressive chairperson there, as there is at the SEC. I do not want to tilt the equation for one as against the other. They are both important. But I will tell you this: You cannot make these decisions on who the regulator is today, whether they are good or not, because regulators come and go.

So we cannot make the decision on that basis. We have to make the decision on the basis of what is the permanent pattern of law going to do for us in the public policy area over a period of years, not which strengthens one agency or diminishes another agency. That is not the issue.

The question here is what constutites good public policy? What gives us good, strong, well-regulated financial markets? What keeps those financial markets here in the United States?

So we cannot decide this on the basis of whether we like one regulator or dislike another regulator; one's ego is bigger than somebody else's ego. I have heard all of these arguments in both ways in this case. They have no relevance in this debate. They ought to be tossed into the ash can.

We ought to be making this decision based on what sets a pattern of public policy that is solid and strong for the next 2 years, 5 years, as far out as we can see. That is what the Wirth-Bond alternative, cosponsored by many of us on both sides of the aisle, will do. It will give us what Alan Greenspan yesterday said was better public policy, what Mr. Glauber, speaking for the Treasury Department yesterday, said was better public policy, and what the Chairman of the SEC said yesterday was better public policy.

So 3 out of 4 of the people on the working group designed and set up precisely to address and settle these issues were clear cut on that issue. If three out of four think it is better, then I think it is reasonable to say that it is better. There is no good, solid, relevant reason to throw aside what we know to be better, not particularly when it comes out of the kind of procedure and process which I have already described.

We do not do our best work in the dead of night around here, as a rule, and especially only when some of the relevant parties of interest are present.

I am going to end with a reference—I have others; I will insert those in the RECORD because others want to speak. I have spoken at sufficient length here, I believe. I think it is time for others to speak.

But I want to refer to one letter that I found particularly persuasive which came to us from Mary Schapiro. Mary Schapiro is in a unique position because, on the one hand, she now serves as a Commissioner on the Securities and Exchange Commission. But she is a person whose background is such that, prior to joining the SEC, she served as Executive Assistant to the Chairman of the CFTC. So she was in, what at times, are these two competing agencies.

Ms. Schapiro also served as the general counsel of the Futures Industry Association. So she is no stranger to futures. She understands them probably as well as anybody in this town. She has been able to look at it from both vantage points. She has been on both sides of this division: the futures side and the securities side.

What did she write? She is a highly respected regulator. In her letter to us, she said this:

> The exclusivity clause of the Commodities Exchange Act is doing damage to the capital raising ability of U.S. corporations. Quite simply, the exclusivity clause deprives U.S. corporations of needed flexibility in designing their capital instruments and hurts U.S. investors, particularly retail investors, by denying them the opportunity to invest in the financial instruments of their choice.

But we have a terrible problem in our economy right now of saving enough, and diverting the savings over into capital investment, into the private sector of our economy.

We see that manifestation all across the board. So anything that makes it more difficult to really attend to the capital investment needs of the United States and get the capital moving to create jobs and to create new economic strength—we do not want things to get in the way of that. We want things to foster that in a fully regulated, fair, open, proper way.

I want to read one other thing from her letter. This goes back to the way things were done prior to 1974. She says, that the exclusivity clause was enacted in 1974 for two reasons. The first was to ensure that all commodity futures traded on exchanges would be regulated to the same extent. She notes that, prior to 1974, unregulated futures contracts traded alongside of regulated futures contracts. So they wanted to get rid of that, and wisely so.

The second reason was: To protect exchange-traded futures from interference by State regulators and the potentially adverse, costly impact with compliance with 51 different regulatory schemes. Congress recognized and repeatedly reaffirmed the industrial use of a nationally uniform body of standards governing futures trading coupled with State antifraud legislation.

She notes that the exclusivity provision was not intended to and should not be used to prevent securities products from trading on regulated securities exchanges—we are talking about the hybrids in the middle again—or to prevent the institutions from utilizing swaps or other legitimate instruments specifically tailored to their needs. Yet, that is the situation that we now are finding ourselves being put into by virtue of this defect in title III in this particular matter before us.

My last thought would be this. We are here to set policy for the future. We are not trying to help one market as against another. We are not trying to help one regulator as against another. We are trying to construct a balance of regulatory treatment and definition and a manner of operation that keeps the markets fair, aspires investors' confidence, and enables the capital investment process in the United States to go ahead as fully as it possibly can, and to not see these markets through inadvertence or through poorly written law hightail it out of the United States and go somewhere else.

I am not here to try to tilt the balance toward anyone or against anyone. I am absolutely firmly of the view that that ought not to be any part of this legislation. But I think, unfortunately, given the way it has been constructed in the agriculture bill, it now has that characteristic to it. That, I think, has to be addressed and changed.

The rest of the bill, I think, is fine. I congratulate the Agriculture Committee. They have done a good job. The margins part, I believe, is right on target. They have done a good job in the other areas. But title III has to be changed, or we are going to pay a real price for it as we go down the road in terms of the economic vitality of this country. And that is something that ought not to happen.

I yield the floor.

EXHIBIT 1

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, March 27, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter requesting my views on Title III of S. 207, the Futures Trading Practices Act, as reported out of the Senate Agriculture Committee. In that letter you ask several specific questions about the regulation of hybrid instruments, including swaps, prescribed by the bill. I would like to focus on those matters on which I believe I can be of most assistance to you and give special attention to the treatment of swaps and deposits.

As I have noted in testimony and previous correspondence on these issues, various problems arise from a basic principle underlying the current approach to the implementation of the Commodity Exchange Act (CEA), under which instruments with elements of futurity may be considered to be futures contracts and therefore required to be traded on futures exchanges. This approach has led to confusion in financial markets and involvement of the courts, of which the situation involving index participations is a good example. The developers of new financial instruments—including risk-shifting products—are responding to perceived economic needs, but the uncertainty about the treatment of new financial instruments in the United States under the CEA tends to discourage such efforts and to give an edge to financial centers abroad.

Clearly, these provisions of the CEA are in need of repair, and I commend the Senate for seeking to make needed changes. However, as I indicated previously, the approach taken by S. 207 will continue to preserve impediments to innovation in hybrids and risk-management products and may well forestall developments in swap markets that could reduce systemic risk. The 50 percent value test embodied in the bill is arbitrary, and could yield anomalous results for similar structured instruments. The exemptive authority given to the Commodities Futures Trading Commission (CFTC) under this bill is narrow and in some cases would prohibit the Commission from making appropriate exemptions. The hearing requirement could lead to a cumbersome exemptive process which itself would pose an obstacle to innovation. Further, the use of regulatory exemptions, once granted, itself creates uncertainty, as they may be revoked at a future date.

Instead of this approach, which seeks to exempt certain hybrids from the CEA, it would be preferable, as I have noted previously, to allow such instruments to trade

on markets selected by the parties. Thus, equity-related derivative products could trade on either securities or futures exchanges and banks and other financial institutions could offer commodity derivative products where appropriate prudential and investor protection safeguards are in place. In this way, owing to different customer bases, similar products could evolve in ways that best meet the needs of those customers.

In the case of the swap markets, I am concerned not only about the potential adverse effects of S. 207 on competition and innovation but also about its potential to impede the development of netting arrangements designed to reduce counterparty credit risks and, therefore, systemic risks in the financial markets. Last November, the Governors of the central banks of the Group of Ten countries released a report that concluded that netting arrangements, if properly designed, have the potential to reduce the size of credit and liquidity exposures incurred by participants in interbank and other wholesale financial markets, including the swap markets, and thereby contribute to the containment of systemic risk. However, the provision of S. 207 that limits the exemptive authority of the CFTC to swap agreements that are "not designed to and would not result in a trading market in the swap agreement" could prevent the development within the United States of multilateral netting arrangements for swap obligations. Other conditions of this swap exemption authority may also result in a failure to exempt certain existing swap transactions. The enactment of these provisions could push multilateral netting arrangements for swap obligations and the swap markets themselves offshore.

Proponents of the prohibition of multilateral netting of swap obligations have argued that such a system would, in effect, be a futures exchange and, therefore, should be subject to CFTC regulation. There are important differences, however, between a traditional futures exchange and the multilateral netting systems that have been developed in other financial markets. Participation in these netting systems generally is limited to commercial banks and other regulated financial institutions that traditionally have taken an approach to risk management that is fundamentally different from the approach used by futures exchanges. In designing multilateral netting systems, generally these institutions have adopted decentralized systems that preserve incentives for bilateral risk management (by allocating losses from a default in the first instance to the original counterparties of the defaulting participant) rather than adopting the centralized systems used in the futures industry that mutualize losses without regard to the original counterparties. For such decentralized systems, the regulatory framework developed by the CFTC for futures exchanges seems inappropriate. The case for CFTC regulation is further reduced if those other systems are subject to regulation by another federal agency.

In addition to extending the coverage of the act to swap transactions, Title III also suggests that the CFTC will have jurisdiction over some depository instruments and lending transactions. We do not believe that it is appropriate for banking activities of federally regulated institutions to be subject to the jurisdiction of the CFTC. Banks are subject to a comprehensive system of federal regulation designed to ensure the safety of the institutions and to protect their customers; there is no need to impose another layer of regulation on their activities, especially where that regulation is designed to meet concerns that are not relevant to banking activities. Further, the bill could be read to preclude banking regulators from overseeing banking transactions that are exempt by the CFTC, a situation that would be inadvisable.

I hope you find these comments to be helpful.

Sincerely,

ALAN GREENSPAN.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, April 15, 1991.

Hon. TIMOTHY E. WIRTH,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your letter of April 12, 1991, requesting my views on two proposed alternatives to the exclusivity provisions of S. 207 as reported by the Committee on Agriculture, Nutrition and Forestry. One alternative was transmitted by Chairman Gramm of the Commodity Futures Trading Commission to the Chairman of the Senate Agriculture Committee by letter dated April 9, 1991 ("CFTC Alternative") and the other alternative accompanied your letter to me of April 12, 1991 ("Bond-Wirth Alternative").

Under the current approach to the implementation of the Commodity Exchange Act ("CEA"), instruments with elements of futurity may be considered to be futures contracts and therefore required to be traded on futures exchanges. This approach has led to confusion in financial markets and involvement of the courts, of which the situation involving index participations is a good example. The developers of new financial instruments—including risk-shifting products—are responding to perceived economic needs, but uncertainty about the treatment of new financial instruments under the CEA tends to discourage such efforts and to give an edge to financial centers abroad.

As I have previously indicated, S. 207, as passed by the Agriculture Committee, would continue to preserve impediments to innovation in hybrid's and risk management products and would forestall developments in swap markets that could reduce systemic risk. The exemptive authority given to the Commodity Futures Trading Commission ("CFTC") under this bill is narrow and in some cases would prohibit the CFTC from making appropriate exemptions. The hearing requirement could lead to a cumbersome exemptive process which itself would pose an obstacle to innovation. Further, the use of regulatory exemptions, once granted, itself creates uncertainty, as they may be revoked at a future date.

In my view, the approach taken by the CFTC Alternative generally addresses the difficulties created by the exclusivity provisions of the CEA more effectively than the provisions of the Agriculture Committee version. Nevertheless, it continues to rely on discretionary, and potentially restrictive exemptive procedures for dealing with swaps and bank deposits rather than the exclusionary approach of the Bond-Wirth Alternative. Further, it does not address lending transactions at all.

The Bond-Wirth Alternative, on the other hand, excludes certain swap transactions as well as certain deposit and lending transactions from the coverage of the CEA altogether, thus avoiding problems that may arise from a cumbersome exemptive process and the potential for revocation of any exemptions that may be granted for these transactions. It also would provide the CFTC with broader discretionary authority to exempt any instrument if the CFTC determines the exemption is consistent with the public interest. The approach taken by the Bond-Wirth Alternative goes further than the CFTC Alternative to alleviate the difficulties for the financial markets created by the provisions of the CEA, and therefore is in our judgment preferable, particularly in the areas of swaps, bank deposits and lending instruments. The exclusion approach also would remove possible conflicts in regulatory jurisdiction that might arise from continued CFTC jurisdiction over swaps. At the same time, the limitations on the exclusions ensure that these transactions are subject to Federal oversight or are limited to sophisticated investors.

I hope you find these comments to be helpful.

Sincerely,

ALAN GREENSPAN.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, yesterday, we began debate on reauthorization for CFTC, and some more reforms to address the many abuses which have occurred in the futures market during the past few years. If this were all S. 207 accomplished, I expect that we would have nearly unanimous support for the legislation. However, the real issue, as everyone in this Chamber well knows, is the continued jurisdictional squabbling between the SEC and the CFTC, and the concerns raised about the effects of the provisions in title III of this legislation on the capital markets.

So, as we begin debate on title III today, it is important to keep in mind what we are discussing is whether we want capital markets that are competitive in the global arena, which will encourage innovation, and which will provide legal certainty for market participants.

Before talking about the substantive concerns I have regarding the provisions in title III, I believe it is important to emphasize four points.

First, neither Senator RIEGLE nor I, nor any of our colleagues who have concerns about title III, oppose the enactment of S. 207. We do not wish to kill the bill or indefinitely delay its consideration. To the contrary, I will fully support the enactment of title I and title II and the margin provisions of title III.

I cannot support, however, sections 302, 303, and 304 of title III in their current form, or as revised by the proposed manager's amendment. These are the provisions which address the problems raised by the so-called exclusivity clause of the Commodity Exchange Act. These sections of the bill need to be amended. I believe the Bond-Wirth amendment corrects most of those problems, and I support the efforts of Senator BOND and Senator WIRTH to correct these problems.

The second matter which I call to the attention of this body, Mr. President, relates to the interests of farm groups. A number of my colleagues have indicated that they agree as a matter of policy with the concerns the financial regulators and others have expressed. However, they have also received letters and visits from several farm groups which have indicated their support for the passage of S. 207 as reported out of the Agriculture Committee. This has put them in a difficult position.

Let me allay their concerns. Quite simply, title III does not affect farmers at all. Most of the farmers that I have talked to, and who have encouraged me to back off my positions, think it does. They have been misled. Title I and II do, and I want to repeat that we do not object to title I or title II or the margin provisions of title III. But these provisions have absolutely no impact on farmers. They deal solely with margins on stock index futures, index participations, swaps, and hybrid securities. They deal with financial instruments, not agricultural commodities.

That is the point I want to make very strongly.

A lot of people talk about just a turf battle on this between the Agriculture Committee and the Banking Committee. It is not that. I am not interested in wasting time on turf battles. Agricultural commodities are their business. Financial instruments and hybrid securities are the business of the Banking Committee. I make the point very strongly that our staff, our people, are hired on that committee to deal with those kinds of instruments. I do not pretend to know all of the details of the Agriculture Committee's business, nor should I. Their staff is hired because they are experts in the area of agricultural products, and dealing with futures. We are not. That kind of separation needs to be made. The expertise is not there.

We have plenty of testimony that the chairman of the Banking Committee has already talked about, and letters from various groups that talk about how this is hurting our financial institutions. The last thing we need right now in this financial crisis with the S&L's and problems with the banks is legislation that further hampers our financial institutions.

So again I want to be very repetitious and indicate that our concern on the Banking Committee is dealing with financial instruments, not agricultural commodities. I must say how very disappointed I am that we cannot make that separation and that it is necessary to be out on the floor making these points, because for several years we have been trying to separate financial instruments from commodities and apparently have not been able to do so. The CFTC does not seem to want to keep their hands off financial instruments.

At a Banking Committee hearing just yesterday, Federal Reserve Chairman Greenspan and Treasury Undersecretary Glauber both said that title III does not affect farmers. Even Wendy Gramm, Chairman of the CFTC did not disagree that title does not affect farmers. Therefore, amendments to improve title III would not affect farmers either.

Again I sound like a broken record, but I hope some of the staff Members of my colleagues will get that point straight. They may still not agree with these changes that are proposed but they should not buy the argument from farm groups that changing title III has anything to do with farmers. It does not. No matter how many times I have to repeat it. The Ag Committee has done a good job on title I and title II. We are in favor of those. I wish the Ag Committee would recognize where they are intruding into financial products and be willing to come to a reasonable compromise.

The third issue which is important to emphasize at the outset of this debate is the breadth and depth of concern that has been expressed about the effects of title III. With the sole exception of the CFTC, every one of this country's principal financial regulators has written or testified that the language in title III of S. 207 will do irreparable harm to our capital markets.

Why are we being stampeded into this compromise by Treasury and the CFTC when all of the other major regulators disagree? Three out of four, yesterday, testified to that. S. 207 will do irreparable harm to our capital markets. Again we continue down this path.

This list includes the Federal Reserve, the Securities and Exchange Commission, the Comptroller of the Currency, and the FDIC. Again, the Federal Reserve, the Securities and Exchange Commission, the Comptroller of the Currency, and FDIC say it will do irreparable harm for our capital markets. The CFTC does not agree. Yet we are going to continue on this path with no cooperation from the CFTC in resolving this problem of financial instruments and hybrid securities and apparently no cooperation from the Ag Committee willing to look at the fact that there is some expertise in financial instruments on the Banking Committee that does not exist in the Ag Committee. We are not interfering with title I or title II. I do not know enough about it to interfere. I wish the Ag Committee would take the same attitude as far as financial instruments are concerned.

For example, Federal Reserve Chairman Alan Greenspan has written three letters and just yesterday testified before the Senate Banking Committee.

To quote Chairman Greenspan:

Clearly, these provisions of the CEA are in need of repair. * * * However, the approach taken by S. 207 will continue to preserve impediments to innovation in hybrids and risk-management products and may well forestall developments in swap markets that could reduce systemic risk.

At this point I ask unanimous consent that a letter of April 15, 1991, from Chairman Greenspan be printed in the RECORD.

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

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, April 15, 1991.

Hon. TIMOTHY E. WIRTH,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your letter of April 12, 1991, requesting my views on two proposed alternatives to the exclusivity provisions of S. 207 as reported by the Committee on Agriculture, Nutrition, and Forestry. One alternative was transmitted by Chairman Gramm of the Commodity Futures Trading Commission to the Chairman of the Senate Agriculture Committee by letter dated April 9, 1991 ("CFTC Alternative") and the other alternative accompanied your letter to me of April 12, 1991 ("Bond-Wirth Alternative").

Under the current approach to the implementation of the Commodity Exchange Act ("CEA"), instruments with elements of futurity may be considered to be futures contracts and therefore required to be traded on futures exchanges. This approach has led to confusion in financial markets and involvement of the courts, of which the situation involving index participations is a good example. The developers of new financial instruments—including risk-shifting products—are responding to perceived economic needs, but uncertainty about the treatment of new financial instruments under the CEA tends to discourage such efforts and to give an edge to financial centers abroad.

As I have previously indicated, S. 207, as passed by the Agriculture Committee, would continue to preserve impediments to innovation in hybrid's and risk management products and would forestall developments in swap markets that could reduce systemic risk. The exemptive authority given to the Commodity Futures Trading Commission ("CFTC") under this bill is narrow and in some cases would prohibit the CFTC from making appropriate exemptions. The hearing requirement could lead to a cumbersome exemptive process which itself would pose an obstacle to innovation. Further, the use of regulatory exemptions once granted, itself creates uncertainty, as they may be revoked at a future date.

In my view, the approach taken by the CFTC Alternative generally addresses the difficulties created by the exclusivity provisions of the CEA more effectively than the provisions of the Agriculture Committee version. Nevertheless, it continues to rely on discretionary, and potentially restrictive exemptive procedures for dealing with swaps and bank deposits rather than the exclusionary approach of the Bond-Wirth Alternative. Further, it does not address lending transactions at all.

The Bond-Wirth Alternative, on the other hand, excludes certain swap transactions as well as certain deposit and lending transactions from the coverage of the CEA altogether, thus avoiding problems that may

arise from a cumbersome exemptive process and the potential for revocation of any exemptions that may be granted for these transactions. It also would provide the CFTC with broader discretionary authority to exempt any instrument if the CFTC determines the exemption is consistent with the public interest. The approach taken by the Bond-Wirth Alternative goes further than the CFTC Altnerative to alleviate the difficulties for the financial markets created by the provisions of the CEA, and therefore is in our judgment preferable, particularly in the areas of swaps, bank deposits and lending instruments. The exclusion approach also would remove possible conflicts in regulatory jurisdiction that might arise from continued CFTC jurisdiction over swaps. At the same time, the limitations on the exclusions ensure that these transactions are subject to Federal oversight or are limited to sophisticated investors.

I hope you find these comments to be helpful.

Sincerely,

ALAN GREENSPAN.

Mr. GARN. Should we not be concerned, or even alarmed, when the agencies we have entrusted with overseeing our capital markets, those with the expertise to properly address these highly complex and difficult issues, tell us that action we might take could impede the efficient and effective functioning of the capital markets? Are are going to ignore these expert witnesses?

Even more importantly is that the users of the capital markets have expressed these same concerns. This includes the securities industry, the banking industry, Government-sponsored enterprises, such as Fannie Mae and Freddie Mac, the legal community and the corporate community. This is not a narrow or parochial group of players. It is broad-based and cuts across industries.

In fact, many of these entities operate in both the securities and futures markets, so they do not have a vested interest in choosing one market over another. These are the market participants who are most directly affected by what we do, and who have the best understanding of the practical ramifications of the changes that would be wrought by title III.

I think the best discussion of these issues was that provided by Mary Schapiro. Ms. Schapiro is currently a Commissioner of the SEC and was formerly counsel to the Chairman of the CFTC and general counsel of the Futures Industry Association. She obviously has a unique background, and probably is in a better position than about anyone to understand these issues. She notes that "whatever it merits for the regulation of futures contracts, I believe that the exclusivity clause of the CEA is doing damage to the capital-raising ability of U.S. corporations."

Mr. President, I ask unanimous consent to print her letter in the RECORD.

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

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, April 5, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Senate Subcommittee on Securities, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DODD: I am writing as a member of the Securities and Exchange Commission and former staff member of the Commodity Futures Trading Commission ("CFTC") and General Counsel of the Futures Industry Association, to express my concerns with Title III of S. 207. I do so separately because I would like it to be clear that my concerns arise not out of any issue of jurisdiction or prior debates which have been characterized as turf wars; rather, given my experience with both futures and securities markets, I believe it is important that I express my views on the implications of S. 207 for the securities markets specifically, and the capital markets in general.

At the outset, let me state that whatever its merits for the regulation of futures contracts, I believe that the exclusivity clause of the Commodity Exchange Act is doing damage to the capital-raising ability of US corporations. Quite simply, the exclusivity clause deprives US corporations of needed flexibility in designing their capital instruments, and hurts US investors, particularly retail investors, by denying them the opportunity to invest in the financial instruments of their choice.

The effects of the exclusivity clause are even more troubling because these effects were neither contemplated nor intended when the exclusivity clause was first drafted. For these reasons, I believe that many of the efforts to limit the impact of the exclusivity clause of the Commodity Exchange Act are to be commended. The exclusivity clause, contained in the Commodity Futures Trading Commission Act of 1974, that created the CFTC and introduced the modern scheme of regulation, was an important provision with two primary purposes. The first was to ensure that commodity futures contracts such as silver, copper, sugar and cocoa traded on exchanges would be regulated to the same extent as other, already regulated, exchange traded futures such as wheat or soybeans. Prior to the 1974 amendments, a rather curious situation had developed in which a growing number of nonregulated futures contracts traded alongside of regulated futures contracts. Congress sought to remedy this anomalous situation by bringing exchange-traded futures under the CFTC umbrella.

The second principal reason for enactment of the exclusivity provision was to protect exchange-traded futures from interference by state regulations and the potentially adverse and costly impact of compliance with 51 different regulatory schemes. Congress recognized and repeatedly reaffirmed the value of a nationally uniform body of standards governing futures trading coupled with state antifraud enforcement.

Giving effect to these two purposes has been extremely important to the successful development of the futures markets. Preemption of state law, with the very wise carve-out for state antifraud provisions, has likely saved the futures exchanges, and financial intermediaries, enormous sums of money. In addition, the credibility, safety and soundness of transactions on futures exchanges have been promoted and enhanced by the inclusion of all types of exchange-traded futures contracts under the umbrella of federal regulations. I believe that the phenomenal growth of the U.S. futures markets since enactment of the 1974 law is testament to the salutary effect of comprehensive regulation. Indeed an increase of nearly 800% in transaction volume would not have been possible if institutional users did not have confidence in these markets—confidence that I believe is born of a belief that the markets are comprehensively regulated.

As the SEC savings clause demonstrates, however, I do not believe that the exclusivity provision was intended or should be used to prevent securities products from trading on regulated securities exchanges or to prevent institutions from utilizing swaps and other legitimate instruments specifically tailored to their needs. This Committee and the CFTC have rightly recognized that the exclusivity provision now impedes the development of useful, innovative financial products. Unfortunately, the proposed solution does not address the problem and, indeed, makes matters worse.

The basic problem with the exclusivity clause in today's markets is well recognized: it requires that all instruments (even securities) with elements of futurity be treated as futures contracts and therefore required to be traded on designated contract markets or futures exchanges. As Chairman Greenspan has pointed out, the potential for the strict application of this principle has led to confusion in financial markets and the involvement of the courts, which in turn has discouraged efforts to develop new and innovative instruments.

The 50% value test proposed by S. 207 seeks to utilize a simple, seemingly objective calculation to determine when an instrument is a security or a future. In reality, however, a 50% value test is not a useful or objective measure because various arbiters can measure the value of different parts of the instrument in a variety of ways based on different sets of assumptions. More importantly, certain products, such as equity hybrid instruments, simply cannot be broken into intellectually distinct pieces that can then be valued separately. As a result, the percentage test effectively guarantees that no new equity hybrid product will be able to trade. Further, I do not believe that such a test reduces the risk that there will be litigation over each new hybrid product. Hence, the chilling effect of the exclusivity clause will remain intact.

But, there is a further structural problem: if a securities exchange trades a product that the SEC has approved as a security and that exchange is sued on the grounds that the product has more than 50% of its value derived from a commodity, a court will not accord the SEC any deference for its determination because the SEC will be interpreting a commodities and not a securities statute. Rather, the CFTC likely will be asked for its view, and the CFTC will be accorded deference. In effect, the CFTC replaces the SEC as the agency with authority to determine what is a security. Thus, the chances that the innovators in our marketplaces will risk the introduction of new hybrid equity instruments are very small. That would be a very tragic and costly result.

Rather than employing an imprecise and perhaps unworkable exemptive test, I believe the best approach would be one that permits hybrid financial instruments to trade on either type of exchange. So long as the markets are regulated, and the public is protected, it is hard for me to discern any legitimate reason not to allow the exchanges and

the regulated over-the-counter market to fully develop new products that meet the needs of investors. Let the SEC approve hybrid products for securities exchanges and let the CFTC approve hybrid products for futures exchanges, and I believe we will see that the ingenuity and variety of new instruments will enhance and enrich our capital markets.

S. 207 also has the potential to dramatically impact the swaps market. The same fundamental problem created by the exemptive authority for hybrids flows through the exemptive authority that S. 207 grants the CFTC in dealing with the swaps markets and even some banking products, such as demand deposits. Swaps and banking products have never before been subject to the regulation of the CFTC or dependent for their continued existence on an exemption from the CFTC. There is no doubt in my mind that the CFTC has tremendous institutional experience regulating the futures markets and in exercising reasoned and sound judgment over the areas under their existing authority. But, I do not believe that expertise extends to the swaps or banking industries, nor do I believe there is any logic in doing so.

Finally, the limitations of S. 207 on Index Participations ("IPs") lack any grounding at all in logic. The bill would deem *all* index participations to be futures and then would exempt from CFTC regulation only the eight IPs that were approved or pending before December 31, 1991. There are three fundamental problems with this: First, three of the "grandfathered" IPs are based on the S&P 500 index. S&P has an exclusive licensing agreement for S&P 500 futures with the Chicago Mercantile Exchange. Thus, if an IP is defined as a future, an IP on the S&P cannot trade. Second, all non-grandfathered IPs proposed by any other securities exchanges or based upon any other indices would be prohibited. The logic of this escapes me. If it is good for the public to be able to trade an IP at the AMEX, why not also at the Pacific Stock Exchange? If it is in the public interest to allow trading of an IP based on a grandfathered index, such as the NYSE Composite, why isn't it equally in the public interest to allow trading of an IP on other indexes, such as the Value Line Average or the Nikkei? Third, it is unclear whether the legislation would permit any modifications to the grandfathered IPs. These are not results driven by solid, reasoned public policy but rather by political compromise grounded in protectionism. The public is clearly the loser as it is deprived of the ability to trade IPs. I believe a better result would be to exempt all index participations from CFTC regulation.

This Committee, the SEC and the CFTC share a deep and abiding interest in maintaining the efficiency, soundness and competitiveness of the US markets for futures and securities. These provisions, however well intentioned, do not achieve those purposes and indeed will handicap our markets far into the future. It is vitally important that the full significance and potential impact of this bill be understood before it becomes law. Hearings should be held to analyze these issues and enable the Congress to explore fully the ramifications of this bill. Once done, I am certain that we will see that some basic changes need to be made to Title III in order to best serve the public interest. In any event, the SEC stands ready, as always, to work with you to develop alternative solutions to the problems created by the exclusivity clause.

Sincerely,

MARY L. SCHAPIRO,
Commissioner.

Mr. GARN. Mr. President, the fourth observation I would make is that we should not even be here. These are obviously highly technical and complex issues which are difficult for Members to understand, and which are going to be difficult to discuss here on the floor. The people who should be resolving these kinds of jurisdictional questions are the expert agencies.

I fail to understand why they have not been able to come to some agreement among themselves. There certainly is precedent. In 1982, then Chairmen Shad and Johnson resolved a similar, though less important, jurisdictional dispute, which was promptly ratified by Congress.

Maybe its simply that Congress has not put enough pressure on the interested parties to come to a reasonable, rationale division of responsibilities. Two years ago, when the disagreement between the SEC and CFTC over index participations first began brewing, I wrote a letter to both agencies urging them to resolve their differences amicably and avoid unnecessary and counterproductive litigation. I did not have a preference how they carved up the regulatory pie, just that they eliminated the uncertainty in the marketplace. Remember that was 2 years ago. This is not a new issue.

Obviously, my advice was not heeded and that of other Members of this body was not heeded. Maybe the outcome would be different if every Member of this body, especially those who do not want to vote on this issue, wrote to the Treasury Secretary and the Chairmen of the Federal Reserve, SEC and CFTC telling them they wanted them to reach a consensus view.

Mr. President, while this may appear to be simply a case of jurisdictional squabbling, as I noted at the outset, much more is at stake. This was acknowledged by each of the witnesses at yesterday's Banking Committee hearing.

However, to put these issues in the proper context, I think it is useful to provide a brief history of the division of jurisdictional responsibilities, and how we got where we are today. Virtually all the problems that have arisen under current law, and with Title III of S. 207, can be traced to the exclusivity clause of the Commodity Exchange Act.

The Commodity Futures Trading Commission was created in 1974. At that time, the Securities and Exchange Commission had been in existence for 40 years. The exclusivity clause, which was contained in the CFTC Act of 1974, was not intended to give the CFTC expansive jurisdiction over financial markets. There were two specific and limited reasons for giving the CFTC exclusive jurisdiction over commodity futures.

The first was to correct the anomaly that had resulted in some commodity futures which were traded on exchanges, such as silver and gold, be free from any regulation, while others which were also traded on exchanges, such as wheat and soybeans, were subject to regulation. The second reason for the exclusivity clause was to preclude the States from establishing 50 different regulatory schemes for exchange-traded futures.

The legislative history of the CFTC Act drives home the point that Congress never intended the jurisdiction of the CFTC to range beyond commodity futures traded on futures exchanges, and certainly not to spill over into the securities markets.

I quote from the committee report accompanying passage of the CFTC Act:

> While the Committee did wish the jurisdiction of the CFTC to be exclusive with regard to the trading of futures or organized contract markets, it did not wish to infringe on the jurisdiction of the SEC or other Government agencies.

The report goes on to say:

> Likewise, the Committee believes that regulation by the Commission of transactions in the specified financial instruments (i.e., security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, mortgages and mortgage purchase commitments), which are generally between banks and other sophisticated institutional participants, is unnecessary, unless executed on a formally organized futures exchange.

Thus, the legislative history is absolutely clear that Congress did not intend for the CFTC to tread upon the jurisdiction of the SEC or other agencies like the banking regulators, nor regulate transactions, such as swaps, between sophisticated institutional investors.

However, since that time, a few courts and the CFTC have interpreted the exclusivity clause in an overly expansive manner which has called into question the regulatory scheme applicable to a wide range of financial products, including securities, banking transactions, insurance products and private agreements.

This is largely because of recent CFTC interpretations and a single Federal appeals court decision which basically stated that any product which has an element of futurity will be deemed a contract of sale for future delivery, and thus, according to the commodity laws, have to be traded on a futures exchange.

As Chairman Greenspan has noted, this reading of the CEA has adverse consequences for U.S. financial markets. It affects the multitrillion-dollar swaps and index options markets, financial institution depository accounts, and innovative financial products which have not yet been invented.

Therefore, it is vitally important that we resolve the problems stemming from the exclusivity provision of the Commodity Exchange Act, and the overly expansive readings of that statute by the courts. Unfortunately, however, rather than resolve the jurisdictional problem, title III of S. 207 exacerbates it.

At best, these provisions codify the current overreaching interpretations of the scope of the Commodity Exchange Act. At worst, they may grant the CFTC authority over a broad range of securities and banking products.

This is unacceptable. These provisions of title III must be substantially revised. I anticipate that there will be a number of amendments that will be offered to accomplish that goal. While I have no qualms with CFTC regulation of the futures markets, nor with the handling of the margins question, I oppose creating a new layer of regulation for banking and securities products.

We should make absolutely clear that the CEA does not apply to, and the CFTC has no jurisdiction over, demand deposits, time deposits or transactions accounts which are subject to regulation by the appropriate Federal banking agency, nor index options, nor swaps, nor insurance products regulated by the States, nor similar financial transactions other than those conducted on an organized futures exchange. This approach is entirely in keeping with the congressional intent underlying creation of the CFTC in 1974.

Does anyone in this body believe that the CFTC should be able to decide whether certain securities are able to be traded on a securities exchange? Or that the CFTC should have jurisdiction over bank depository instruments? Or over arms-length financial agreements entered into by two institutional investors, such as a bank and a pension fund? Or over certain annuities offered by insurance companies?

The drafters of S. 207 are obviously operating under those misconceptions, because the language currently in the bill is so broad as to give the CFTC authority to regulate such products or transactions. While I do not object to the CFTC regulating the commodity futures markets, I do not believe they, or the Agriculture Committee, should be overseeing banking, securities, insurance, and housing. We have no desire on the Banking Committee to intrude on the jurisdiction of the Agriculture Committee.

I have heard the arguments made that the CFTC is actually ceding jurisdiction under S. 207. That argument is only true if you accept that the CFTC currently has statutory authority to regulate the financial universe. I do not think anyone accepts that notion.

Mr. President, with respect to hybrid products, those which are not clearly securities or futures, we should craft a regulatory structure which promotes competition and encourages product innovation. Title III of S. 207 fails on both accounts. As Chairman Greenspan has noted, the test is "arbitrary" and could "yield anomalous results for similarly structured instruments."

I submit that if all interested parties are truly interested in resolving the problems raised by the exclusivity provision in a reasonable, rational and responsible manner, we can do so very quickly.

Very simply, the regulatory structure should provide that if the CFTC authorizes a hybrid product for trading on a futures exchange, it should be able to trade there. And if the SEC authorizes a hybrid product to trade on a securities exchange, it can trade there. If both agencies want to authorize similar products for trading, then the marketplace will be the ultimate determinant.

It is a two way street, and it is competition at its best. I would be pleased to sit down with Senator LEAHY, Senator RIEGLE, Senator DIXON, Senator BOND, Senator WIRTH, Senator GRAMM, and any other interested party to try to achieve a truly responsible solution to this issue.

In closing, Mr. President, I want to make my position very clear. The Agriculture Committee has done a good job on title I and title II. It is long overdue to have a reauthorization of CFTC. That farm group certainly should push for passage. All of the members of the Banking Committee that I am aware of feel very strongly about that. Again our problem is with certain parts of title III which I think Bond-Wirth would correct, or some other accommodation if that is not acceptable to the Senate.

But we simply must have an understanding of this separation between agriculture products and commodities futures and banking products. I cannot emphasize enough after 17 years on that Banking Committee, and what this country is going through, the disastrous losses that we have suffered in the S&L's and potential losses in the banking industry, rather than doing something—and that certainly is not the intent of the chairman or anyone on the Agriculture Committee to do that, not in any way whatsoever. But the language in title III, when you have all these regulators except one testify that it will harm the capital markets and hurt the banking industry, I do not know why we are here. I do not know why we are out here on the floor and why we do not sit down and resolve that, not as a jurisdictional dispute; that makes no difference to me.

But I cannot sit back as a member of the Banking Committee and have a law passed that does that harm, or even the potential for that harm. So I am a little bit puzzled as to why we are here on the floor and why we cannot sit down and resolve this rather than going down the path of following one regulator to the exclusion of every other financial institution regulator.

Their testimony is very pointed, very specific, and very damaging. So I would appeal to all those involved after 2 years of this struggle, let us recognize that overwhelmingly we all agree on title I and title II, and make the changes in title III that we can all be happy with and not have the unintended impact of causing further damage to the banking institutions and securities firms of this country.

(Mr. HEFLIN assumed the chair.)

Mr. LEAHY. Mr. President, obviously we are not debating the banking bill. We are debating an agriculture bill and the Commodity Futures Trading Commission.

I will allow the Banking Committee and others, as they should, to use their expertise to oversee the banking community as they always have. But I want to try to make sure that what we see in the area under the jurisdiction of the Agriculture Committee, whether it is commodities futures or anything else, is handled very well.

I will not speak to whatever situation the banking industry finds itself in today, but I am concerned about avoiding any problems in the area of commodities trading. We have worked very, very hard to do that here putting in tough regulations, by making sure that there is real oversight. I would suggest that in various financial markets there is probably a wish today that there had been that same kind of tough oversight and tough mechanisms there. I want to make sure that we have it in the futures area. It is an area where every Senator can make up his or her mind and vote the issue up or down and we can do that today.

DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PERSONNEL ACT OF 1991

Mr. LEAHY. Mr. President, I ask unanimous consent on behalf of the leadership that the Senate proceed to the immediate consideration of Calendar No. 44, S. 675, a bill regarding the Department of Veterans Affairs ability to recruit and retain physicians and dentists.

The PRESIDING OFFICER. Without objection the clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 675) to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities and to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes.

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The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

AMENDMENT NO. 65

(Purpose: To make technical corrections)

Mr. LEAHY. Mr. President, on behalf of Senator CRANSTON, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. CRANSTON, proposes an amendment numbered 65.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 55, line 14, strike out "(d)" and insert in lieu thereof "(c)".

On page 55, line 17, strike out "(e)" and insert in lieu thereof "(d)".

On page 55, line 20, strike out "(f)" and insert in lieu thereof "(e)".

On page 88, line 11, insert ", respectively" before the period.

On page 95, line 2, strike out "Expanded-duty" and insert in lieu thereof "Expanded-function".

On page 110, line 10, strike out "201" and insert in lieu thereof "202".

On page 134, line 6, strike out "and".

On page 134, line 8, strike out "respectively." and insert in lieu thereof "respectively; and"

On page 134, between lines 8 and 9, insert the following new subclause:

(E) by redesignating section 5096 as section 8241.

On page 137, line 5, strike out "8270(f)" and insert in lieu thereof "8201(f)".

On page 137, line 9, strike out "8296" and insert in lieu thereof "8241".

On page 138, in the matter between line 22 and line 23, strike out "7001" and insert in lieu thereof "7101".

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am delighted to bring before the Senate today S. 675, the proposed Department of Veterans Affairs Health-care Personnel Act of 1991. This measure, which I introduced on March 14, 1991, with the cosponsorship of Senators DECONCINI, ROCKEFELLER, GRAHAM, AKAKA, SPECTER, JEFFORDS, and DURENBERGER, is the final stage in an extended process dating back over the last several years, to enact legislation in two key areas involving VA health-care personnel—special pay for VA physicians and dentists and labor relations matters involving VA health-care personnel.

Mr. President, because the provisions of the pending measure—which I will refer to as the compromise agreement—are described authoritatively in an explanatory statement developed by the two Veterans' Affairs Committees which I will insert in the RECORD at the conclusion of my remarks, I will provide only an overview of the two key elements of the bill and discuss in detail only certain specific provisions.

TITLE I—THE DEPARTMENT OF VETERANS AFFAIRS PHYSICIAN AND DENTIST RECRUITMENT AND RETENTION ACT OF 1991

Mr. President, title I of this measure, the proposed "Physician and Dentist Recruitment and Retention Act of 1991", reflects my and others' efforts over the last two sessions of Congress to reach the goal of giving VA's Secretary and Chief Medical Director the tools with which to act with flexibility and speed in setting the levels of pay for physicians and dentists that I believe are necessary to ensure the effective functioning of VA facilities and the high quality of care that the Nation desires VA to provide. The bill would substantially raise the upper limits on the categorical rates, and total amounts, of special pay for VA physicians and dentists. This measure reflects the same goal as the committee sought to achieve in the Department of Veterans Affairs Nurse Pay Act of 1990, Public Law 101-366, that is, enabling VA to recruit and retain highly qualified health-care professionals, while not paying more than it must in order to do so.

Mr. President, the physician and dentist pay provisions in the compromise agreement rely heavily on the deliberations and recommendations of a VA task force report which is part of the quadrennial report to the President on the adequacy of special pay for physicians and dentists submitted to the Office of Management and Budget on October 10, 1989, as required under the provisions of Public Law 96-322. That task force report relied on data and recommendations contained in a study completed by a private firm—the Klemm Analysis Group—with which VA had contracted to analyze the adequacy of VA physician and dentist pay compared to the compensation of those working in non-VA facilities. Building upon the recommendations contained in these reports, the committee has developed a bill which I believe will enable VA to improve the recruitment and retention of high-quality physicians and dentists.

Mr. President, I first introduced the bill's physician and dentist pay provisions as S. 2701 on May 24, 1990. S. 2701 was derived in substantial part from title I of H.R. 4577 as passed by the House of Representatives on May 1, 1990. The Senate Veterans' Affairs Committee received testimony on S. 2701 and H.R. 4557 at its June 14, 1990, hearing. Based on the testimony and other information, I made certain revisions to the bill which were adopted by the committee at its June 28, 1990, meeting and incorporated into S. 2100, the proposed Veterans Benefits and Health Care Amendments of 1990, as reported on July 19.

Unfortunately, as my colleagues know, objections of Senators on the other side of the aisle to the agent orange and certain other provisions contained in S. 2100 prevented the Senate from considering the bill before the end of the 101st Congress and precluded the House and Senate Committees on Veterans' Affairs from reaching a compromise on a number of legislative proposals, among them physician and dentist special pay. On January 15, 1991, I introduced S. 127, the proposed Veterans Benefits and Health-Care Amendments of 1991, which include the same physician or dentist special pay provisions as S. 2100 in the 101st Congress. Representative SONNY MONTGOMERY, chairman of the House Veterans' Affairs Committee introduced H.R. 588 on January 23, 1991, a bill which in large part reflected agreements reached in House-Senate negotiations by the end of the 101st Congress. The House passed H.R. 598 by a vote of 399 to 0 on January 30, 1991. On March 14, 1991, introduced S. 675, cosponsored by Senators DECONCINI, ROCKEFELLER, GRAHAM, AKAKA, SPECTER, JEFFORDS, and DURENBERGER, the final Senate-House compromise agreement on physician and dentist special pay.

Mr. President, I acknowledge the debt that the Senate Veterans' Affairs Committee owes in the crafting of the special pay provisions in S. 2100 of the 101st Congress and in the compromise agreement to the excellent work of the House Committee and its leadership, Chairman SONNY MONTGOMERY and ranking minority member BOB STUMP. The invaluable work done by the House Committee in developing title I of H.R. 4557 provided a strong foundation upon which our committee could build. The committee has also had the benefit of numerous comments on H.R. 4557 and S. 2701 from affected parties. Finally, the committee is indebted to many VA officials for their outstanding cooperation in answering numerous inquiries and providing a large volume of technical data. The provisions contained in S. 675 reflect carefully coordinated views of the various participants and, I think represent excellent policy.

LEGISLATIVE BACKGROUND OF VA PHYSICIAN AND DENTIST PAY

Until 1975, VA physicians and dentists were paid generally in accordance with a pay schedule that applied to most Federal employees. During that year, legislation derived from provisions I authored was enacted in Public Law 94-123, the Veterans' Administration Physician and Dentist Pay Comparability Act, which established a temporary special pay mechanism for VA physicians and dentists. The administration's plan at the time was to develop a permanent, unified salary

structure applicable to all Federal physicians. However, by 1979, administration officials had concluded that a unified structure was inappropriate, because it would not take into account the specific recruitment and retention needs of individual agencies.

In response, I introduced S. 2534 to establish a permanent VA special-pay program. I worked closely with my colleagues in both the Senate and the House to develop a measure which was enacted over a Presidential veto in 1980 as Public Law 96-330, the Veterans' Administration Health-Care Amendments of 1980.

We took great pains in that legislation to provide VA with flexible pay authorities designed to enable it to recruit and retain talented, dedicated employees. Today's compromise agreement would expand on the foundation established in 1980 and would also build several new structures of vital importance to the alleviation of VA's physician and dentist recruitment and retention difficulties.

CURRENT STATE OF VA PHYSICIAN RECRUITMENT AND RETENTION

Mr. President, on December 31, 1989, there were 12,734 physicians employed in the Veterans Health Services and Research Administration [VHS&RA]. Of those, 55 percent served full-time. Board-certification was held by 65.3 percent of full-time physicians and 72.2 percent of part-time physicians. Graduates of foreign—neither United States nor Canadian—medical schools held 36.7 percent of the full-time positions and 17.9 percent of the part-time positions in VHS&RA in 1989. The proportion of VA-employed physicians who held faculty appointments at universities was 29.6 percent of full-time employees and 49.3 percent of the part-time employees.

Mr. President, the Klemm report and the VA task force analyses demonstrate that VA has a doctor recruitment and retention problem. Such problems are clear to patients, physicians, nurses, administrators, and others in the medical center setting even though quantifying that sense may not always be possible. Numbers such as vacancy rates, time until an open position is filled, and turnover rates all shed some light on VA's difficulties.

Mr. President, a major reason for VA's physician recruitment and retention problem is the disparity between VA salaries and those earned by non-Federal physicians. While it is generally accepted that private practice is not the appropriate comparison group for VA physician salaries, reasonable comparisons may be made with academic physicians or physicians employed by health maintenance organizations. Data presented in the Klemm report indicates that VA physicians' and dentists' salaries are considerably lower, especially for specialists and those with many years' experience.

The inadequacy of the existing special pay authority has contributed to severe salary compression which has made disparity in salaries especially acute among experienced practitioners. VA hires many physicians at or near the maximum level of basic and special pay available and is then unable to provide them with salary increases commensurate with their length of service to VA. For example, the Klemm report shows that, although VA provides a greater rate of total compensation for physicians at the instructor level—usually physicians who have recently completed residency training—than do universities, salary compression within the VA system results in a great disparity between the salaries paid to VA physicians and medical school professors. The average full professor earns over $30,000 more than the average VA physician of comparable rank.

SPECIAL PROBLEMS WITH THE RECRUITMENT AND RETENTION OF PSYCHIATRISTS

Mr. President, the need to revise VA's special pay authority is illustrated by the great difficulties VA has placed in the recruitment and retention of psychiatrists. I have been concerned for quite some time about the quality of mental health services provided to our Nation's veterans. Surveys conducted by the National Association of VA Chiefs of Psychiatry [NAVACOP] and VA central office have shown increasing vacancy rates for psychiatry positions: 8 percent in 1986, over 14 percent in 1988, and almost 20 percent in January 1990. VA's February 1991 recruitment bulletin lists 76 psychiatry vacancies at 39 facilities. Despite this evidence, VA has not, up to this point, considered psychiatry a specialty as to which it encounters extraordinary recruitment and retention difficulties.

The main competitors for psychiatrist employees are the State mental health systems. Having been faced with chronic recruitment and retention problems of their own, many States are revising their pay scales upward. These actions are placing VA in very uncompetitive situations in increasing numbers of States. According to data compiled in 1989 by the National Association of State Mental Health Program Directors, there are 10 States where psychiatrists would be paid more than $100,000 for a 40-hour work week. For a full-time VA staff psychiatrist to be paid the maximum allowed—$98,982—that physician would have to be board-certified, have at least 8 years of VHS&RA service, and work at a location to which VA had granted the maximum geographic special pay. Furthermore, unlike psychiatrists employed by State facilities, full-time VA psychiatrists are considered on call 7 days a week and generally are prohibited from supplementing their income through outside clinical endeavors.

I note that in the cost estimate accompanying the July 11, 1990, VA report on S. 2701, VA listed psychiatry as one of the specialties for which it intends to exercise its authority to pay scarce specialty pay. Information gleaned from this report and from conversations with VA central office staff leads the committee to believe that if S. 2100 were enacted, VA would pay scarce specialty pay to psychiatrists at a rate of $15,000 per annum.

CURRENT STATE OF VA DENTIST RECRUITMENT AND RETENTION

Mr. President, full-time dentists face a salary compression problem nearly as serious as that faced by physicians. For example, 82.4 percent of full-time VA dentists in 1989 were in the chief grade; 1.1 percent were in higher grades, 16.5 percent in lower.

Special pay is paid to 98.9 percent of all VA full-time dentists and to 58.7 percent of the part-time dentists. All full-time dentists are eligible for special pay for full-time status, tenure, and geographic locality. Dentists in designated scarce dental specialties—oral surgery, periodontics, prosthodontics—may also receive scarce specialty pay. American Dental Association data indicate that even with scarce specialty pay VA dental specialists are paid approximately $30,000 less than their counterparts in private practice.

Despite the thorough and useful job the Klemm Analysis Group did regarding physician staffing, comparable information was not provided for the dental services. There are disputes, moreover, between representatives of dental associations and VA regarding data on turnover, replacement, and vacancy rates which the committee has not been able yet to unravel. In view of the dramatic 37-percent decline in first year enrollments in dental schools since 1978, as noted by the American Association of Dental Schools in its June 1990 testimony prepared for the committee, I believe that VA dentist recruitment must be closely monitored. Dental services are an important part of VA health care, and we must guard against a replication among dentists of the recruitment and retention problems faced by VA with respect to physicians.

MAJOR PROVISIONS OF PHYSICIAN AND DENTIST PAY LEGISLATION

Mr. President, the data and analyses I have discussed led me to believe that the time has come for significant revision of VA's special pay authority for physicians and dentists. Substantial increases in special-pay levels are needed if VA is to stem recruitment and retention problems. The cap on total special pay at $22,500, which was deemed sufficient in 1980, is simply inadequate for VA to provide salaries that are competitive with those which physicians and dentists can earn elsewhere. Maintaining competitive employment conditions is essential to

maintaining the quality and quantity of clinicians veteran patients deserve.

The special pay categories established in Public Law 96-330 provide a coherent framework for the awarding of special pay to physicians and dentists. However, the amounts of special pay provided under each category, which have not been revised since 1980, are no longer adequate. Special pay for specialties in which VA has extraordinary difficulty in recruitment and retention, such as anesthesiology, radiology, and cardiac surgery is particularly inadequate. Under current law the maximum amount of special pay available under this category is $15,500. Even when combined with basic pay and other categories of special pay, this amount results in total salaries that are considerably lower than those offered by VA's competitors to similarly qualified physicians. The same is true for the category of special pay used to compensate physicians for service in geographic areas in which VA has had great difficulty in recruiting either physicians generally or specific categories of physicians. Increasing the maximum amount of scarce specialty special pay to $40,000 and the maximum amount of geographic special pay to $17,000 may seem high, but VA must be able to pay that price in some circumstances in order to remain competitive with other employers. Unless VA salaries are competitive with those offered by universities and by other Government agencies, VA will be forced to either spend large sums of money for contract care or reduce the quality and quantity of health-care services it provides to veterans.

In the case of special pay for length of service, a similar problem has arisen. Under current law physicians may receive $1,000 for 2 to 5 years of service, $2,000 for 5 to 8 years of service, and $3,000 for 8 or more years of service. These small increases do not provide experienced clinicians with sufficient incentive to remain with VA. Physicians who have recently completed medical school come to VA with the latest and most advanced training available, but they lack the experience in patient care and familiarity with the VA system which their more senior colleagues possess. Experienced physicians also play a valuable role in supervising and training residents. The compromise agreement would address the concerns about special pay for length of service by increasing the amounts of special pay in that category to ranges of $4,000 to $6,000 for 2 to 4 years, $6,000 to $12,000 for 4 to 8 years, $12,000 to $18,000 for 8 to 12 years, and $12,000 to $25,000 for 12 or more years.

Along the same lines, we included in the compromise agreement provisions which would increase the rates of special pay for service in executive positions. The maximum amount of special pay available to a physician serving as a service chief would be increased to $15,000 and the maximum available to a physician serving as a chief of staff or in an executive or director grade position to $25,000. Increasing the rates of executive medicine special pay should encourage more physicians to seek such positions.

Mr. President, the compromise agreement also contains provisions that would ease the current special pay authority's disincentives to part-time service. VA would be required to pay physicians and dentists working less than full time but more than half time with amounts of special pay directly proportional to those available to similarly qualified full-time physicians, with the exception of full-time status special pay, subject to a cap at three-quarters' time. A physician or dentist working less than half-time but at least one-quarter time would also be eligible to receive special pay, if the Chief Medical Director determines that paying special pay to such a physician or dentist would be the most cost-effective way to provide necessary medical or dental services. Although VA should endeavor to recruit and retain as many full-time physicians and dentists as possible, prohibitions against outside income for full-time employees cause many physicians and dentists to choose the more lucrative option of a combination of a part-time VA position and private practice or a university appointment.

Mr. President, the pending legislation includes a new basis on which VA would be able to pay special pay: the potential of additional pay for exceptional qualifications. This category would allow the Chief Medical Director to decide, personally and on a case-by-case basis, to pay up to $15,000 to a physician or up to $5,000 to a dentist solely on the basis of exception qualifications. This new category is designed to provide needed flexibility in various situations.

Mr. President, to ensure that VA does not pay physicians and dentists any more than it has to in order to recruit and retain qualified personnel, the compromise agreement contains provisions which would require VA Central Office to exercise oversight with regard to the administration of the special pay provisions at VA medical centers. The bill would require the Secretary of Veterans Affairs, after receiving the recommendations of the Chief Medical Director, to prescribe regulations that medical center directors would be required to follow when negotiating special pay agreements with physicians and dentists. The bill also requires the Chief Medical Director to set nationwide rates for length-of-service special pay, and for the Secretary, after receiving recommendations of the Chief Medical Director, to promulgate regulations regarding the determinations to designate nationwide scarce specialties, and to review all requests from medical center directors for provision of special pay for difficult to recruit and retain specialties on an individual-facility basis.

Other provisions in the compromise agreement would establish safeguards to protect against VA paying physicians and dentists unnecessarily high salaries. The compromise agreement would require a facility director to submit to the Secretary, via the Chief Medical Director, any special pay agreement that would cause a physician or dentist's total pay—basic pay and special pay—to exceed the annual rate of basic pay for executive level I, $134,100 for calendar year 1991. The Secretary would have 60 days within which to approve or disapprove the agreement. The Secretary could disapprove such an agreement only after determining that the agreement provides a physician or dentist with a greater amount of special pay than is necessary for recruitment or retention. Such a determination must be based on findings of fact regarding the specific position and the experience and qualifications of the individual physician or dentist. To assure adherence to the intent of this provision, the proposed new section calls for the Secretary to report annually to the Congress regarding VA's experience under this new subsection and to include in the report a detailed explanation of the basis for each disapproved action taken under this provision.

The committee does not intend for this requirement for central office approval to serve as a cap on special pay agreements. That function would be served by a provision which prohibits any physician or dentist's total salary from exceeding the amount specified in section 102 of title III, United States Code. Rather, central office oversight of special pay agreements that would cause total pay to exceed executive level I should serve as a guarantee that large amounts of special pay are provided to physicians and dentists only in those situations in which there is clear and strong evidence that such salaries are necessary for VA to recruit or retain highly qualified clinicians.

To further ensure that VA is not required to pay unnecessarily high salaries, the compromise agreement contains a provision which permits the Secretary, after receiving the recommendations of the CMD, to designate as ineligible for special pay certain categories of physicians and dentists with respect to which VA has no significant recruitment and retention problems. Not later than 1 year after determining that a specific category of physicians or dentists is ineligible for special pay, the Secretary must make a redetermination as to whether the category should remain ineligible.

This provision would apply only to a physician or dentist hired by VA after

the effective date of this act. A physician and dentist in a category the Secretary determines to be ineligible for special pay who has a current section 4118 special pay agreement on the day before the effective date of this act would receive retention pay. A physician's or dentist's retention pay would be set at a rate which would not exceed the rate which, when added to basic pay, is equal to the sum of the annual rate of basic pay and the annual rate of special pay paid to that individual pursuant to the individual's final special pay agreement under section 4118. If the Secretary determines after a physician or dentist has entered into a contract under the new special pay authority that the category of physicians or dentists to which a physician or dentist belongs is ineligible for special pay, the determination would take effect at the end of the current contract.

In this regard, I note that this authority to designate categories of physicians or dentists as to which there are no recruitment and retention problems exists under current law and that VA has never exercised this authority. It is my intent, which I believe is shared by members of our committee and the House committee, that this authority be exercised only in those isolated instances where the Secretary has clearly documented, for a specific category of physicians or dentists, that there are no significant recruitment or retention problems. The Secretary should, in my view, exercise broadly the special pay authority contained in the compromise agreement and should not use retention pay or other authorities in such a way as to exclude large numbers of physicians and dentists from the new special pay benefit.

The compromise agreement also includes some modifications in the annual report on special pay which VA is required to submit to the House and Senate Committee on Veterans' Affairs. One of these modifications was prompted by testimony received by the committee at its June 14, 1990 hearing. Dr. Mark Tucker of the National Association of VA Physicians and Dentists [NAVAPD] stated that over the last 4 years 102 dentist positions—and 228 dental auxiliary positions—have been abolished at 129 of the 170 facilities which responded to a NAVAPD survey. Dr. Spencer Falcon, testifying on behalf of the American Psychiatric Association and the National Association of VA Chiefs of Psychiatry, expressed similar concerns, noting an alarming trend in large, unaffiliated facilities of replacing psychiatrists with physicians' assistants and nonpsychiatrist physicians. VA claims that positions are abolished when workload justifies it, whereas representatives of physicians and dentists' associations contend that positions often are abolished because either qualified replacements cannot be found at the going salary or VA does not want to fill the positions. Modifications of the reporting requirement to include information on abolished positions will enable Congress to better monitor the recruitment and retention of VA physicians and dentists.

COSTS OF PHYSICIAN AND DENTIST SPECIAL PAY REFORM

Mr. President, the Congressional Budget Office [CBO] estimated the cost of the physicians and dentist special pay provisions in the House bill, H.R. 598, at $63 million for the first year—fiscal year 1992—and a total of $352 million over the first 5 full years. The first year cost of $21.5 million above what the administration has proposed in its fiscal year 1992 budget request for the more restrictive administration-proposed special pay legislation. Our committee has attempted to follow the sense of the recommendations of VA's own panel of experts, the task force which reviewed the Klemm report data and recommendations and incorporated them to be the quadrennial report to the President on the adequacy of physicians and dentist special pay, to which I have referred earlier. I believe that the recommendations of a professional panel should be given more credence than a proposal that had to be approved by the Office of Management and Budget, which all too frequently favors short-sighted cost savings over investment of funds to attain long-term goals. The administration-proposed amount would be inadequate to achieve the type of recruitment and retention encouragement the committee have intended to provide.

Mr. President, some Senators have expressed reservations about the cost of the physician and dentist pay provisions in the bill. I note that the predominant rate-setting mechanism of this bill involves wide authorized ranges of rates of pay for various categories of special pay. Therefore, within the confines of the compromise agreement, VA would have considerable discretion in setting pay levels that it considers prudent but still adequate. While I share a deep interest in holding down costs, I believe that if VA is to continue to provide high-quality medical care to our Nation's veterans—and I'm certain every Member of the Senate wants that result—we must be willing to pay the salaries necessary to recruit and retain highly qualified physicians and dentists.

To continue to fail to pay VA doctors salaries which are competitive with those offered by other comparable facilities would be highly cost-effective because that practice requires VA to spend exorbitant sums to contract for care not available from VA staff doctors. Moreover, there is another cost of unwise frugality in physician pay. That cost—declining morale and a diminishing, dedicated full-time core of VA clinicians—is high and, although not precisely measurable, has very adverse implications for patient care. The testimony this committee has received showed the anger and hopelessness that VA clinicians feel and which many say is about to explode into a mass exodus which would make the already dramatic recruitment and retention problems pale by comparison.

Many highly skilled doctors work for VA; not all of them can be rewarded financially at a level that would match what some physicians and dentists can earn in the private market. What should be offered to all of them, however, is pride in VA and trust that VA and Congress are trying their best to provide fair and appropriate compensation. The approach in the committee bill would work to the benefit of all veterans receiving VA health care.

TITLE II—THE DEPARTMENT OF VETERANS AFFAIRS LABOR RELATIONS IMPROVEMENT ACT OF 1991

Mr. President, the compromise agreement before us today addresses issues of great importance to those who provide care and services to veterans in VA's health-care system. Whereas the provisions contained in title I address issues of pay for certain VA health-care employees, the provisions in title II relate to the equally important issues of the rights of health-care workers employed under VA's title 38 personnel system—physicians, dentists, nurses, optometrists, podiatrists, physicians' assistants, and expanded function dental auxiliaries—to engage in collective bargaining and the manner in which disciplinary actions are imposed on these employees and how such actions and other grievances are appealed.

In light of VA's well documented problems in recuiting and retaining qualified health-care professionals, it is fitting that this legislation encompasses both pay issues and these other important aspects of employment in VA's health-care system. I am extremely pleased that my longstanding efforts, which have been supported by the Veterans' Affairs Committee and the entire Senate over the past 4 years, to ensure collective bargaining rights for VA health-care professionals have finally led to comprehensive legislation that is agreeable to both Houses, the administration, and the many unions which represent VA employees.

SUMMARY OF PROVISIONS

Mr. President, title II would codify collective bargaining rights for health-care professionals appointed under the title 38 personnel system and would improve the mechanisms through which VA disciplines these employees and through which these employees may grieve disputes and appeal disciplinary actions brought against them. Included in this title are provisions which would:

First, provide that the Secretary's authority to prescribe by regulation

the hours and conditions of employment and leaves of absence of title 38 employees is subject to the right of Federal employees to engage in collective bargaining with respect to conditions of employment through representatives chosen by them in accordance with chapter 71 of title 5, which relates to labor-management relations.

Second, provide that collective bargaining and any grievance procedures provided under a collective bargaining agreement may not cover, or have any applicability to, any matter or question concerning, or arising out of: First, professional conduct or competence, which is defined as direct patient care or clinical competence; second, peer review; or third, the establishment, determination, or adjustment of employee compensation.

Third, grant the Secretary authority to determine, not subject to collective bargaining or review by any other agency, whether a matter concerns, or arises out of, professional conduct or competence.

Fourth, require that a petition for judicial review or petition for enforcement under section 7123 of title 5 in any case involving title 38 employees, or arising out of the applicability of title 5 to title 38 employees, be pursued only in the U.S. Court of Appeals for the District of Columbia Circuit.

Fifth, replace the current disciplinary board system through which are determined all charges of ineptitude, inefficiency, or misconduct of any full-time permanent VA title 38 health-care employee with new procedures based on the general Federal personnel system under title 5, United States Code.

Sixth, require that, whenever the Chief Medical Director brings charges based on conduct or performance against a full-time title 38 health-care professional, the employee has the right to appeal the action.

Seventh, require, if the case involves or includes a question of professional conduct or competence in which a major adverse action defined as any action which includes suspension, transfer, reduction in grade, reduction in basic pay, or discharge was taken, that the appeal be made to a Disciplinary Appeals Board.

Eighth, require that, in any other case which invoves or includes a question of professional conduct or competence in which a major adverse action was not taken or in any case of an employee not covered by a collective bargaining agreement, the appeal be made through Department grievance procedures.

Ninth, provide first that, in a case which involves an employee covered by a collective bargaining agreement and does not include a question of professional conduct or competence, the employee may elect to appeal the case through either the Department grievance procedures or grievance procedures provided through collective bargaining, and second that the election of which procedure to pursue is irrevocable.

Tenth, provide that, for disciplinary procedures, a question of professional conduct or competence is a question involving direct patient care or clinical competence and that the Secretary will make the determination, which is not reviewable by any other agency, as to whether professional conduct or competence is involved.

Eleventh, require that, whenever the Secretary proposes to prescribe regulations affecting disciplinary and grievance procedures, the Secretary shall publish the proposed regulations in the Federal Register not less than 30 days before the day on which they take effect.

Twelfth, require that a Disciplinary Appeals Board include in its record of decision in any mixed case—defined as a case that includes both major adverse action arising out of a question of professional conduct or competence and an adverse action which is not major or does not arise out of a question of professional conduct or competence—a statement of the Board's exclusive jurisdiction and the basis for the exclusive jurisdiction.

Thirteenth, require that, whenever charges are brought against a title 38 employee which could result in a major adverse action being imposed, the employee is entitled to at least 30 days advance written notice from the Chief Medical Director or other charging official specifically stating the basis for each charge, the adverse actions that could be taken if the charges are sustained, and a statement of any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated with respect to each charge, except that the notice requirement could be waived if there is reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned.

Fourteenth, provide that an employee would have a reasonable time, but not less than 7 days, to respond orally and in writing to the Chief Medical Director or other deciding official, who would be required to be an official higher in rank than the charging official.

Fifteenth, provide that an employee is entitled to be represented by an attorney or other representative at all stages of the case.

Sixteenth, require that, if a proposed adverse action is not withdrawn, the deciding official render a decision in writing within 21 days of receipt of the employee's answer and that the decision include a statement of the specific reasons for the decision with respect to each charge.

Seventeenth, require that, if a major adverse action is imposed, the decision state whether any of the charges sustained arose out of a question of professional conduct or competence and, if any charges are sustained, that the notice of decision to the employee include notice of the employee's rights of appeal.

Eighteenth, authorize, notwithstanding the 21-day deadline for a decision, that a proposed adverse action be held in abeyance if the employee so requests, and the deciding official agrees, that the employee so requests, and the deciding official agrees, that the employee shall seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973, provided that any such abeyance could not extend for more than 1 year.

Nineteenth, provide to employees against whom charges are brought the same notice and opportunity to respond as is provided to title 5 employees.

Twentieth, authorize the Secretary, if the Secretary finds a decision of the Disciplinary Appeals Board to be clearly contrary to the evidence or unlawful, to reverse the decision or vacate the decision and remand the case to the Board for further consideration.

Twenty-first, authorize the Secretary, if the Secretary finds the decision of the Board to be not justified by the nature of the charges, to mitigate the adverse action imposed.

Twenty-second, provide that an employee adversely affected by a final order of a Disciplinary Appeals Board may obtain judicial review of the decision.

Twenty-third, establish new disciplinary procedures and a new disciplinary appeals process, similar to those provided for under title 5, for cases that do not involve major adverse actions and a question of professional conduct or competence.

Twenty-fourth, preserve existing collective bargaining agreements and require that cases pending as of the date of enactment proceed as if the act had not been enacted.

BACKGROUND

In the last two Congresses, the Senate has gone on record as supporting legislation to extend meaningful collective bargaining rights to, and improve the disciplinary procedures applicable to, VA's title 38 employees—physicians, dentists, nurses, optometrists, podiatrists, physicians' assistants, and expanded function dental auxiliaries. Currently, VA employs nearly 69,000 health professionals appointed under title 38.

Beginning with the committee's May 21, 1987, hearing on various measures dealing with the VA health-care system and in subsequent activity both in followup to that hearing and in connection with the committee's April 28, 1988, hearing, the committee has heard

from a variety of sources about problems in VA's personnel system as it relates to title 38 employees—physicians, dentists, nurses, optometrists, podiatrists, physicians' assistants, and expanded function dental auxiliaries. These concerns were reiterated during the committee's May 18, 1989, hearing and again at the committee's June 14, 1990, hearing.

For the past 4 years, both VA and witnesses representing employee groups have raised concerns about the current procedures under section 4110 of title 38—the provision under which disciplinary actions involving title 38 employees are carried out—the fairness and timeliness of the overall title 38 personnel system—especially in contrast to the system under title 5 which applies to other Federal employees, including other VA employees not covered by the title 38 system—and the ongoing, costly, and time-consuming litigation over issues relating to the relationship between title 5 and title 38 provisions.

As was discussed in detail in the committee's reports accompanying provisions reported by the committee and passed by the Senate in the last two Congresses (S. Rept. 100-215, pages 145-150, accompanying S. 9; S. Rept. 100-439, pages 164-167, accompanying S. 2011; and S. Rept. 101-126, pages 202-207, accompanying S. 13) the key issue underlying this matter is the relationship between the VA personnel system under title 38 and the general civil service system under title 5.

When VA's Department of Medicine and Surgery was established in 1946, the Congress created the separate VA personnel system, distinct from the general civil service system, in order to provide VA with greater flexibility in recruiting and employing health-care professionals. It was the view at that time that the civil service system was too cumbersome to permit the timely hiring that was felt to be necessary in order to enable VA to meet the health-care needs of the returning World War II veterans and also that the other attributes of the civil service system were not compatible with running a large health-care organization. The elements of this system, which are set out in chapter 73 of title 38, United States Code, and in regulations and guidelines issued by VA, have generally served the purpose of enabling VA to employ needed health-care professionals to operate its health-care system.

Among the areas addressed in current chapter 73 are those relating to employer/employee relations, such as those involving terms and conditions of employment, including how employee grievances over such terms and conditions are resolved, and disciplinary procedures. Specifically, current section 4108(a) gives the Secretary exclusive authority over the conditions of employment of title 38 personnel "[n]otwithstanding any law, Executive order, or regulation," and current section 4110 sets out the process by which disciplinary actions involving title 38 employees are to be conducted.

Many of these provisions date back to 1946 and, although there have been many significant changes in employee relations in the intervening years—most especially, the enactment in 1978 of the Civil Service Reform Act [CSRA], Public Law 95-454—VA authorities and practices have remained largely unchanged.

Meanwhile, in the 1978 CSRA, other Federal employees gained significant new rights to negotiate with regard to the terms and conditions of their employment and to utilize new methods to resolve grievances, including negotiated grievance procedures and binding arbitration. Title 38 employees, by way of contrast, remain limited, under the U.S. Court of Appeals decision in the Colorado Nurses case, which I will shortly discuss in detail, by section 4108 to whatever rights the Secretary of Veterans Affairs is willing to accord to them and have been unable to negotiate grievance procedures comparable to those available to other Federal employees. Likewise, under section 4110, all disciplinary actions involving title 38 employees, however minor, must be heard by a disciplinary board of 3 to 5 primarily peer employees, a trial-like adversarial process that frequently takes many months to reach a resolution and from which the only appeal available is in an internal VA action, with no recourse to outside judgment except in a court action. Civil service employees, on the other hand, have various methods for contesting disciplinary actions, both within and outside of their particular departments or agencies.

As is described in detail in the committee report accompanying S. 9 (S. Rept. 100-215, pages 141-150), challenges have been brought in recent years, including those brought by the American Federation of Government Employees [AFGE] and the National Federation of Federal Employees [NFFE], to the legality, in light of the enactment of CSRA, of certain aspects of the title 38 separate VA personnel system, particularly to those relating to the resolution of employee grievances and disciplinary actions. These challenges have been based on the theory that CSRA established Governmentwide procedures in the area of labor-management relations and, in so doing, superceded VA-specific laws. Although this legal theory was accepted in some cases before the Federal Labor Relations Authority [FLRA] involving VA disciplinary procedures in which the FLRA ruled that the VA was obligated to adhere to CSRA procedures, these results were reversed on appeal to Federal appellate courts.

In July 1988, the U.S. Court of Appeals for the District of Columbia Circuit, in the case *Colorado Nurses Association and VA Medical Center, Fort Lyon, Colorado* v. *Federal Labor Relations Authority*, 851 F.2d 1486 (D.C. Cir. 1988), reversed a prior decision of the FLRA which held that VA has a duty under the CSRA to bargain over conditions of employment for title 38 employees. The court ruled that the VA Administrator, now Secretary, has exclusive discretion to establish regulations concerning the working conditions of those employees appointed under the title 38 personnel system and is, therefore, not under any obligation to bargain with such employees based on the CSRA.

In response to the concerns raised at the 1987 hearing and in followup activity, I introduced legislation in 1987 that the committee reported, in section 324 of S. 9, and the Senate passed that year. Despite the good intentions of all those involved in that effort, it was not possible to develop an approach that was satisfactory both to VA and the employee organizations, and ultimately the decision was made, in conferring with the House, not to include any provisions on this subject in the legislation that ultimately was enacted as Public Law 100-322. However, because I and my colleagues on the committee remained interested in trying to resolve the problems that were identified in 1987 in the VA's disciplinary and grievance processes and procedures relating to title 38 employees, on August 1, 1988, the committee—and on October 18 the Senate—again voted its support for these provisions, as set forth in section 627 of S. 2011. Then, following the court's decision in Colorado Nurses, the Senate adopted, in a floor amendment on October 18, a provision which would have maintained the status quo while the parties negotiated a permanent resolution of the issues involved. Unfortunately, neither of these provisions was included in the legislation that ultimately was enacted as Public Law 100-687.

The effort to develop the provisions in the Senate-passed measures in 1987, 1988, 1989, and again in sections 249 and 250 of S. 2100, which was reported by the committee on July 19, 1990, have included significant consultation with many concerned parties, has been carried out with two fundamental, and sometimes conflicting, principles in mind. These are, first, that the separate title 38 personnel system for VHS&RA generally serves a valid and valuable purpose of permitting the VA to staff and manage a very large, complex, health-care system and, as such, should be maintained; and second, that as the Congress recognized with the enactment of the CSRA, there can and should generally be significant opportunity for employees to have disciplinary actions and grievances related to

their employment resolved in a timely fashion with an opportunity for outside review.

The need for these provisions is essentially twofold: To ensure that title 38 employees are afforded the same fundamental rights as other Government employees in terms of their employee-management relations, while protecting the special professional nature of title 38 employment; and to provide VA with an important tool in its ongoing efforts to recruit and retain qualified health-care personnel.

I am extremely pleased when, in the 101st Congress, the House finally initiated legislation to address the problems in VA's labor-management relations. That legislation, which was contained in title III of H.R. 4557, was introduced on April 19, 1990, reported by the House Veterans' Affairs Committee on April 26, 1990, and passed the House on May 1, 1990. Prior to House passage, the provisions contained in title III of H.R. 4557 were never addressed at a legislative hearing and there had been no public comment by interested groups on the specific provisions. Thus, the Senate Veterans' Affairs Committee, to which the bill was referred, included the provisions of title III in the committee's June 14, 1990, legislative hearing.

At that hearing, the committee received testimony from the AFGE, the National Federation of Federal Employees [NFFE], and the American Nurses Association [ANA]. All of the organizations expressed support for the intent of, and the general approach taken in, H.R. 4557 to provide collective bargaining rights to title 38 employees and to improve the methods of considering disciplinary actions brought against such employees. However, each of the organizations expressed concern over provisions limiting the scope of collective bargaining and granting to the Secretary exclusive, nonreviewable discretion as to what could be excluded from collective bargaining.

Secretary's determinations regarding negotiability: As passed by the House, section 301 of H.R. 4557 would have excluded from collective bargaining any matter that covered, or had any applicability to, or arose out of "professional conduct or competence," which was defined as "direct patient care, clinical competence, professional judgment, or peer review." Section 301 further provided that the determination of whether a matter or question concerned or arose out of professional conduct or competence would be determined by the Secretary and that the Secretary's determination would not be reviewable by any other agency or by any court. It was the unanimous opinion of the organizations testifying at the June 14 hearing that the Secretary's determinations as to those issues—essentially, determinations as to their negotiability—should be subject to independent review by either the Federal Labor Relations Authority, the Federal Mediation and Conciliation Service, or the Federal Services Impasses Panel, as is done for bargaining agreements concluded under title 5.

Although the compromise agreement does not provide for independent agency review of the Secretary's negotiability decisions based on a "professional conduct or competence" interpretation, the prohibition against court review of such decisions has been eliminated. Thus, the Secretary's determination that a matter or question involves, or arises out of, professional conduct or competence would be reviewable by a court of competent jurisdiction—most likely a Federal district court. I would have preferred that the Senate bill's approach be included—providing for agency review of negotiability decisions except in matters falling within the jurisdiction of disciplinary boards, but the compromise agreement does provide for a check on the Secretary's exercise of discretion in this area, which is of critical importance to maintaining a situation of good faith bargaining.

Scope of collective bargaining: Another concern raised by each of the organizations testifying at the June 14 hearing was the definition of "professional conduct or competence." Section 301 of H.R. 4557 as introduced defined professional conduct or competence as "direct patient care, clinical competence, professional judgment, or peer review." The American Nurses Association testified that such a definition "too broadly defines professional conduct or competence" and expressed that concern on the basis of their belief that "most of what professional nurses bargain for relates to professional competency and conduct" (S. Hrg. 101-1082, pages 435-36). Other organizations requested a clear indication of what types of activities would be considered related to professional conduct or competence.

The compromise agreement has deleted the reference to "professional judgment" as a definition for professional conduct or competence and is drafted so as to clarify that professional conduct or competence means only "direct patient care" or "clinical competence." Matters concerning peer review, most significantly the operations of the Professional Standards Boards, would be excluded from collective bargaining under the compromise agreement, as would be matters related to the establishment, determination, or adjustment or employee compensation under title 38.

The exclusion from collective bargaining of matters concerning professional conduct or competence is designed to be limited to those matters that involve the manner in which health care is provided. Thus, the compromise agreement clarifies that professional competence and conduct relates only to matters involving direct patient care and clinical competence.

The compromise agreement would establish new disciplinary procedures and new procedures for employees to appeal adverse actions taken against them. These procedures are outlined in detail in the explanatory statement, which, as I noted earlier, I will ask to be inserted in the RECORD following my remarks. The new procedures are based upon the procedures generally applicable to Federal civilian employees under title 5 and would provide to title 38 employees the same notice, opportunity to respond, and representation rights as are provided to title 5 employees.

Under the compromise agreement, Disciplinary Appeals Boards would be created to consider appeals of major adverse actions which involve questions of professional conduct or competence. These Boards would replace the current disciplinary boards mandated under section 4110 of title 38. Whereas the section 4110 disciplinary boards determine charges and make recommendations to the Secretary regarding suitable disciplinary actions in a case, the Disciplinary Appeals Boards would hear appeals of cases in which a major adverse action involving an issue of professional conduct or competence had already been taken. Disciplinary Appeals Boards would be comprised of three VA employees, each of whom would be required to be of the same grade or senior to the employee appealing the action and at least two of whom would be required to be employed in the same category of position as the employee. The latter requirement is included in light of the fact that the Boards would be evaluating issues of clinical competence and direct patient care, for which a knowledge of the specific profession would be needed. All members of a Disciplinary Appeals Boards would be appointed by the Secretary and would receive appropriate training in the functions and duties of Disciplinary Appeals Boards.

Mr. President, I believe the changes made by the compromise agreement will preserve the due process rights of title 38 employees against whom adverse actions are brought and ensure that disciplinary actions are concluded in a more timely fashion than under the current system, which all parties agree is far too time consuming and is inefficient. Under the new procedures, title 38 employees would not be forced to wait for as long a year, as is commonplace under the current system, to have their cases determined and the appeal process to begin. They would know the specific basis of any charge brought against them and would be assured that the Department present its findings and decisions within set periods of time. They would be afforded the right to be represented by an attorney or other representatives at all stages of

a case, to have oral hearings, to present their cases fully before persons trained in evaluating such cases, and to obtain judicial review of a case in which a major adverse action has been imposed.

Mr. President, I am very pleased that we have reached an agreement that provides collective bargaining rights and improved disciplinary and grievance procedures for the nearly 69,000 title 38 employees who provide health care to our veterans. This agreement would not have been possible without the active involvement of the organizations which represent title 38 employees, and I think the American Nurses Association, the National Federation of Federal Employees, and the American Federation of Government Employees and AFGE's president, John Sturdivant, for their consistent and persistent thoughtful advocacy on these matters. The important issues affecting VA health care employees will continue to be among my highest priorities in my capacity as chairman of the Veterans' Affairs Committee.

ADMINISTRATIVE REORGANIZATIONS

Mr. President, section 303 of the compromise agreement would modify section 210(b) of title 38, which contains report-and-wait requirements for VA administrative reorganizations, in order to establish a better balance between the need for VA to change and adapt and the needs of oversight committees to have advance notice of significant VA reorganizations. An administrative reorganization is defined under current law as one that involves a loss or transfer of functions away from a covered VA facility or office resulting in personnel reductions that exceed specified levels. VA cannot implement an administrative reorganization during a given fiscal year unless a detailed plan and justification has been sent to Congress not later than the date on which the President's budget for that fiscal year is submitted to Congress.

The compromise agreement would amend the report-and-wait restrictions in three ways. First, wherever VA submits a reorganization proposal to Congress, the waiting period before implementation would be only 90 days. Second, administrative reorganizations involving the transfer of personnel between the Veterans Benefits Administration and the Veterans Health Administration at the same facility would be exempt if the number of employees at the facility remained the same. Third, this measure would increase the level of personnel reductions at which report-and-wait restrictions would be triggered.

TECHNICAL RESTRUCTURING OF VA HEALTH CARE SYSTEM PROVISIONS

Mr. President, the compromise agreement also includes a technical restructuring of the provisions in current chapter 74 of title 38, relating to the organization of VA's health-care system.

These changes, which are purely technical in nature and meant to have no substantive impact, are the first of what will be a number of technical revisions to title 38 to reflect and codify the elevation of VA to a Cabinet-level department which occurred on March 15, 1989, pursuant to Public Law 100-527. Other, related changes to other chapters of title 38 will be proposed in the coming months.

Mr. President, the changes which are proposed in the pending measure would divide existing chapter 73 into two new chapters—chapter 74, entitled "Veterans Health Administration—Organization and Functions," which, as the title suggests, contains the provisions dealing with the overall organization of VA's health system, and chapter 74, entitled "Veterans Health Administration—Personnel," which includes all of the personnel-related provisions relating to VA's health-care system.

In addition, the measure would make various technical, stylistic changes at appropriate points in the two new chapters, such as substituting "Secretary" for "Administrator" and redesignating the Veterans Health Service and Research Administration as the Veterans Health Administration. Also, as the first step in what will be an overall renumbering of title 38 sections so that the section numbers conform to the chapters in which they are placed, the existing sections of chapters 73, which all are numbered in the 4100's, would be renumbered to begin with 73 or 74 as the first two digits depending on the new chapter in which they appear. This same renumbering process would also be carried out in current chapters 51, 53, 55, 57, 59, 61, 71, 72, 76, 78, 81, 83, and 85 so that the provisions in each of those chapters would be renumbered to begin with the first two digits of the chapter.

CONCLUSION

Mr. President, in closing I express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. STUMP, as well as the ranking minority member of the Senate committee, Mr. SPECTER, and his predecessor, Mr. MURKOWSKI, for their cooperation and many courtesies on this measure.

Mr. President, it has been a pleasure to work with Senators SPECTER and MURKOWSKI and all the members of the Senate committee in the development of this legislation and I thank them all for their contributions to it.

I want also to note the contributions of, and express my deep gratitude to, the committee staff members who have worked on this legislation: on the minority staff, Doug Loon, Scott Waitlevertch, Carrie Gavora, and Todd Mullin, as well as Lisa Moore, who recently left the committee staff to serve on Senator MURKOWSKI's personal staff; Roy Smith, and Jim Rankin who so ably provide editorial support to the committee; and on the majority staff, Chuck Lee, Susan Thaul, Thomas Tighe, Janet Coffman, Brett Hansard, Shannon Phillips, Charlotte Hughes, Kelly Cordes, Michael Burns, Bill Brew, and Ed Scott.

I also wish to the as-always fine work and cooperation of the staff of the House Committee on Veterans' Affairs—Ralph Ibson, Greg Matton, Tina Alvarado, Carl Commenator, Kingston Smith, Pat Ryan, and Mack Fleming, as well as former staff member Vic Raymond, who left the House Committee last September to serve as the Deputy Director of the Commission on the Future Structure of Veterans Health Care, in working with us to reach the final agreement on this measure.

Finally, we are deeply indebted to Bob Cover and Joe Womach of the House Legislative Counsel's Office and to Charlie Armstrong and Greg Scott of the Senate Legislative Counsel's Office for their excellent assistance.

Mr. President, I ask unanimous consent that the text of the joint explanatory statement on the compromise agreement be printed in the RECORD at this point.

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

EXPLANATORY STATEMENT ON H.R. 598

H.R. 598 as amended by the Senate reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills relating to Department of Veterans Affairs physician and dentist pay and labor relations considered in the Senate and the House of Representatives, but not enacted, during the 101st Congress. Those bills are H.R. 4557, which the House passed on May 1, 1990, and S. 2100, which the Senate Committee on Veterans' Affairs reported on July 19, 1990, but which did not receive Senate consideration prior to the end of the 101st Congress.

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of H.R. 598 as amended. Differences between the provisions contained in H.R. 598 as amended (hereinafter referred to as "Compromise agreement") and the related provisions in the House-passed version of H.R. 4557 (hereinafter referred to as the "House bill") and S. 2100 as reported in the Senate (hereinafter referred to as the "Senate bill") are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical and clarifying changes.

REVISION OF PHYSICIAN AND DENTIST SPECIAL PAY PROVISIONS

Current law: Section 4118 of title 38 United States Code, provides for a program of special pay for physicians and dentists employed in the Veterans Health Services and Research Administration (VHS&RA) of the Department of Veterans Affairs.

House bill: Section 101 would provide for a new program of special pay in a new subchapter III (consisting of proposed new sections 4131 through 4140) of chapter 73.

Senate bill: Section 262(a) would establish a new special-pay program in a new subchapter II (consisting of proposed new sections 4121-4130) of chapter 73.

Compromise agreement: Section 102 would provide for a new program of special pay in subchapter III (consisting of proposed new sections 7431 through 7440) of a new chapter 74.

REGULATIONS GOVERNING ADMINISTRATION OF SPECIAL PAY

Current law: Section 4118(a)(1) of title 38 requires that the Secretary, pursuant to the provisions of section 4118 and regulations prescribed by the Secretary, in order to recruit and retain highly qualified physicians and dentists, provide special pay to eligible physicians or dentists, in addition to any pay or allowance to which they are entitled, upon their execution of and for the duration of written agreements to complete specified periods of service in VHS&RA.

House bill: Proposed new section 4131(a) of title 38 would require the Secretary, pursuant to the provisions of proposed new subchapter III and regulations prescribed by the Secretary, to provide special pay to eligible physicians or dentists, in addition to any pay or allowance to which they are entitled, upon their execution of and for the duration of written agreements to complete specified periods of service in VHS&RA.

Senate bill: Proposed new section 4121(a) would authorize the Secretary, pursuant to the provisions of proposed new subchapter II and regulations prescribed by the Secretary after receiving the recommendations of the Chief Medical Director, to provide special pay to eligible physicians or dentists, in addition to any pay or allowance to which they are entitled, pursuant to a written agreement entered into by the physician or dentists with the Department.

Compromise agreement: Proposed new sections 7431(a) and 7431(b) would require the Secretary, pursuant to the provisions of proposed new subchapter III of proposed new chapter 74 and regulations prescribed by the Secretary after receiving the recommendations of the Chief Medical Director, to provide special pay to eligible physicians or dentists, only upon the execution of, and for the duration of, written agreements entered into by the physicians or dentists.

DESIGNATION OF CATEGORIES WITH NO RECRUITMENT AND RETENTION PROBLEMS

Current law: Section 4118(a)(3) of title 38(a) permits the CMD, in accordance with regulations prescribed by the Secretary, to determine categories of physicians and dentists for which there are no significant recruitment and retention problems, (b) makes such physicians and dentists ineligible for special pay, and (c) requires the CMD to make a redetermination in accordance with those regulations not later than one year after making any such recruitment and retention determination and each year thereafter.

House bill: Proposed new section 4131(d) would follow current law, except that the determinations would be made by the Secretary rather than the CMD.

Senate bill: Proposed new section 4121(d) would follow current law, except that it would also expressly state the CMD's authority to withdraw the designation made with respect to any category of physician or dentist positions if the CMD determines, on the basis of an annual review, that a significant recruitment or retention problem exists for physicians or dentists in that category.

Compromise agreement: Proposed new section 7431(d) follows the House bill, except that it would permit the Secretary to make the determinations only after receiving the recommendations of the CMD. In addition, proposed new section 7431(g) would, in the case of a physician or dentist who has a current section 4118 special pay agreement on the day before the effective date of this Act and who is in a category of physicians or dentists for which the Secretary has determined there is no recruitment and retention problem, authorize the Secretary, in accordance with regulations the Secretary is to prescribe, to pay "retention pay" in an amount not to exceed the rate which, when added to the basic pay payable to that individual, is equal to the sum of the annual rate of basic pay and the annual rate of special pay paid to that physician or dentist pursuant to the final agreement with that individual under section 4118. If such a determination is made after a physician or dentist has entered into a contract under this title, this determination would take effect at the end of the current contract.

PHYSICIANS OR DENTISTS PROHIBITED FROM RECEIVING SPECIAL PAY

Current law: Section 4118(a)(2) of title 38 prohibits the payment of special pay to any physician or dentist who (a) is employed or less than a half-time or on an intermittent basis, (b) occupies an internship or residency training position, or (c) is a reemployed annuitant.

House bill: Proposed new section 4131(e) 38 would follow current law.

Senate bill: Proposed new section 4127(e) would follow current law except that the CMD would be authorized to pay special pay to a physician or dentist employed on a less than half-time basis on the basis of the same factors as apply to those working full-time (except for full-time status) in proportion to hours worked if the CMD determines that payment of special pay to such a physician or dentist is the most cost-effective way for VA to acquire needed services.

Compromise agreement: Proposed new sections 7431(e) and 7431(f) follow the Senate bill, except that a physician or dentist employed on a less than one-quarter time basis would be prohibited from receiving special pay.

DURATION OF SPECIAL PAY AGREEMENTS

Current law: Section 4118(e)(1) of title 38 requires that any agreement entered into by a physician or dentist under this section be for a period of one year of service unless the physician or dentist requests an agreement for a longer period of service not to exceed four years.

House bill: Proposed new section 4132(a) would provide for written agreements entered into by a physician or dentist for special pay to cover a period of one year of service unless the physician or dentist agrees to a period of two, three, or four years of service.

Senate bill: Proposed new section 4122(a) would require a physician or dentist who enters into a special pay agreement to agree to serve for a period of one to four years.

Compromise agreement: Proposed new section 7432(a) follows the Senate bill.

REFUND OF SPECIAL PAY FOR BREACH OF CONTRACT

Current law: Section 4118(e)(2) of title 38 requires that a physician or dentist who voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to a special pay agreement refund the total amount received under section 4118, unless the CMD determines, in accordance with regulations prescribed by the Secretary, that the failure is necessitated by circumstances beyond the control of the physician or dentist.

House bill: Proposed new section 4132(b) would require a physician or dentist who fails to complete any one of the years of obligated service under the physician or dentist's contract to refund the amount of special pay received since the last anniversary date of the agreement in any year of the agreement, unless the Secretary waives the refund requirement in whole or in part on the basis of a determination, in accordance with regulations prescribed by the Secretary, that the failure is necessitated by circumstances beyond the control of the physician or dentist.

Senate bill: Proposed new section 4122(b) is identical to the House provision, except that (a) the refund requirement would apply to a failure to complete only the first year of the physician or dentist's agreement, and (b) the CMD would make determinations regarding waivers of the refund requirement.

Compromise agreement: Proposed new section 7432(b) would (a) require a physician or dentist who fails voluntarily, or because of misconduct, to complete any of the years of service covered by the agreement (measured from the anniversary date of the agreement) to refund an amount of special pay received under the agreement for that year equal to (1) 100 percent of the amount of special pay received for the first year, in the case of a failure during the first year of service under the agreement; (2) 75 percent of the amount received for the second year, in the case of a failure during the second year; (3) 50 percent of the amount received for the third year, in the case of a failure during the third year; and (4) 25 percent of the amount received for the fourth year, in the case of a failure during the fourth year of service; and (b) authorize the Secretary to waive the refund requirement where the failure is determined to be the result of circumstances beyond the control of the physician or dentist.

SUBMISSION OF CERTAIN SPECIAL PAY AGREEMENTS TO CENTRAL OFFICE FOR APPROVAL

Current law: Current law contains no requirement for VA Central Office approval of special-pay agreements based on the amount by which an individual's special pay is increased or decreased from one year to the next.

House bill: Proposed new section 4132(c) would (a) require a facility director to submit to the Secretary any proposed special pay agreement that would provide a physician or dentist an amount of special pay that would exceed the preceding year's amount of special pay by more than 50 percent or would be more than 25 percent less than the preceding year's amount, (b) provide that any such agreement would take effect is not disapproved by the Secretary within 45 days after its submission, and (c) require the Secretary, in evaluating a special-pay agreement under this provision, to adjust amounts of special pay as necessary to reflect any change in the status of the physician or dentist from full-time to part-time status, from part-time to full-time status, or from one protection of part-time status to another.

Senate bill: No comparable provision.

Compromise agreement: Proposed new section 7432(c) follows the House bill except that it would provide that any such agreement,

other than in the case of a physician or dentist employed in an Executive position in VA's Central Office, would take effect if not disapproved by the Secretary within 60 days. In addition, proposed new section 7432(d) would require that any proposed special pay agreement, other than in the case of the Chief Medical Director, that would take effect before October 1, 1994, and would cause a physician or dentist's total pay to exceed the annual rate of basic pay for positions specified in section 5312 of title 5 (Executive Level I) be submitted to the Secretary through the Chief Medical Director for review. A proposed agreement may be either approved or disapproved, but if neither approved nor disapproved within 60 days after the date on which the physician or dentist entered into the proposed agreement, that agreement shall take effect at the end of that 60-day period. Neither the Secretary nor the Chief Medical Director may modify a proposed agreement or dictate changes to a proposed agreement. However, if a proposed special pay agreement is disapproved, the Committees anticipate that it would be returned to the medical center director along with recommendations as to the level the Secretary, or the Secretary's designee, considers appropriate in order to facilitate the approval of an agreement. The compromise agreement specified that a proposed agreement may be disapproved under new section 4242(d) only if it is determined that the proposed amount of special pay is not necessary to recruit or retain the individual.

RESTRICTIONS ON RECEIPT OF MULTIPLE CATEGORIES OF SPECIAL PAY

Current law: Section 4118(c)(5) of title 38 prohibits a physician or dentist who receives special pay for an executive position from also receiving special pay for full-time status, length of service, or scarce specialty categories, except that (a) a physician or dentist serving as a Service Chief (or in a comparable position as determined by the CMD) on a full-time basis may receive special pay for the position as well as for full-time status and, if eligible, for being in a scarce specialty; and (b) a physician or dentist serving as a Chief of Staff on a full-time basis may receive both special pay for that position as well as for full-time status.

House bill: Proposed new section 4137(a) would permit physicians and dentists to receive all categories of special pay for which they are eligible, except that physicians and dentists serving in executive positions in Central Office would be prohibited from receiving scarce-specialty special pay.

Senate bill: Proposed new section 4127(a) is identical to the House provision, except that it would (a) allow a physician or dentist serving in Central Office to receive scarce-specialty special pay if the CMD determines that the specialty skills of that physician or dentist are necessary for the physician or dentist to carry out effectively the responsibilities of the executive position in which the physician or dentist serves, and (b) allow a Chief of Staff to receive scarce specialty special pay only if (1) the CMD determines that such pay is necessary for the recruitment and retention of highly qualified Chiefs of Staffs, and (2) the CMD personally approves payment of such pay on a case-by-case basis.

Compromise agreement: Proposed new section 7437(a) follows the House bill.

RATES OF SPECIAL PAY FOR FULL-TIME PHYSICIANS

Primary Special Pay

Current law: Section 4118(b)(2) of title 38 requires the Secretary to provide primary special pay to any eligible full-time physician at a rate of $7,000 per year.

House bill: No provision providing for primary special pay.

Senate bill: No provision providing for primary special pay.

Compromise agreement: No provision providing for primary special pay.

Full-time Status

Current law: Section 4118(c)(1)(A)(i) of title 38 provides for special pay for physicians for full-time status at an annual rate no greater than $6,000.

House bill: Proposed new section 4133(b)(1) would provide special pay for physicians for full-time status at an annual rate of $9,000.

Senate bill: Proposed new section 4123(1) is substantively identical to the House provision.

Compromise agreement: Proposed new section 7433(b)(1) contains this provision.

Length of Service

Current law: Section 4118(c)(1)(A)(ii) of title 38 provides special pay for tenure of service of full-time physicians at an annual rate no greater than (a) $1,000 for two years but less than five years of service, (b) $2,000 for five years but less than eight years of service, and (c) $3,000 for eight or more years of service.

House bill: Proposed new section 4133(b)(2) would provide special pay for tenure of service of full-time physicians at an annual rate within a range of (a) $3,000 to $6,000 for two years but less than four years of service, (b) $6,000 to $12,000 for four years but less than eight years of service, (c) $12,000 to $18,000 for eight years but less than fifteen years of service, and (d) $15,000 to $25,000 for fifteen or more years of service.

Senate bill: Proposed new section 4123(2) would (a) provide special pay for length of service of full-time physicians at a uniform national annual rate, specified by the CMD, within a range of (1) $4,000 to $6,000 for two years but less than four years of service, (2) $6,000 to $12,000 for four years but less than eight years of service, and (3) $12,000 to $25,000 for eight or more years of service; and (b) authorize the CMD, for length of service in excess of eight years, to set uniform national rates for such ranges of years as the CMD considers appropriate.

Compromise agreement: Proposed new section 7433(b)(2) would (a) provide special pay for length of service of full-time physicians at a uniform national rate, specified by the CMD, of (1) $4,000 to $6,000 for two years but less than four years of service, (2) $6,000 to $12,000 for four years but less than eight years of service, (3) $12,000 to $18,000 for eight years but less than twelve years of service, and (4) $12,000 to $25,000 for twelve or more years of service; and (b) authorize the CMD, for length of service of twelve or more years, to set uniform national rates for such ranges of years as the CMD considers appropriate.

Scarce Specialty

Current law: Section 4118(c)(1)(A)(iii) of title 38 provides for special pay for service by full-time physicians in a medical specialty as to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, at an annual rate of not less than $4,000 and not more than $15,500.

House bill: Proposed new section 4133(b)(3) would follow current law, except that it would (a) require the Secretary, or the Secretary's designee, to make the determinations regarding recruitment and retention difficulties and provide for such determinations to be made on a nationwide basis or on the basis of the needs of a specific medical facility, and (b) provide for an annual rate of not more than $40,000.

Senate bill: Proposed new section 4123(3) would follow current law, except that it would (a) authorize the CMD to make determinations on a nation-wide basis, on the basis of the needs of a specific medical facility, or on any other geographic basis, (b) specify a $4,000 minimum, and (c) provide that, for service by a physician who serves only a portion of a year in a position for which special pay is paid under this category, the annual rate would be calculated on the basis of the proportion of time served in that position.

Compromise agreement: Proposed new section 7433(b)(3) would (a) provide for special pay for service by full-time physicians in a medical specialty with respect to which there are extraordinary difficulties in the recruitment or retention of qualified physicians on a nation-wide basis or on the basis of the needs of a specific medical facility, at an annual rate of not more than $40,000 and (b) incorporate the Senate provision for calculation of the annual rate of special pay for a physician who serves only a portion of a year in a designated scarce specialty position on the basis of the proportion of time served in the position.

Field Executive Positions

Current law: Section 4118(c)(1)(B) of title 38 provides special pay for full-time service by physicians at annual rates no higher than (a) $9,900 for service as a Service Chief or in a comparable position as determined by the CMD, (b) $12,600 for service as a Chief of Staff or in an Executive Grade Position, and (c) $13,000 for service in a Director Grade position.

House bill: Proposed new section 4133(b)(4) would raise the maximum annual rate of special pay for such positions to (a) $15,000 for service as a Service Chief or in a comparable position as determined by the CMD, (b) $25,000 for service as a Chief of Staff or in an Executive Grade position, and (c) $25,000 for service in a Director Grade position.

Senate bill: Proposed new section 4123(4)(A) is substantively identical to the House bill, but would include minimum as well as maximum rates as follows: (a) $4,500 to $15,000 for service as a Service Chief or in a comparable position as determined by the CMD, and (b) $14,500 to $25,000 for service as a Chief of Staff or in an Executive or Director Grade position.

Compromise agreement: New section 7433(b)(4)(A) would provide annual rates of special pay for such positions as follows: (a) within a range of $4,500 to $15,000 for serice as a Service Chief or in a comparable position as determined by the CMD, (b) within a range of $14,500 to $25,000 for service as a Chief of Staff or in an Executive Grade position, and (c) a maximum of $25,000 for service in a Director Grade position.

With respect to physicians serving in Director Grade positions, the Committees recommend that VA continue its current practice of providing varying rates of executive medicine special pay for physician facility directors based on the complexity of the facilities they direct.

Central Office Executive Positions

Current law: Section 4118(c)(1)(B) of title 38 provides physicians' special pay for full-time service by physicians at annual rates no higher than (a) $13,000 for service as a Deputy Service Director, (b) $13,500 for service as a Service Director, (c) $14,400 for service as a

Deputy Assistant CMD, and (d) $15,300 for service as an Associate Deputy CMD or Assistant CMD.

House bill: Proposed new section 4133(b)(4)(B) would provide special pay for full-time service by physicians at annual rates of (a) $25,000 for service as a Service Director, (b) $30,000 for service as a Deputy Assistant CMD or Assistant CMD, (c) $35,000 for service as an Associate Deputy CMD, (d) $40,000 for service as a Deputy CMD, and (e) $45,000 for service as CMD.

Senate bill: Proposed new section 4123(4)(B) is substantively identical to the House provisions except that it would (a) provide special pay at annual rates of $22,500 for service as a Deputy Service Director and $27,500 for service as a Deputy Assistant CMD, and (b) would provide that, for service by a physician who serves only a portion of a year in an executive position and also serves a portion of that same year in another position or grade for which special pay is provided, the annual rate of special pay would be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

Compromise agreement: Proposed new section 7433(b)(4)(B) follows the Senate bill, except that it would provide $20,000 for service as a Deputy Service Director.

Board Certification

Current law: Section 4118(c)(1)(C) of title 38 provides for special pay for full-time physicians for board certification at an annual rate of (a) $2,000 for specialty or first board certification, and (b) an additional $500 for subspecialty or secondary board certification.

House bill: Proposed new section 4133(b)(5) would follow current law.

Senate bill: Proposed new section 4123(5) would follow current law.

Compromise agreement: Proposed new section 7433(b)(5) follows current law.

Geographic Location

Current law: Section 4118(c)(1) of title 38 provides special pay for full/time physicians, in an amount to be determined by the CMD pursuant to regulations, to no less than $2,000 nor more than $5,000 for service (a) in a specific geographic location with respect to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in a specific category of physicians, or (b) in the VA Central Office.

House bill: Proposed new section 4133(b)(6) would follow current law except that (a) the Secretary, or the Secretary's designee, would be required to make the determination relating to recruitment and retention difficulties, (b) the annual rate of geographic special pay could not exceed $17,000, and (c) the provision includes no reference to Central Office.

Senate bill: Proposed new section 4123(6) is identical to the House provision except that (a) the CMD would be required to make the determination relating to recruitment and retention difficulties, and (b) there would be a range of geographic special pay of $2,000 to $15,000.

Compromise agreement: Proposed new section 7433(b)(6) follows the House bill.

The Committees anticipate that, as to the determination that there are extraordinary difficulties in the recruitment or retention of qualified physicians at a specific medical facility, the Secretary, or the Secretary's designees, would consider the input of the director of that facility.

Exceptional Qualifications

Current law: There is no provision for paying special pay to full-time physicians based on exceptional qualifications.

House bill: No provision.

Senate bill: Proposed new section 4123(7) of title 38 would (a) provide for special pay for full-time physicians with exceptional qualifications within a specialty at an annual rate of not more than $15,000, and (b) provide that special pay may be paid under this category only if personally approved by the CMD on a case-by-case basis and only to the extent that the amount paid under this category, when added to the total of other special pay categories, does not exceed the total amount that may be paid to a physician with the same length of service, specialty, and position as the physician concerned.

Compromise agreement: Proposed new section 7433(b)(7) contains the Senate provision.

Rates of Special Pay for the Chief Medical Director and Deputy Chief Medical Director

Current law: Section 4118(b)(1) of title 38 requires the Secretary to exercise the authority contained in section 4118 to provide the maximum amount of special pay authorized by that section to the CMD and the Deputy CMD.

House bill: Proposed new section 4133(c) would follow current law.

Senate bill: No provision.

Compromise agreement: New section 7432(d)(2) would (a) provide that the CMD shall receive, in addition to basic pay, special pay for that position at the rate specified in proposed new section 7433(b)(4)(B), and (b) provide that, for the CMD to receive special pay in the other categories for which the CMD is eligible, the Secretary must authorize such additional special pay. As noted above, the Deputy CMD's pay would be subject to the review and approval requirement of new sections 7432(c) and (d), as described above under the heading "SUBMISSION OF CERTAIN SPECIAL PAY AGREEMENTS TO CENTRAL OFFICE FOR APPROVAL".

SPECIAL PAY FOR PART-TIME PHYSICIANS: HALF-TIME OR GREATER

Current law: Section 4118 of title 38 provides for the payment of special pay to an eligible physician employed less than full-time but at least half-time, calculated on the basis of the proportion which the part-time employment bears to full-time employment, in an amount proportional to the following annual rates: (a) for primary special pay, $7,000; (b) for incentive special pay, a total of up to $15,500 consisting of (1) for length of service (A) $750 for more than two but less than five years of service, (B) $1,500 for five years but less than eight years of service, or (C) $2,250 for eight years or more of service; (2) for service in a medical specialty with respect to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount of not less than $3,000 but no more than $12,375, as determined by the CMD pursuant to regulations; (3) for service in an executive position (A) $7,220 for service as a Service Chief or in a comparable position as determined by the CMD, or (B) $9,190 for service as a Chief of Staff or in an Executive Grade position; (4) for board certification (A) $1,500 for specialty or first board certification, or (B) $1,875 for subspecialty or second board certification; and (5) for service in either (A) a specific geographic location with respect to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, or (B) the VA Central Office, an amount not less than $1,500 but not more than $4,000, as determined by the CMD pursuant to regulations.

House bill: Proposed new section 4134 would provide special pay for physicians employed less than full-time but at least half-time in an amount directly proportional to the amount the physician would receive if employed on a full-time basis, with the exception of full-time status special pay, subject to a 5/6ths cap on the proportion of full-time employment used to calculate special pay and except that the amount used for calculating board certification special pay would be fixed at $1,500 for specialty or first board certification and an additional $375 for subspecialty or secondary board certification.

Senate bill: Proposed new section 4124 would provide special pay for physicians employed less than full-time but at least half-time, based upon the factors and at the rates specified for full-time physicians, except for full-time status, in direct proportion to the amount that the physician would receive if employed on a full-time basis.

Compromise agreement: Proposed new section 7434 follows the Senate provision, except that it would set a cap of 3/4 on the proportion of full-time employment that would be used to calculate special pay.

SPECIAL PAY FOR PART-TIME PHYSICIANS: LESS THAN HALF-TIME

Current law: Section 4118(a)(2) of title 38 prohibits the payment of special pay to any physician who is employed on a less than half-time basis.

House bill: Proposed new section 4131(e) would follow current law.

Senate bill: Proposed new section 4124 would provide special pay for physicians employed on a less than half-time basis, based upon the factors and at the rates specified for full-time physicians, except for full-time status, in direct proportion to the amount the physician would receive if employed on a full-time basis, subject to proposed new section 4127(e), which would require the CMD to determine that payment of special pay to a physician employed on a less than half-time basis is the most-effective way to provide needed medical or dental services at a VA facility.

Compromise agreement: Proposed new sections 7431(e) and 7431(f) follow the Senate provision, except that payment of special pay to a physician employed on less than a one-quarter time basis would be prohibited.

RATES OF SPECIAL PAY FOR FULL-TIME DENTISTS

Primary Special Pay

Current law: Section 4118(b)(2) of title 38 requires the Secretary to provide primary special pay to any eligible full-time dentist at a rate of $2,500 per year.

House bill: No provision providing for primary special Pay.

Senate bill: No provision providing for primary special Pay.

Compromise agreement: No provision providing for primary special Pay.

Full-time Status

Current law: Section 4118(c)(2)(A)(i) of title 38 provides for special pay for dentists for full-time status at an annual rate no greater than $1,000.

House bill: Proposed new section 4135(b)(1) would provide special pay for dentists for full-time status at an annual rate of $3,500.

Senate bill: Proposed new section 4125(a)(1) is identical to the House provision.

Compromise agreement: Proposed new section 7435(b)(1) contains this provision.

Length of Service

Current law: Section 4118(c)(2)(A)(ii) of title 38 provides special pay for tenure of service of full-time dentists in amounts not more than (a) $500 for two years but less than seven years of service, and (b) $1,000 for seven years or more of service.

House bill: Proposed new section 4135(b)(2) would provide special pay for tenure of service of full-time dentists in the amount of (a) $800 for two years but less than seven years of service, or (b) $1,600 for seven years or more of service.

Senate bill: New section 4125(2) would (a) provide special pay for length of service of full-time dentists at a uniform annual national rate, as specified by the CMD, within a range of (1) $1,300 to $2,000 for two years but less than four years of service, (2) $2,000 to $4,000 for four years but less than eight years of service, and (3) $4,000 to $8,300 for eight years or more of service; and (b) authorize the CMD, for length of service in excess of eight years, to set uniform national rates for rush ranges of years as the CMD considers appropriate.

Compromise agreement: Proposed new section 7435(b)(2) would (a) provide special pay for length of service of full-time dentists at a uniform annual national rate, specified by the CMD, of (1) $1,000 to $2,000 for two years but less than four years of service, (2) $2,000 to $3,000 for four years but less than eight years of service, (3) $3,000 to $3,500 for eight years but less than twelve years of service, and (4) $3,000 to $4,000 for twelve years or more of service; and (b) authorize the CMD, for length of service of twelve or more years, to set uniform national rates for such ranges of years as the CMD considers appropriate.

Scarce Specialty

Current law: Section 4118(c)(2)(A)(iii) of title 38 provides special pay for service by full-time dentists in a dental specialty as to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment and retention of qualified dentists, at an annual rate determined by the CMD, pursuant to regulations, of not less than $2,000 and not more than $7,500.

House bill: Proposed new section 4135(b)(3) would follow current law except that it would (a) require the Secretary, or the Secretary's designee, to make the determinations regarding recruitment and retention difficulties and provide for such determinations to be made on a nationwide or individual facility basis; and (b) provide for an annual rate of not more than $20,000.

Senate bill: Proposed new section 4125(3) is identical to the House provision, except that it would (a) require the CMD to make the determinations regarding recruitment and retention difficulties, (b) authorize the CMD to make determinations on any "other geographic basis," (c) require that such special pay be paid at an annual rate not less than $2,000 but not more than $30,000, and (d) provide that, for service by a dentist who serves only a portion of a year in a position for which special pay is paid under this category, the annual rate would be calculated on the basis of the proportion of time served in that position.

Compromise agreement: Proposed new section 7435(b)(3) would (a) provide special pay for service by full-time dentists in a dental specialty with respect to which there are extraordinary difficulties in the recruitment and retention of qualified dentists on a nationwide basis or on the basis of the needs of a specific medical facility, at an annual rate of not more than $20,000, and (b) incorporate the Senate provision for calculation of the annual rate of special pay for a dentist who serves only a portion of a year in a designated scarce specialty position on the basis of the proportion of time served in the position.

Field Executive Positions

Current law: Section 4118(c)(2)(B) of title 38 provides special pay for full-time service by dentists at annual rates no higher than (a) $2,750 for service as a Service Chief or in a comparable position as determined by the CMD, (b) $3,500 for service as a Chief of Staff or in an Executive Grade position, and (c) $3,625 for service in a Director Grade position.

House bill: Proposed new section 4135(b)(4) would raise the maximum annual rates of special pay for dentists serving in such positions on a full-time basis to annual rates no higher than (a) $5,000 for service as a Service Chief or in a comparable position as determined by the Secretary and (b) $9,000 for service as a Chief of Staff or in an Executive or Director Grade position.

Senate bill: Proposed new section 4125(4)(A) would raise the maximum annual rate of special pay for dentists serving in such positions on a full-time basis to annual rates within a range of (a) $3,000 to $5,000 for service as a Service Chief or in a comparable position as determined by the CMD, and (b) $3,500 to $8,000 for service as a Chief of Staff or in an Executive or Director Grade position.

Compromise agreement: Proposed new section 7435(b)(4)(A) would raise the maximum annual rate of special pay for dentists serving in such positions on a full-time basis to annual rates (a) within a range of $1,000 to $5,000 for service as a Service Chief or in a comparable position as determined by the CMD, (b) within a range of $1,000 to $8,000 for service as a Chief of Staff or in an Executive Grade position, and (c) a maximum of $8,000 for service in a Director Grade position.

Central Office Executive Positions

Current law: Section 4118(c)(2)(B) of title 38 provides special pay for full-time service by dentists at annual rates no higher than (a) $3,625 for service as a Deputy Service Director, (b) $3,750 for service as a Service Director, (c) $4,000 for service as a Deputy Assistant CMD, and (d) $4,250 for service as an Assistant CMD.

House bill: Proposed new section 4135(b)(4) would provide special pay for full-time service by dentists at annual rates no higher than (a) $9,000 for service as a Service Director, (b) $10,000 for service as a Deputy Assistant CMD, and (c) $10,000 for service as an Assistant CMD.

Senate bill: Proposed new section 4125(4)(B) would (a) provide special pay for full-time service by dentists at annual rates of (1) $8,000 for service as a Deputy Service Director, (2) $9,000 for service as a Service Director, (3) $10,000 for service as a Deputy Assistant CMD, and (4) $10,000 for service as an Assistant CMD; and (b) provide that, for service by a dentist who serves only a portion of the year in an executive position specified in this provision and also serves a portion of that same year in another position or grade for which special pay is provided, the annual rate of special pay would be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

Compromise agreement: Proposed new section 7435(b)(4) (a) would provide (1) ranges of $1,000 to $8,000 for service as a Deputy Service Director and $1,000 to $9,000 for service as a Service Director and, (2) an annual rate of $10,000 for service as a Deputy Assistant CMD or an Assistant CMD; and (b) contains the Senate provision for calculation of the annual rate of special pay for a dentist who serves only a portion of a year in a Central Office executive position.

Board Certification

Current law: Section 4118 of title 38 does not provide special pay for full-time dentists for board certification.

House bill: Proposed new section 4135(b)(5) would provide special pay for full-time dentists for board certification at an annual rate of (a) $2,000 for specialty or first board certification, and (b) an additional $500 for subspecialty or secondary board certification.

Senate bill: Proposed new section 4125(5) is substantively identical to the House provision.

Compromise agreement: Proposed new section 7435(b)(5) contains this provision.

Geographic Location

Current law: Section 4118(c)(2)(C) of title 38 provides special pay for full-time dentists in an amount to be determined by the CMD pursuant to regulations, of not less than $1,750 nor more than $2,500 for service (a) in a specific geographic location with respect to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, or (b) in the VA Central Office.

House bill: Proposed new section 4135(b)(6) would follow current law, except that (a) the Secretary, or the Secretary's designee, would require to make the determination relating to recruitment and retention difficulties, (b) the annual rate of geographic special pay could not exceed $5,000, and (c) the provision includes no reference to Central Office.

Senate bill: Proposed new section 4125(6) is identical to the House provision, except that (a) the CMD would be required to make the determination relating to recruitment and retention difficulties, and (b) there would be a range of geographic special pay of $1,750 to $5,000.

Compromise agreement: Proposed new section 7435(b)(6) follows the House bill.

The Committees anticipate that, as to the determination that there are extraordinary difficulties in the recruitment or retention of qualified physicians at a specific medical facility, the Secretary, or the Secretary's designees, would consider the input of the director of that facility.

Exceptional Qualifications

Current law: There is no provision for paying special pay to full-time dentists based on exceptional qualifications.

House bill: No provision.

Senate bill: Proposed new section 4125(7)(a) would provide for special pay for full-time dentists for exceptional qualifications within a specialty at an annual rate of not more than $5,000, and (b) would provide that special pay may be paid under this category only if personally approved by the CMD on a case-by-case basis and only to the extent that the amount paid under this category, when added to the total of other special pay categories, does not exceed the total amount that may be paid to a dentist with the same length of service, specialty, and position as the dentist concerned.

Compromise agreement: Proposed new section 7435(b)(7) contains the Senate provision.

SPECIAL PAY FOR PART-TIME DENTISTS: HALF-TIME OR GREATER

Current law: Section 4118 of title 38 provides for the payment of special pay to an eligible dentist employed less than full-time but at least half-time, calculated on the basis of the proportion which the part-time employment bears to full-time employment, in an amount proportional to the following annual rates: (a) for primary special pay, $2,500; (b) for incentive special pay, a total of up to $7,500, consisting of (1) for length of service, (A) $500 for more than two but less than seven years of service or (B) $1,000 for seven or more years of service; (2) for service in a dental specialty with respect to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount not less than $1,500 but no more than $5,625, as determined by the CMD in accordance with regulations; (3) for service in an executive position (A) $2,750 for service as a Service Chief or in a comparable position as determined by the CMD, or (B) $3,500 for service as a Chief of Staff or in an Executive Grade position; and (4) for service in either (A) a specific geographic location with respect to which the CMD has determined, pursuant to regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, or (B) the VA Central Office, an amount not less than $1,310 but not more than $1,875, as determined by the CMD in accordance with regulations.

House bill: Proposed new section 4136 would provide special pay for dentists employed less than full-time but at least half-time in an amount directly proportional to the amount the dentist would receive if employed on a full-time basis, with the exception of full-time status special pay, subject to a ⅝ths cap on the proportion of full-time employment that may be used to calculate special pay, except that the amount used for calculating board certification special pay would be fixed at $1,500 for specialty or first board certification and an additional $375 for subspecialty or secondary board certification.

Senate bill: Proposed new section 4126 would provide special pay for part-time dentists employed on a half-time or greater basis, based upon the factors and at the rates specified for full-time dentists, except for full-time status, in direct proportion to the amount the dentist would receive if employed on a full-time basis.

Compromise agreement: Proposed new section 7436 follows the Senate provision, except that it would set a cap of ¾ on the proportion of full-time employment that would be used to calculate special pay.

SPECIAL PAY FOR PART-TIME DENTISTS: LESS THAN HALF-TIME

Current law: Section 4118(a)(2) of title 38 prohibits the payment of special pay to any dentist employed on a less than half-time basis.

House bill: Proposed new section 4131(e) would follow current law.

Senate bill: Proposed new section 4126 would provide special pay for dentists employed on a less than half-time basis, based upon the factors and at the rates specified for full-time dentists, except for full-time status, in direct proportion to the amount the denist would receive if employed on a full-time basis, subject to proposed new section 4127(e), which would require the CMD to determine that payment of special pay to a dentist employed on a less than half-time basis is the most cost-effective way to provide needed dental services at a VA facility.

Compromise agreement: Proposed new sections 743(e) and 7431(f) follows the Senate provision, except that the payment of special pay to a dentist employed on less than a one-quarter time basis would be prohibited.

REGULATIONS FOR CERTAIN DETERMINATIONS

Current law: Section 4118 requires that the Secretary issue regulations to carry out the special pay authorities, but contains no specific provisions specifying what determinations affecting special pay must be made under regulations.

House bill: Proposed new section 4137(b) would require that the following determinations be made under regulations prescribed by the Secretary: (a) a determination that there are extraordinary difficulties (on a nationwide or individual facility basis) in the recruitment or retention of qualified physicians in a medical specialty or in the recruitment or retention of qualified dentists in a dental specialty, (b) a determination of the amount of special pay to be paid to a physician or dentist for a factor of special pay for which the applicable rate is specified as a range of amounts, and (c) a determination of whether there are extraordinary difficulties in a specific geographic location in the recruitment or retention of qualified physicians in a specific category of physicians or in the recruitment or retention of qualified dentists in a specific category of dentists.

Senate bill: Proposed new section 4127(b) is identical to the House provision, except that (a) it would require that regulations be prescribed by the Secretary after receiving the recommendations of the CMD, (b) determinations that there are extraordinary difficulties in recruitment or retention of qualified physicians or dentists in certain specialties could also be made on any "other geographic basis," and (c) the CMD would be required to establish uniform national rates of special pay to be paid to a physician or dentist for a factor of special pay for which the bill specifies a range of rates.

Compromise agreement: Proposed new section 7437(b) follows the House bill, except that the Secretary would prescribe special pay regulations only after receiving the recommendations of the CMD.

The Committees notes that, under section 553 of title 5, regulations having to do with matters relating to agency management or personnel are not subject to the rulemaking requirements of the Administrative Procedures Act.

PROCEDURES FOR AUTHORIZATION OF SCARCE SPECIALTY PAY ON AN INDIVIDUAL FACILITY BASIS

Current law: Section 4118 of title 38 does not provide for the payment of special pay for service in a scarce specialty on an individual facility basis.

House bill: Proposed new section 4137(c) would provide that, for the purpose of paying special pay, a determination by the Secretary that there are extraordinary difficulties in the recruitment or retention of qualified physicians in a medical specialty or in the recruitment of qualified dentists in a dental specialty, on the basis of the needs of a specific medical facility, may only be made upon the request of the director of that facility.

Senate bill: Proposed new section 4127(c) is identical to the House provision, except that (a) if a facility director determines that the facility is unable to recruit or retain physicians or dentists in a specific category through the use of scarce specialty and geographic special pay authorities, the facility director would be required to notify the CMD and recommend the payment of special pay or an increase in the payment of special pay, as appropriate for that category of physicians or dentists; (b) the special pay (or the increase in special pay) recommended by the director would become effective with respect to that facility 45 days after the date on which the CMD receives the notification, unless, before the expiration of that period, the CMD disapproves the director's recommendation; and (c) the CMD could delegate or redelegate the authority to approve or disapprove the facility director's recommendation to an officer or employee of VHS&RA who holds a position in the direct line of authority between the CMD and the facility director higher than the one held by the director making the recommendation, as determined by the CMD.

Compromise agreement: Proposed new section 7437(c) follows the House bill.

LIMITATION ON AUTHORIZATION OF SCARCE SPECIALTY SPECIAL PAY ON AN INDIVIDUAL FACILITY BASIS

Current law: As noted above, section 4118 of title 38 does not provide for the payment of special pay for service in a scarce specialty on an individual facility basis; thus, there is no basis in current law for any limitation on such authority.

House bill: Proposed new section 4137(d) would prohibit the Secretary from providing special pay for a scarce specialty on the basis of the needs of a specific medical facility unless the Secretary also determines that special pay on the basis geographic location is insufficient to meet the needs of that facility for qualified physicians or dentists.

Senate bill: Proposed new section 4127(d) is identical to the House provision, except that it also would (a) specify that the CMD would make the determination of geographic-pay insufficiency upon the request of the facility director, (b) require that the determination relate expressly to the needs of the facility for qualified physicians or dentists in the specific category of physicians or dentists concerned, and (c) require that, if special pay is paid to a physician or dentist on any geographic or individual-facility basis, all physicians or dentists with the same specialty serving at the facility concerned be paid the same rate of such pay.

Compromise agreement: Proposed new section 7437(d) follows the House bill.

PROTECTION AGAINST REDUCTION IN SPECIAL PAY DUE TO ELIMINATION OF PRIMARY SPECIAL PAY CATEGORY

House bill: No provision.

Senate bill: Proposed new section 4127(f) of title 38 would require that a physician or dentist who was employed by VHS&RA, on an either full-time or part-time basis, on the day before the effective date of the new subchapter, and was receiving primary special pay and incentive special pay only for full-time-status, and tenure of service, be paid special pay under the new subchapter at a rate not less than the rate of special pay the physician or dentist received the day before the effective date of this bill.

Compromise agreement: Proposed new section 7437(e) follows the Senate bill. In addition, proposed new section 7431(g) would provide for retention pay, as described above under "DESIGNATION OF CATEGORIES WITH NO RECRUITMENT OR RETENTION PROBLEMS", for a physician or dentist who had been receiving special pay under a section 4118 agreement in

a category for which the Secretary subsequently determines there is no significant recruitment and retention problem.

LIMITS ON THE MAXIMUM AMOUNT OF SPECIAL PAY

Current law: Section 4118(a)(1) of title 38 limits the total amount of special pay that may be paid to a physician or dentist to an amount no more than (a) $22,500 per year for a full-time physician, and (b) $10,000 per year for a full-time dentist, except that special pay received for service in a specific geographic location in which VA experiences severe recruitment and retention difficulties, which, under section 4118(d), is excluded from the maximum limit on total special pay.

House bill: Would place no limit on the maximum amount of special pay that a physician or dentist could receive.

Senate bill: Proposed new section 4127(h) of title 38 would set a cap on the total compensation (special pay plus basic pay) that a physician or dentist could receive at an amount no greater than the amount specified in section 102 of title 3, United States Code.

Compromise agreement: Proposed new section 7437(h) follows the Senate bill. In addition, as described above under "SUBMISSION OF CERTAIN SPECIAL PAY AGREEMENTS TO CENTRAL OFFICE FOR APPROVAL", proposed new section 7432(d) would require that any agreement (other than an agreement relating to the CMD's pay) that would take effect before October 1, 1994, and would cause a physician or dentist's total pay to exceed the annual rate of basic pay for positions specified in section 5312 of title 5, be submitted for approval to the Secretary through the CMD.

BASIC PAY CALCULATIONS

Current law: Section 4118(f)(1) of title 38 provides that, except as provided in paragraph (2) of section 4118(f) (discussed below), any additional compensation provided as special pay under section 4118 not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 84 of title 5, or other benefits related to basic pay.

House bill: Proposed new section 4138(e) would provide that, except as provided in subsections (b) and (d) of section 4138 (discussed below), any special pay would not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 84 of title 5, or other benefits related to basic pay.

Senate bill: No provision.

Compromise agreement: Proposed new section 7438(b) follows the House bill.

CALCULATION OF RETIREMENT BENEFITS

Current law: Section 4118(f)(2) of title 38 provides that special pay paid to any full-time employee after September 30, 1980, be included in average pay, as defined in section 8331(4) or 8401(3) of title 5, only (a) for the purposes of computing disability or death benefits paid under section 8337, 8341(d) or (e), 8442(b), 8443, or 8451 of title 5; or (b) if the employee has completed not less than fifteen years of full-time service, for the purpose of computing an annunity, except that, regardless of the length of such employee's service, no special pay could be included in average pay in computing an annuity that commenced before October 1, 1985, and only one-half of any special pay in computing an annuity that commenced on or after October 1, 1985, but before October 1, 1990.

House bill: Proposed new section 4138(b) would follow current law with respect to disability or death benefits and, with respect to an annuity computation under chapter 83 or 84, provide for all special pay to be considered as basic pay for chapter 83 or 84 purposes with no phase-in.

Senate bill: Proposed new section 4128(b) would follow current law with respect to disability or death benefits and, with respect to annuity computations under chapter 83 or 84, would provide for special pay provided to a physician or dentist under the new authority to be considered basic pay (b) in the case of a physician or dentist who has no VA service prior to the effective date of this measure but has at least fifteen years of service, and (b) in the case of a physician or dentist who has pre-effective date service and at least fifteen years of service, only in (1) an amount equal to the amount of special pay the physician or dentist was receiving immediately prior to the effective date, plus (2) an amount equal to 20 percent of the increased amount of special pay under the new law for each two years served after the effective date.

Compromise agreement: Proposed new section 7438(b) follows the Senate bill, except that the phase-in of the increase for those with pre-effective date service would be at the rate of 25 percent of the increased amount of special pay for each two years served after the effective date.

LIFE INSURANCE CALCULATIONS

Current law: Section 4118(f)(3) of title 38 requires that any special pay be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

House bill: Proposed new section 4138(c) would provide that special pay provided to a physician or dentist under the new authority or under an agreement entered into under section 4118 of title 38 and be considered as annual pay for the purposes of the provisions of chapter 87 of title 5, relating to life insurance for Federal employees.

Senate bill: No provision.

Compromise agreement: Proposed new section 7438(c) follows the House provision.

QUADRENNIAL REPORT ON SPECIAL PAY

Current law: Section 4118(g)(2) of title 38 requires the Secretary to (a) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by VA and physicians and dentists employed by other Federal departments and agencies and between all Federal sector and non-Federal sector physicians and dentists; (b) obtain measures of income from the employment or practice of physicians and dentists in the non-VA sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for VA physicians and dentists; (c) submit a report to the President, on such date as the President may designate but not later than December 31, 1988, and once very four years thereafter, recommending appropriate amounts of special pay; (d) include in such recommendations, when the Secretary considers it appropriate and necessary to do so, modifications of the special pay levels set forth in section 4118 of title 38 (1) whenever VA is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-VA physicians and dentists performing comparable types of duties significantly exceed the levels of total pay of VA physicians and dentists, or (2) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

House bill: Proposed new section 4139 of title 38 follows current law, except that it would require the Secretary to submit the report on such date as the President may designate but not later than December 31, 1992, and once every four years thereafter.

Senate bill: Proposed new section 4129 is substantively identical to the House provision.

Compromise agreement: Proposed new section 7439 follows the House provision, except that it would require the Secretary to submit the report not later than December 31, 1994, and once every four years thereafter.

INCLUSION OF RECOMMENDATIONS IN THE PRESIDENT'S BUDGET SUBMISSION

Current law: Section 4118(g)(3) of title 38 requires the President to include recommendations with respect to the exact rates of special pay for physicians and dentists under section 4118 in the Budget next transmitted to the Congress under section 1105 of title 31 after the submission of each report by the Secretary pursuant to section 4118(g)(2) (known as the "Quadrennial Report", described below).

House bill: Proposed new section 4139(c) follows current law.

Senate bill: Proposed new section 4129(c) follows current law, with an additional requirement that the President specify the added costs of the recommended rates of special pay.

Compromise agreement: Proposed new section 7439(c) follows the Senate bill.

ANNUAL REPORT ON SPECIAL PAY

Current law: Section 4118(g)(3) of title 38 requires the Secretary to submit to the House and Senate Committees on Veterans' Affairs, not later than April 30 of each year, a report on the implementation of section 4118, which must include (a) a review of the Secretary's and CMD's actions, findings, recommendations, and other activities to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report, and (b) a plan in connection with the implementation of section 4118 for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.

House bill: Proposed new section 4140 of title 38 would follow current law, but also would require the Secretary to include in the annual report (a) a description of the amounts of special pay paid during the preceding fiscal year by category of pay; (b) a list of (1) the geographic areas, and scarce specialties for which special pay was paid during the preceding fiscal year, (2) the areas and specialities for which special pay is being paid during the current fiscal year, and (3) the areas and specialties for which special pay is expected to be paid during the next fiscal year, and (4) a summary of any differences among those three lists; (c) a list of (1) the number of physicians and dentists who left employment with the Department during the preceding year, (2) the number who changed from full-time status to part-time status, and (3) the reasons therefor; and (d) the number of unfilled physician and dentist positions in VHS&RA and the reasons that each such position is unfilled.

Senate bill: Proposed new section 4130 is similar to the new section proposed in the House bill except that, the provision would be modified to require the Secretary to include (1) the number of physicians and dentists who change from part-time to full-time status, and (2) a summary of the reasons why physicians and dentists left employment

with VHS&RA or changed their employment status; and (b) the following items would be added to the report: (1) the numbers of positions, by specialty, created and abolished during the preceding fiscal year and a summary of the reasons for such actions; (2) with respect to the number of unfilled physician and dentist positions (A) the number of unfilled positions in each specialty in VHS&RA, (B) the average and maximum lengths of time that those positions have been unfilled, (C) a summary of the reasons why the positions remained unfilled and, (D) in the case of any specialty not designated as a scarce specialty for purposes of special pay, an explanation (including comparisons with other specialties that have been so designated) of why the specialty has not been so designated; and (3) an assessment of the need for periodically adjusting the rates of special pay of physicians and dentists to reflect cost-of-living increases as a means of recruiting and retaining high-quality medical personnel.

Compromise agreement: Proposed new section 7440 contains this provision. However, it does not contain an assessment of the need for periodically adjusting rates of special pay of physicians and dentists. In addition, new section 7432(d)(3) would require the Secretary to include in the annual report (1) the number of agreements entered into during the period covered by the report which caused a physician's or dentist's total annual salary to exceed the amount specified in section 5312 of title 5 (Executive Level I); (2) the number of proposed agreements exceeding the amount specified in section 5312 which were disapproved by the Secretary; and (3) a detailed explanation of the Secretary's reasons for disapproving any agreements.

REIMBURSEMENT OF CONTINUING EDUCATION EXPENSES

Current law: Section 4113 of title 38 authorizes the Secretary to pay the expenses, except membership fees, of physicians and dentists to attend meetings of associations for the promotion of medical and related science.

House bill: Section 103 would require the Secretary to reimburse any full-time board-certified physician or dentist for up to $1,000 per year for expenses incurred for continuing professional education after September 30, 1990.

Senate bill: Section 264 would (a) require the CMD to reimburse any full-time board-certified physician or dentist—and authorize the CMD to reimburse other physicians and dentists—for up to $1,000 per year for continuing education expenses, and (b) authorize the CMD to reimburse continuing education expenses in excess of $1,000.

Compromise agreement: Proposed new section 7411 follows the House bill, except that the provision would apply only with respect to expenses incurred after September 30, 1991.

ELECTION OF CREDITING SPECIAL PAY FOR RETIREMENT ANNUITY AND INSURANCE

Current law: Under section 103(b)(2) of Public Law 96-330, a physician or dentist who was employed by VHS&RA on October 1, 1980, in a full-time status was permitted to make an irrevocable election, no later than April 1, 1981, not to have special pay counted as basic pay for the purposes of computing an annuity under chapter 83 or 84 of title 5.

House bill: No comparable provision.

Senate bill: Section 266 would permit a physician or dentist who elected not to have special pay under section 4118 included as basic pay for the purposes of either chapter 83 or 84 of title 5 irrevocably to elect to have special pay received under the new special pay authority considered basic pay for such purposes and included in average pay for the purposes of sections 8331(4) and 8401(3) of title 5 in the same manner and to the same extent as provided in the new special pay authority. The physician or dentist would be required to make such an election in writing at the time the physician or dentist enters into an agreement under the new provisions.

Compromise agreement: No provision.

The Committees note that the goal of the Senate provision would be met by the repeal of section 4118 and by the enactment of section 104 of the compromise agreement, which would authorize all physicians and dentists to enter into new agreements under new chapter 74. All special pay received under these new agreements would be counted as basic pay for the purpose of computing an annuity.

RECRUITMENT, RELOCATION, AND RETENTION BONUSES

Current Law: Section 5524a of title 5 permits the head of a Federal agency to provide advance payment of basic pay, covering not more than two pay periods, to any individual who is newly appointed to a position in the agency, at the initial rate of basic pay payable to the employee upon commencement of service in that position. Section 5706b of title 5 permits a Federal agency to pay an individual for expenses for travel to and from pre-employment interviews. Section 5753 of title 5 (a) permits the Director of the Office of Personnel Management (OPM), subject to regulations which OPM will prescribe, to authorize the head of an agency to pay a bonus to an employee who is newly appointed under the General Schedule, or an employee under any Federal pay authority who must relocate to accept a General Schedule position, if the Office determines that the agency would be likely to encounter difficulty in filling the position, in the absence of such a bonus; (b) requires the OPM to determine the amount of such a bonus up to a limit of 25 percent of the annual rate of basic pay for the position, exclusive of any locality comparability payment that may be applicable to the position; (c) requires that payment of such a bonus be contingent upon the employee entering into an agreement with the agency to complete a period of employment with the agency, pursuant to regulations prescribed by OPM, which the employee must repay on a pro rated basis, if the employee is separated from the agency or voluntarily fails to complete the agreed-upon period of service; and (d) requires that such a bonus be paid as a lump sum and not considered as part of the employee's basic pay. Section 5754 of title 5 (a) permits OPM, in accordance with regulations which OPM must prescribe, to authorize the head of an agency to pay an allowance to an employee under the General Schedule if the unusually high or unique qualifications of the employee make it essential for the agency to retain the employee and the agency determines that the employee would be likely to leave in the absence of a retention allowance; (b) provides that a retention allowance may not exceed 25 percent of the employee's annual rate of basic pay (exclusive of any locality comparability payment under section 5304 of title 5); and (c) requires that such an allowance be paid in at the same time and in the same manner as the employee's basic pay, but may not be considered part of the employee's basic pay.

House bill: Section 104 of H.R. 598 in the 102d Congress, as passed by the House of Representatives on January 30, 1991, would add new section 4120A to title 38 under which the Secretary would be authorized to permit the CMD to pay allowances or expenses to physicians, nurses, and other title 38 health-care employees, in the same manner, and subject to the same limitations as are provided in the authorities under sections 5524a, 5706b, 5753, and 5754 of title 5.

Senate bill: No provision.

Compromise agreement: Proposed new section 7410 follows the House bill.

EFFECTIVE DATES AND TRANSITION

House bill: Section 104 would (a) provide that the new special pay authority take effect on the later of (1) October 1, 1990, or (2) the date of enactment; (b) provide that the continuing education expenses provision apply to expenses incurred after September 30, 1990; (c) require that any agreement entered into under section 4118 of title 38 prior to the effective date remain in effect and be treated for all purposes in accordance with such section as in effect on the day before the effective day of the new special pay authority, except that an agreement that covers a period in excess of one year and that would expire more than one year after such effective date may be terminated in order to allow a physician or dentist to enter into a new agreement; (d) require that any new agreement take effect only on the anniversary date of the terminated agreement; and (e) prohibit a special pay agreement from providing special pay with respect to a period before the date on which the agreement is entered into.

Senate bill: Section 265 would (a) provide that the new special pay authority would take effect with respect to pay periods beginning more than 180 days after the date of enactment; (b) require the Secretary to terminate a special pay agreement entered into under section 4118, if (1) the agreement covers a period in excess of one year, (2) the agreement expires more than one year after the effective date of the new special pay authority, (3) the physician or dentist concerned requests termination of the agreement, and (4) the agreement is terminated for the purpose of permitting the physician or dentist concerned to enter into a new special pay agreement; (c) require that any new agreement take effect only after completion of the first year of service under the terminated agreement; and (d) provide that the continuing education expenses provision apply to expenses incurred after September 30, 1990.

Compromise agreement: Section 104 would provide that the new special pay authority would take effect with respect to the first pay period beginning after the earlier of (a) July 1, 1991, or (b) the end of the 90-day period beginning on the date of enactment. A physician or dentist who entered into a special pay agreement under section 4118 of title 38 which would not expire until after the beginning of that pay period would be permitted to negotiate a new agreement that would begin with that pay period. A physician or dentist who entered into a section 4118 agreement that expires before the first pay period as to which the measures take effect would be permitted (1) to extend the 4118 agreement until the beginning of that pay period, and (2) to negotiate a new agreement that would begin with that pay period. A physician or dentist hired by VHS&RA after the date of enactment but before the effective date would be permitted to negotiate both (1) a 4118 agreement that would expire as of the beginning of that pay period, and (2) a new agreement that would begin with

that pay period. Proposed new section 7411 would apply to continuing education expenses incurred after September 30, 1991.

Mr. KOHL. Mr. President, I would like to engage the distinguished chairman of the Committee on Veterans' Affairs, Mr. CRANSTON, in a colloquy regarding proposed new sections 7439 and 7440 of title 38 as proposed to be added by S. 675. These provisions call for a review of pay for physicians and dentists and require the Secretary of Veterans Affairs to submit an annual report to the House and Senate Veterans' Affairs Committees on the use of the special pay authorities.

Mr. CRANSTON. Mr. President, I would be happy to respond to the concerns of the Senator from Wisconsin.

Mr. KOHL. Mr. President, late last year I was joined by a number of my colleagues, including Senators KASTEN, HEFLIN, D'AMATO, SHELBY, RIEGLE, and LEVIN, in writing a letter to Secretary Derwinski on behalf of the Department of Veterans Affairs dentists in the specialty of endodontics. We wrote because there seemed to be some compelling reasons why these specialists should be granted specialty pay. At this point, I would ask unanimous consent that the text of that letter and the Secretary's reponse be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, December 14, 1990.

Hon. EDWARD J. DERWINSKI,
Secretary, Department of Veterans Affairs, Washington, DC.

DEAR SECRETARY DERWINSKI: We are writing to request that you make a determination to grant special pay to the dental specialty of endodontics within the Department of Veterans Affairs. In light of the following considerations, this decision would appear to be most appropriate.

1. Recruitment and retention of endodontists is a problem. The Klemm Report recommended specialty pay for all dental specialties. A 1984 Dentistry Advisory Task Force made the same recommendation. In June of 1989, there were 129 applications for employment as a dentist on file with the DVA. There were ten from prosthodontists, four from oral surgeons, and one from a periodontist—all categories which receive specialty pay. There were none from endodontists. Yet an informal survey has indicated a need for more of these specialists.

2. Endodontics has been singled out for denial of specialty pay with no apparent justification, along with one other dental specialty. To my knowledge, no studies were done to justify that recruitment and retention of endodontists was any easier than it was for the other specialties receiving this pay.

3. DVA endodontists earn less than their DVA colleagues in other dental specialties, yet in the private sector pay for endodontists is the second highest of any dental specialty, and greatly exceeds the pay of at least one of the scarce specialties.

4. Other federal agencies, including all branches of the military and the USPHS, grant specialty pay to all dental specialties. Only DVA endodontists are not compensated equally with other dental specialties.

5. Endodontists are important to the DVA. Their surgical expertise in dealing with cases of acute pain and infection is vital to training the DVA's general dentists of the future. These skills are an important service to provide for our nation's veterans.

This lack of specialty pay is creating problems for the DVA. It has created an unfair penalty on the small number of DVA endodontists. Because of the numbers of individuals involved, granting this specialty pay would not cause a significant increase in the DVA budget. Without such action, the number of endodontists in the DVA will in all likelihood continue to decrease.

We appreciate your consideration of this request. We look forward to your response, to your assessment of the recruitment and retention of endodontists in the DVA, and to your views on the role this specialty plays for DVA dental services.

Warm regards,
Sincerely,
Herb Kohl, Howell Heflin, Richard Shelby, Carl Levin, Bob Kasten, Alfonse D'Amato, Don Riegle.

SECRETARY OF VETERANS AFFAIRS,
Washington, February 7, 1991.

Hon. HERBERT KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: This letter is in further reply to your request to designate endodontics as a scarce dental specialty for special pay.

Endodontics is not designated as a scarce specialty for the payment of incentive special pay because the Department of Veterans Affairs (VA) is not currently experiencing significant recruitment or retention difficulties for this specialty. Under present law, the Chief Medical Director may authorize the scarce specialty component of incentive special pay for a dental specialty when he determines that there are extraordinary difficulties in the recruitment or retention of qualified dentists in that specialty. In accordance with this law, VA regulations establish the procedures for identifying and compensating scarce specialties. The enclosed fact sheet, prepared by the Office of Personnel and Labor Relations, provides further information on this matter.

VA officials are continually monitoring the staffing situation for all dental specialties, and will not hesitate to authorize special pay for endodontists if the situation warrants.

Similar letters have been sent to the cosigners of your request. Please be assured that we appreciate the contributions that VA endodontists make to the quality care we seek to provide to our Nation's veterans.

Sincerely yours,
EDWARD J. DERWINSKI.

DEPARTMENT OF VETERANS AFFAIRS
FACTSHEET

ISSUE

Designation of endodontics as a scarce dental specialty for the purpose of authorizing the scarce specialty component of incentive special pay.

DISCUSSION

The Chief Medical Director (CMD) has authority under 38 U.S.C. 4118(c)(2)(A)(iii) and VA Policy Manual MP–5, Part II, Chapter 3, Section B, paragraph 4b to authorize the scarce dental specialty component of incentive special pay when he determines that there are extraordinary difficulties in the recruitment or retention of qualified individuals in a particular specialty.

In making such determinations, the CMD considers a variety of factors, including turnover rate, replacement rate (i.e., a comparison between the previous and current staffing levels), number of qualified applicants refusing job offers, recruitment lag (i.e., the length of time to fill a vacant position), prevailing non-Federal salaries, and number of contracts used to provide the required services. Salary and staffing data from other sources (e.g., professional employee associations) may also be considered by the CMD in making these determinations.

An evaluation of the above factors as they apply to endodontists has not determined that VA has extraordinary problems recruiting and retaining these specialists. Further, the most recent annual report to Congress on the permanent authority for physician and dentist comparability pay under Section 104 of Public Law 96-330, dated April 1990, did not identify endodontics as a specialty for which VA had significant staffing problems.

Oral surgery, prosthodontics, and periodontics are the dental specialties currently approved to receive special buy in VA, based on the CMD's determination of severe recruitment or retention problems. Endodontics, like oral pathology and other dental specialties found in VA, is not authorized to receive specialty pay.

The majority of VA medical centers do not employ endodontists because there is insufficient workload to justify the creation of such positions. At these facilities, care which might otherwise be provided by endodontists is provided by general dentists and, in unusual situations, by fee basis or consulting endodontists. This practice has been found to effectively meet the health care needs of veteran patients.

Mr. KOHL. As the factsheet attached to the Secretary's letter points out, title 38 of the United States Code authorizes specialty pay when there are extraordinary difficulties in recruiting and retaining personnel. Currently, VA says it is not having difficulty in recruitment or retention in this field, and thus has not granted specialty pay to endodontists.

Mr. President, this is where I believe the reporting provisions in the bill now before us are of vital importance. While VA now says it has no problems in providing endodontic services for our veterans, I believe there is a need for further data to unequivocally establish that claim. I would like to ask the distinguished chairman of the Veterans' Affairs Committee if he believes there has been enough research into the problems of recruitment, retention, and pay scale for VA dentists.

Mr. CRANSTON. Mr. President, I share the Senator's concern that perhaps there has not been enough research into the recruitment and retention of VA dentists. As the Senator is aware, the most comprehensive data we have on pay issues in VA is contained in what is widely referred to as the Klemm report, a study completed by a private research firm which provided the basis for the recommendations issued in the quadrennial report to the President on the adequacy of special pay for physicians and dentists.

It is unfortunate that that report, while containing a wealth of information on physicians, does not provide the same degree of information on dentists. The lack of sufficient information on dentist recruitment and retention is one reason why the committee included in our bill the two reporting provisions to which the Senator referred. First, the Secretary of Veterans Affairs will be required to submit to the President a quadrennial report comparing the pay of VA physicians and dentists with those in other Federal agencies and in the private sector, and making recommendations for any needed modifications of the special pay levels where recruitment and retention is difficult. It is the policy of Congress that the pay levels in these sectors be reasonably comparable, and this report should help to ensure that. In fact, the Klemm report provided much of the data justifying Congress' actions in this special pay bill.

Mr. KOHL. I wish to commend my colleague for including this reporting requirement in the bill. Some of the information I have seen suggests that VA endodontists may be compensated at levels below their colleagues in other Federal agencies and the private sector receive. A comprehensive study of this situation would be very useful to the Secretary of the Department of Veterans Affairs and to the Congress.

Mr. CRANSTON. The second requirement in the compromise agreement is for an annual report to the House and Senate Veterans' Affairs Committees on the uses of the specialty pay authority. Among other requirements, and of interest to the Senator from Wisconsin, is a requirement that the report include the number of positions created and abolished in each specialty, the number of unfilled positions in each specialty, and summaries of the reasons for each vacancy or abolished position. If vacancies occur in specialties which do not receive specialty pay, an explanation would be required.

Mr. KOHL. I want to commend my colleague for this requirement as well. Such information would provide concrete evidence to Congress of when critical shortages are occurring. I will certainly be watching closely to see what happens with the endodontist positions currently in the VA system. I am concerned, Mr. President. While there has not been a comprehensive study addressing recruitment and retention of the individual dental specialties, three dental specialties have received specialty pay for 10 years while endodontics has not. An informal study conducted by one of my constituents has indicated that many VA service chiefs believe that patient care would be enhanced if there were greater access to endodontists. Without specialty pay, I am afraid that we may lose some of the endodontists we now have, and that veteran care may suffer. These reporting requirements will keep us up to date on those figures, and whether vacancies can be filled.

Now I am not an expert on the dental needs of veterans. And it may be that the VA can provide adequate care, as the factsheet from the Department indicated, by using consultant or freebasis endodontists in many situations where there is a need for an endodontist. But the informal survey I mentioned also indicated that there was a difficulty in recruiting consultant and fee-basis endodontists, even when funds were available. I would like to ask the distinguished chairman if it was his considered opinion that the Department should include such information in its quadrennial report, if indeed there is such a problem in the recruitment of consultant and fee-basis endodontists in areas where no VA endodontist is available. I believe such information would be appropriate in helping define whether the Department is unable to recruit or retain a sufficient work force.

Mr. CRANSTON. Although the quadrennial and annual reports on special pay focus on salaries for staff physicians and dentists, I think it would be useful to learn whether VA has significant difficulty in hiring consultant and fee-basis physicians and dentists. I would expect that VA would include such information in its reports. VA must be able to obtain the services of medical and dental specialists, from either salaried or contract personnel, if it is to provide our Nation's veterans with high-quality care.

Mr. KOHL. Mr. President, I thank the distinguished chairman for his work on this important piece of legislation, and I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 65) was agreed to.

H.R. 598, THE PHYSICIAN-DENTIST SPECIAL PAY AND LABOR RELATIONS ACT OF 1991

Mr. SPECTER. Mr. President, as the ranking minority member of the Senate Veterans' Affairs Committee, I would like to express my support for H.R. 598, the Physician-Dentist Special Pay and Labor Relations Act of 1991. This legislation makes great strides in providing adequate compensation for Department of Veterans Affairs' physicians and dentists and in improving employee rights for VA personnel. In order to continue to provide quality health care, it is of the utmost importance that we make the needs and concerns of VA employees a top priority.

H.R. 598 is legislation designed to assist in the recruitment and retention of VA physicians and dentists. It will allow certain VA physicians and dentists to be eligible for special pay according to regulations prescribed by the Secretary with the recommendation of the chief medical director. Eligibility for special pay is based on several factors which include: full-time working status, length of service, scarce medical specialty, board certification, geographic location, and exceptional qualifications within a specialty. The legislation includes provisions regulating pay increases which exceed Executive Level I, breach of contract, and pay for part-time employment. It will also provide continuing education funds—up to $1,000 a year—for each full-time, board certified physician and dentist. Further, the bill will bring much needed relief to the overburdened VA health care system. It will provide the pay incentive needed to help keep VA competitive with the private sector while encouraging physicians and dentists outside the VA to consider a career with the Department of Veterans Affairs.

I urge my colleagues in the Senate to support this long overdue legislation. While it is unfortunate that VA cannot offer its physicians and dentists salaries commensurate with those that doctors receive in the private sector, this legislation will aid in closing the gap that exists between VA and private sector wages. As the Department of Veterans Affairs assures more equitable salaries for physicians and dentists, it is also taking steps to alleviate unnecessary redtape for its employees. I am an original cosponsor of this legislation and I am proud to give it my full support.

TO INCREASE PAY FOR VA PHYSICIANS AND DENTISTS

Mr. MURKOWSKI. Mr. President, as the former ranking Republican of the Veterans' Affairs Committee, I rise today to speak about legislation which is designed to improve VA's ability to recruit and retain physicians and dentists. This legislation is derived from legislation approved by the Senate Veterans' Affairs Committee last year, legislation passed by the House during this session and the last session of Congress as well as a proposal submitted by the administration.

I am pleased that many of the views expressed by Secretary Derwinski have been addressed in this bill. I understand that while VA is not supportive of many of the provisions in the bill, VA will not object to its enactment.

Special pay for VA physicians and dentists has not been increased since 1980. As a result, pay for VA physicians and dentists is often inadequate to recruit and retain these qualified personnel, especially in certain geographic regions, and in certain clinical specialties. This bill should go a long way to improving this situation.

This legislation requires the Secretary of Veterans Affairs to provide special pay for physicians and dentists based on the following factors: full-time status, length of VA service, clincal specialty, geographic locations,

board certification, and executive position. In some cases, VA currently pays special pay based on these factors, but under this bill the dollar amounts are very significantly increased. This bill is estimated to cost some $63 million in the first year of implementation, and exceeds—by $21 million—the cost of VA's own physician and dentist pay bill. It is somewhat more generous than I believe is necessary to recruit and retain physicians and dentists.

Mr. President, although I do not intend to vote against this bill, I wish to note for the record one of my concerns about the pending legislation.

This bill requires that no physician or dentist can be paid in an amount which exceeds the Executive Level I rate which is about $135,000 annually, unless the Secretary approves this level. I am pleased with this provision but I object to the fact that it will expire in September 1994. I see no justification for sunsetting this provision. The Secretary should have the permanent responsibility for approving such very high pay levels.

Finally, I want to acknowledge the hard work of Ms. Nora Egan and Ms. Meg O'Shea of the Department of Veterans Affairs. I thank them both for their assistance to me during the development of this legislation.

I also wish to thank Ms. Jo Sherman who just recently left the staff of Senator ALAN SIMPSON for her outstanding work on veterans issues. Jo has joined the VA's Office of Congressional Affairs. I wish her all the best. I know that the staff and Members of the Senate Veterans' Affairs Committee will greatly miss her experience and dedication.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. LEAHY. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 17, H.R. 598, that all after the enacting clause be stricken and the text of S. 675, as amended, be inserted in lieu thereof; the bill be read a third time and passed; and the motion to reconsider be laid upon the table.

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

So the bill (H.R. 598), as amended, was passed.

Mr. LEAHY. I ask unanimous consent Calendar 44, S. 675 be indefinitely postponed.

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

Mr. LEAHY. Mr. President, I thank my colleagues for allowing this interruption.

Mr. BOND. There is no objection on the Republican side.

Mr. LEAHY. I note for colleagues, this was something that had been cleared on both sides. I especially thank the distinguished Senator from Missouri who had been on his feet seeking recognition and with his usual courtesy allowed us to put this housekeeping chore through.

I yield the floor so the Senator from Missouri can take the floor.

The PRESIDING OFFICER (Mr. GORE). The Senator from Missouri is recognized.

Mr. BOND. I thank my good friend from Vermont and my dear colleague with whom I am pleased to serve on the Agriculture Committee last year for his kind words.

FUTURES TRADING PRACTICES ACT

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, as a member last year of the Agriculture Committee who fought last Congress for tough reforms to clean up the futures markets in the wake of scandals exposed by FBI sting operations in 1989;

And, as a principle author, who along with Senators LEAHY, LUGAR, DODD, and Heinz developed the Intermarket Coordination Act last October;

And, as an original cosponsor of this legislation last January;

I had fully expected to stand in this Chamber to urge my colleagues to support the Futures Trading Practices Act of 1991 (S. 207). Instead, there are provisions in it which I must oppose.

Somehow a bill that entered the committee process looking like Dr. Jekyll, was reported out of committee looking more like Mr. Hyde. Critical measures designed to foster competition and financial innovation in the United States have been replaced by provisions that will drive our financial markets offshore. Important directives intended to bring futures and securities regulation into harmony have been replaced by artificial barriers that divide financial markets and market regulator, alike.

As one of the few Members of this body privileged to have served on both the Agriculture and Banking Committes, I have had the opportunity to appreciate the importance of both the futures and securities markets. However, I also understand the strong links that tie the markets for stocks, stock options, and stock index futures together. As a result, it came as no surprise to me that the single conclusion—upon which all of the studies of our financial markets following the unfortunate stock market crash of October 1987 agreed—was that what appeared to be separate markets, in fact, behaved as a single market.

My colleagues will recall that last June, the administration submitted to Congress the Capital Markets Competition, Stability and Fairness Act designed to foster regulatory harmony among the stock, stock option, and stock index futures markets. The approach recommended by Treasury Secretary Brady was to consolidate the regulation of all stock and stock derivatives—including the authority to set margins—in the SEC.

Following the introduction of that legislation, I attended extensive hearings on both the Agriculture and Banking Committees on the intermarket issues confronting our Nation. Here is what I heard:

Alan Greenspan, the chairman of the Federal Reserve System, testified that he was shaken when the futures markets raised margins on stock index futures in the midst of a stock market crash in October 1989. While Chairman Greenspan had previously opposed Federal oversight of margins on futures, he stated that "The behavior of margin-setting in the last couple of years has shaken my confidence in that view." While the futures exchanges had done a good job of protecting their own markets, these margins had the potential to harm other related markets and the Nation's clearance, settlement and payments systems. In short, inappropriate margins can create systemic risk with disastrous consequences for our entire financial system.

SEC Chairman Breeden testified that his agency—acting under the Federal securities laws—had approved the trading of a new innovative financial product designed to permit small individual investors to purchase the equivalent of a basket of stocks. This new product—called an index participation—paid dividends and required the posting of 50-percent margins—just like other stocks. But the futures exchanges and the CFTC went to court to block the trading of this product in securities markets. A court in Chicago found that the product had characteristics of both stocks and futures—but concluded that under the Commodity Exchange Act, the CFTC had exclusive jurisdiction. The result was that index participations were banned from two SEC-regulated exchanges. They did not go to the futures designated contract markets. They, in fact, went overseas.

In addition to blocking the trading of index participations, Alan Greenspan warned that the current system of giving the CFTC exclusive jurisdiction over any financial product with an element of a futures contract could stifle innovation and competition because a broad range of financial products currently trading under other regulatory systems could be swept within the exclusive jurisdiction of the CFTC and be forced to trade only on a futures exchange.

Treasury Secretary Brady and Undersecretary Glauber testified that there remained a host of issues that cut across financial markets that remained unresolved in the wake of the stock market crash of 1987. Clearance and settlement systems were not linked; circuit breakers were not coordinated; intermarket frontrunning and other forms of fraudulent activity were not detected; and the United States could not speak with one voice in international negotiations on financial market issues.

While these hearings convinced me that there were a number of problems, I was not certain that the approach of a single regulator advocated by the administration was the only—or even the best—solution. As a result, I joined Senators LEAHY and LUGAR, the chairman and ranking member of the Agriculture Committee, and Senators DODD and Heinz, the chairman and ranking member of the Securities Subcommittee to explore alternative ways to address these issues.

After 3 long months of searching for common ground, the five of us thought we hit pay dirt. We developed the provisions of the intermarket coordination act. This legislation would: Enhance the safety of financial markets by consolidating margin setting authority over stocks, stock options, and stock index futures in the Federal Reserve Board; increase the competitiveness of our markets by permitting new innovative financial instruments with attributes of both securities and futures to trade in both markets; and promote stability by directing the SEC and CFTC to coordinate and harmonize regulations with respect to issues that cut across securities and futures markets.

Chairman LEAHY explained the process best last October when he stated:

> It took months for us to iron out our differences and consult with affected groups. Any draft compromise that was acceptable to the securities side was unacceptable to the futures side; and vice versa. What the SEC supported, the CFTC opposed. What the CFTC supported, the SEC opposed. Draft after draft took its place on the trash heap, each rejected by one party or the other refusing to give in.

Chairman LEAHY was equally eloquent in describing the outcome, when he concluded that the Intermarket Coordination Act was:

> A fair and reasonable compromise on a group of difficult hard-fought issues. It is a product which I am happy to recommend to my colleagues and which I will press for next year.

When the intermarket coordination provisions became title III of the Futures Trading Practices Act, I was hopeful that the Senate would take a small step forward to resolve critical issues confronting our financial markets. Instead, we have taken a giant leap back. What had taken five Senators with sharp pencils 3 months to write has been erased virtually overnight.

The Intermarket Coordination Act as introduced would have given the Federal Reserve Board the same margin authority over stock index futures that it currenlty has over stocks and stock options. It would have placed responsibiltiy for developing margin rules squarely on the shoulders of the only agency which can impartially protect against systemic risk across related markets.

The Fed could delegate day-to-day margin setting to the futures exchanges consistent with its margin rules.

Because the CFTC adamantly opposed Federal oversight margins as unnecessary, the Fed was restricted in allocating its margin authority to that agency for up to 30 months. The Intermarket Coordination Act as reported, however, leaves responsibility for the margin rules with the futures exchanges.

The Fed can request the exchanges to set different margin levels; if the request is not followed, can direct the exchanges to make the change. In addition, the Fed can transfer its modest new authority immediately to the CFTC.

While the Fed's confidence in current margin setting practices has been shaken—the absence of any statutory directive to the Fed requiring the development of appropriate margin rules—has shaken my confidence that this provision will result in any change at all. Although I trust the Fed to do the right thing, I would have felt more confident if the legislation spelled out the right thing to do.

Let me give a bit of specific background on the margin section because, as my distinguished colleagues from Michigan and from Utah have stated in their remarks on this bill, the margin setting powers are extremely important. They, along with the other provisions of titles I and II of this bill are extremely important, and we must pass them. What we are discussing and will be discussing, at least from my standpoint, is what comes afterwards. But it is important that we make a clear record on the margin issue.

Last year, Senator GORTON indicated he was going to offer an amendment to S. 1729, the Commodities Futures Trading Commission Reauthorization Act, which would do three things: Transfer jurisdiction over stock index futures from the CFTC to the SEC; grant the SEC margin setting authority over stock index futures; and amend the exclusivity clause. The results of the proposed Gorton amendment, which was strongly supported by Treasury Secretary Brady, was that holds were placed on S. 1729 by those opposed to any changes in the CFTC's authority.

Farm groups were mobilized and strong lobbying efforts in opposition to the Gorton-Treasury plan began. This went on for months until it became apparent the Gorton amendment did not have sufficient votes to be adopted. At this point, the holds were lifted. The Treasury and its allies then put holds on the bill in order to regroup and to turn the tide back their way. This, of course, further delayed the reauthorization and led us to where we are today.

My view throughout this entire process has been the Treasury proposal was on to something, but it went too far; in particular, the provision to transfer regulatory powers over stock index futures from the CFTC to the SEC. Thus, I suggested as a compromise: Do not touch jurisdiction over stock index futures, but instead deal with one of the Treasury's main points and give margin setting authority to our highest financial authority, the Federal Reserve Board.

I felt this would address the volatility questions, the liquidity questions, and the systemic risk problems raised by the Treasury without placing an unworkable dual regulatory scheme on the futures exchanges.

This suggestion led several of us to see if a middle ground could be found. Thus, Senators LEAHY, LUGAR, DODD, HEINZ, and I sat down to work it out. It is this process that continues to play out today.

I walked through this long story, Mr. President, in order to impress upon those who I hope may still be listening that responsible Senators, representing widely differing interests, have attempted to address some very serious issues. Unfortunately, parochial concerns and nearly paranoid views about jurisdiction, competition, and ultimately control, have made any progress seem difficult.

If nothing else is in title III that can be recommended, I must, however, express my satisfaction that margin language has survived. I hope and trust it will survive conference with the House.

I do not say this lightly, but I believe without some ultimate overseer, the lack of supervision and/or influence over the actions of the futures exchanges and clearinghouses means we are begging for trouble when the next market break occurs.

Treasury Secretary Brady has said this is crucial if we are to avoid a potential breakdown of the system. If world or national conditions cause another October 1987 or October 1989 downturn in the market, without Federal oversight, major institutions could fail.

One of the primary functions of margins is to protect the financial integrity of markets by reducing risks, both to the market participants and their creditors. Thus, margins should be set at levels sufficient to protect all players—brokers, clearinghouses, and other lenders—from possible credit losses

that arise from changes in market prices.

Under current law, futures exchanges have the authority to set initial and maintenance margins for their market participants. They also control the so-called variation margin, which is the process of cashing out between clearinghouses and brokerage firms.

As such, margins are very important to the overall stability of the market; in particular, if one or more key players should fail. This, of course, was a major concern of the 1987 crash; that failure of one or more brokerage houses could have brought down the entire financial structure. Adequate margins are the first insurance against such occurrences. Adequate liquidity is the ultimate insurance.

Mr. President, the primary difficulty most people have with this issue is margins on stock exchanges appear very different in their levels, how they are regulated, and in their collection than margin on futures exchanges. However, everyone should understand the purposes are much the same whether we are discussing the margin on IBM stock or margin on stock index futures, pork bellies, potash or wheat, and that is to ensure those who borrow or make contracts for future performance are actually able to perform.

In addition, everyone must also understand that there is a very strong connection between margins on stocks and margins on stock index futures. That is because it is crystal clear that markets in stocks, stock options, and stock index futures behave as a single market. They are inextricably linked by common participants, intermarket trading strategies and economic forces, and their payment systems are closely interwoven.

This was brought home with a vengeance during the October 1987 crash when the danger of a default in the futures clearinghouse posed an extraordinary threat to our entire financial system. Clearly, a major disruption in one part of this linked market can do swift and sudden damage at the other end. Any liquidity problems or defaults can affect every other participant, whether they are direct or indirect players.

This is the systemic risk which the Federal Reserve and the Treasury feel is a grave risk. And this risk is why I believe we must give the Federal Reserve Board the broadest possible authority to ensure adequate liquidity and stability in these linked markets.

The Fed is clearly the only agency with the ability to look across New York or Chicago to determine where the risks and vulnerabilities are and to take appropriate action. Anything else is simply inadequate.

The status quo has only avoided failure by luck and good fortune, for a market regulatory system that encourages self-interest rather than marketwide interest is an accident waiting to happen.

Unfortunately, there are those who do not share this assessment. They believe that everything is rosey, the system is working, and not to worry. Sounds too much to me like Congress when the S&L warnings came during the mid 1980's. There are numerous letters we have received opposing even the margin setting authority.

I do not want us to follow a course of inaction, and that is why I feel it is necessary to push the margin provisions.

Mr. President, opponents have argued either that margins are not important, therefore, they do not need regulation, or that the only reason we want to change them is to provide a competitive edge for similar products sold on stock exchanges.

It is these sorts of arguments that make me even more convinced that the Fed is the appropriate regulator.

The proposal we drafted last year, and while somewhat watered down as part of title III now, gives Chairman Greenspan and the Fed authority, similar to what he has over securities exchanges.

In order to ensure futures exchanges are setting margins at prudential levels, and more important, that the Fed had powers to step in during an emergency and force action.

To those in the House who might be tempted to argue we do not need this oversight, I commend a little study of the matter. Questions they should ask themselves are:

No. 1, how are market participants when a clearinghouse can refuse payment to a brokerage during a crisis and no one has authority to do anything about it?

No. 2, how are market participants protected when the actions of one exchange acting on its information can dramatically raise margin levels in order to cover its own particular interest, irrespective of the interest throughout the broader market?

I must confess that the more I dug into this in order to answer these questions, the more nervous and concerned I became. In fact, it is safe to say that my interest in acting on this effort is even stronger now than when it began. That is why I am so pleased that at least this provision is included in the bill.

I hope my colleagues understand that giving margin authority for stock index futures to the Fed has nothing to do with jurisdiction or competition. Instead, it has everything to do with financial integrity, protection of investors, and stability.

That is why is it so important that simple, straightforward, obviously necessary reform be passed and signed into law, and why it is critical that the House not decide to try to dump this legislation out in conference.

We must not let those with financial interests in the status quo, who care more about their own interests than the Nation's, keep us from taking this necessary action.

While the margins provisions of S. 207 as reported are not as strong as I would have liked, they do provide some hope and they do provide a significant improvement. Unfortunately, the provisions that address financial product innovation and competition provide little hope at all for improving a bad situation.

Under the Intermarket Coordination Act as introduced, hybrid financial products, with attributes of both futures and securities—we are not talking about plain vanilla futures or plain vanilla securities, the things that are trading now and everybody recognizes they are futures and everybody recognizes, on the other hand, they are securities. We are talking about the hybrids, the ones that are part of one and part of the other, and there are many new financial instruments being developed in that area. The purpose of the act as introduced was to make it a jump ball. Both markets, the futures or the securities, or either, could trade these products.

It is our view that the best markets with the best products would score the points; the traders and investors—not the regulators and not the courts and not the $300-an-hour lawyers—would decide which products won and lost.

However, in the bill as reported out of the Agriculture Committee, what was once a jump ball has become a slam-dunk for the futures exchanges. The CFTC controls the ball, writes the rules, and keeps the score.

Under section 3 as reported, the CFTC retains exclusive jurisdiction over all financial instruments with elements of futures contracts or commodity options unless the agency determines that less than 50 percent of the value is derived from the futures or options characteristics. A rule that splits financial products down the middle based on value sounds fair, but the result can be that the futures market could always wind up with the bigger half.

Under the bill, the CFTC will decide which parts of new instruments have futures or options components. The CFTC will decide what model to use to determine the value. The CFTC will decide how the market for a product that has never traded will behave, since trading activity determines the value of an instrument.

All of these uncertainties caused Federal Reserve Chairman Alan Greenspan, in a letter to Chairman RIEGLE dated March 27, which I believe has already been made a part of the RECORD, to express his view that:

The 50-percent value test embodied in this bill is arbitrary, as will be any procedure for determining the value of the commodity

component of a financial instrument, and could yield anomalous results for similarly structured instruments.

Mr. President, why are we splitting the baby when joint custody is in the best interests of fledgling, new, innovative products? King Solomon may have been wise, but when it comes to financial markets and products, investors should be the judge of which products are the best.

One specific example that does not go to the jurisdiction of the CFTC or the SEC is another very important issue arising out of this legislation and the existing law, and that is the market for swaps, which has already been referred to. The so-called swaps market will not change agencies. It will change countries from the United States to any other market that does not treat these innovative products as possibly futures contracts to be exempted, or to have the exemption revoked at the discretion of the CFTC.

Simplified greatly, swap agreements are customized financial products developed by our securities and banking industries to assist companies in raising capital, managing assets and liabilities, and reducing risks associated with foreign currency, interest rates, and business-related commodities.

If that sounds a little broad to you, let me suggest that two large institutions could come together and trade. Say, one has a bond denominated in yen, and they want to have return denominated in deutsche marks. They will find another institution with deutsche marks that wants yen, and they will swap the obligations.

Swaps help American companies raise capital at lower cost. Swaps help Government-sponsored enterprises, such as the Federal Home Loan Banks, to provide fixed-rate funding for home mortgages, which lowers the cost of home finance to home buyers. And swaps help exporters to manage exposures to foreign currency fluctuations, facilitating exports and reducing our balance of trade deficit.

The same creativity that gave rise to the swaps markets and is such a positive force in helping U.S. financial firms maintain an edge in fiercely competitive markets, when applied in the context of a broadly drafted statute with an exclusivity clause that forces all innovative products such as swaps to trade only on futures exchanges or to go before the Commission for a hearing and a process to get an exemption which can be revoked can, and I submit will, be fatal to our Nation's financial markets.

Consequently, the Intermarket Coordination Act, when introduced, had a clear, mandatory exemption from the Commodity Exchange Act to open the door for the development of the swaps market in the United States. Unfortunately, section 302 as reported slams the door shut, and drives these important markets abroad.

Rather than acknowledge that swaps agreements are not futures contracts and do not belong under the Commodity Exchange Act, the bill as reported sets up a series of obstacles that must be overcome to get out of the act. Not only are the tests difficult to meet, but they impose restrictions that prevent practices which were designed to make the swap market safer. Chairman Greenspan has concluded that the bill as reported "could push swaps markets themselves offshore."

While the swaps markets at least have the option of moving offshore, on the other hand, for many investors and companies that rely on safe and efficient securities in futures markets in the United States, there is no place to run. That is why the Intermarket Coordination Act as introduced mandated our financial market regulators to address many of the intermarket issues that have not been resolved since the stock market crash of 1987.

S. 207 as originally introduced would have required the SEC and the CFTC, in consultation with the Treasury and the Fed, to adopt coordinated circuit breakers to help prevent another market crash; facilitate linkages between the clearance and settlement systems in the securities and futures markets to reduce the risk of a collapse of the Nation's financial infrastructure; coordinate efforts to detect and deter fraudulent trading activities across securities and futures markets; foster a cross-margining system to protect against financial gridlock when margin calls threaten to strip liquidity from our markets; and ensure that in promoting regulatory harmony with securities and futures markets abroad, the United States speaks with one voice.

Simply stated, the Intermarket Coordination Act as introduced would put the SEC, CFTC, Treasury Department, and Fed, the so-called working group on financial markets, back to work to harmonize regulation of interrelated markets.

All of the provisions requiring intermarket regulatory coordination have been stripped from title III of the Futures Trading Practices Act. The only provision that would have forced our financial regulators to work together to help prevent a repeat of the stock market crash of 1987 has disappeared from this bill. That is a tragic mistake.

There are those who say that the Intermarket Coordination Act, that has already been adopted, mandates the same thing. It does not. It is limited in its approach and deals only with the SEC.

The provisions in section 305 of this bill accomplish all of the purposes and direct the CFTC, as well as the SEC, to cooperate.

Mr. President, in the last Congress, the distinguished chairman and ranking member of the Agriculture Committee reported on scandals that rocked our Nation's futures markets throughout 1989 in the wake of extensive Justice Department sting operations in Chicago. Senator LEAHY concluded that regulation of the futures market has suffered a nervous breakdown. Senator LUGAR informed us that the credibility of the Commodity Futures Trading Commission and its effectiveness to deal strongly with the futures industry has been called into question by the General Accounting Office and others knowledgeable about futures issues.

After extensive hearings and examination of trading abuses, market manipulation, conflict of interest, inadequate surveillance, and regulatory oversight in the futures markets, I strongly supported legislation to help the CFTC clean up the futures market. Under the Futures Trading Practices Act, the CFTC is required to devote and should devote its time and attention to implementing badly needed reforms to make the Nation's futures markets safer and fairer.

I cannot understand why, when Congress is giving the CFTC so much to do to help it recover from a regulatory nervous breakdown in the futures markets, it is also proposing to expand its regulatory authority over all financial products with any element of futurity. Do my colleagues really want the CFTC to regulate insurance company products that are currently subject to supervision by 50 State insurance commissions? Do my colleagues really want the CFTC to regulate bank accounts, certificates of deposit, and other bank products supervised by four Federal agencies and 50 State bank agencies? Do my colleagues really want the CFTC, for the first time since the New Deal, to decide what products should trade in securities markets?

In 1974, when Congress created the Commodity Futures Trading Commission to give one agency exclusive jurisdiction over futures contracts and require that all futures contracts trade solely on futures markets, Congress could not have intended that all securities products, all banking products, all insurance products with any element of futurity could be swept within the jurisdiction of the CFTC.

In the letter from Commissioner Schapiro, which has already been introduced by the distinguished Senator from Utah, Commissioner Schapiro, who served on the CFTC and served as general counsel of the Futures Trading Commission, has pointed out that the purpose of the exclusivity clause was to ensure that futures contracts, first, not be subjected to all of the possible conflicting jurisdictions of the 50 State blue sky laws and that unregulated products in futures not be traded

alongside regulated products of the same kind in the same market.

A statute adopted in 1974 to centralize the regulation of futures contracts for the protection of our agricultural producers has become a threat to all of our other financial markets. Bank certificates of deposit were never meant to trade in futures pits. Individually negotiated swap agreements were never meant to trade in futures pits. Corporate bonds with floating interest rates were never meant to trade in futures pits. Yet the legislation before us can require just that.

I want to help strengthen the regulation of our Nation's futures markets as much, if not more, than any Member of this body. I know they are important. I believe we must strengthen their hand in regulating. But I do not want to drive all other financial markets offshore in the balance. When introduced, the Futures Trading Practices Act contained provisions designed to promote product innovation and competition among all financial markets. These provisions are now law. Unless they are restored, the United States will lose vital financial markets to other countries with a regulatory system which will welcome them with open arms.

Mr. President, competition in innovation has been the engine that drives our Nation's economy. When it comes to financial products, the United States remains the envy of the world. Congress has the opportunity today, enacting these amendments, to ensure that one of the most healthy and vibrant segments of our economy remains here at home. It would be a tragedy to watch our financial markets die from self-inflicted wounds. Congress will not be forgiven if we let a regulatory turf battle lead to an unconditional surrender in the global war for financial markets.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise not just to support the measure that has been brought forward at a critical moment by the Senator from Missouri and the Senator from Colorado, but to thank them for what they have done and to congratulate them for the clarity with which they have presented a difficult case.

The Senator from Missouri, the able, and if I may say in this context the learned Senator from Missouri, is on the floor. I want to thank him and to speak with the "concentration of mind" that Dr. Johnson once said was associated with the prospect of hanging, about the reference that the Senator made to the market crash of 1987. It happened I was in New York City that morning in 1987, and through the day as we watched an event that had only one other equivalent in the 20th century, the stock market crash of 1929. The earlier event defined a decade in American history. The question is would the 1987 event do the same? The earlier event defined a decade which ended with the Second World War. And the first event was not unrelated to the second. We did not understand what happened in 1929 and did not know what to do about it.

When the Securities and Exchange Commission was established in 1934, the market crash was an event not understood any better than economists could describe or prescribe what might be the best way to respond to the depression that followed. The economics profession could not do it. Today it could with confidence. Economists today can state with confidence that the Federal Reserve Board should not do what it did in 1930, 1931, and 1932 with the money supply. Similarly, the Securities and Exchange Commission today has a much greater confidence about how to deal with a market crash than it did in its formative period, or indeed, it did in 1987. We learn from the past.

Sir, I hope we have learned enough to pay heed to the counsel of those bodies that are assigned these regulatory responsibilities in our system. This is a very special American arrangement, the Federal Reserve Board, a central bank whose chairman is appointed by the President for a term that passes beyond the President's own term, who shares the power locally with regional banks, which in turn are members of a system from which they are selected.

It is a complex arrangement, but one which proves flexible and workable. The Securities and Exchange Commission and the Federal Reserve Board both grew out of crisis—the panic of 1907, in the case of the Federal Reserve Board, and the crash of 1929, in the case of the Securities and Exchange Commission. This does not mean that we are beyond the risk of such events. But that we try to act responsibly to prevent their recurrence.

I started by saying that I happened to be in New York that Monday in 1987 and watched nearly a trillion dollars disappear from our national wealth. The market lost nearly one-third of its entire value over 4 days. Nearly one-quarter on Monday alone, when the markets looked to be in a free fall. Events of the most extraordinary nature seemed to be upon us.

Some of us learned in time what had been the two precipitating events of the market crash. First, an unexpectedly high merchandise trade deficit which pushed interest rates to new high levels. And second, right here in the Congress, in the other body on the Ways and Means Committee, a pending measure that would have effectively eliminated the tax benefits associated with leveraged buyouts and impose a tax on "greenmail" profits. The Ways and Means Committee approved the measure Thursday night, October 15. Word reached Wall Street, and on Friday by the end of the day the market was in a virtual free fall. On Monday, the free fall occurred in earnest, having made its way around the world in the meantime.

I learned of the crash of 1987—though it began around 10 a.m.—at breakfast beforehand. I had a breakfast meeting with some Wall Street associates, and they knew what was coming, because it had already started it happen in London, having made its way around the world the previous Friday afternoon. Tokyo, around to London, and back to New York. That is the nature of finance in the world today. It is international, global, and it moves with the Sun. That may be its only real regularity, but it does that.

I recall with great passion, speaking on television the next day, Tuesday, when this all became a little clearer, saying to anyone watching not to worry, at least not to worry about the tax measure that had been adopted in the Ways and Means Committee. It would not become law.

There is much to learn from that day, and I hope we will.

Now, sir, we will soon have before us an amendment to be offered by Senators BOND and WIRTH which has the specific endorsement of the chairman of the Federal Reserve Board, the specific endorsement of the chairman of the Securities and Exchange Commission, the acknowledgment of the Under Secretary of the Treasury, with special responsibility in this area, that this alternative is a sounder policy than S. 207. We also have the warning that to not accept the alternative proposed by Senators WIRTH and BOND, is to take a very risky course. Risky with the Nation's economy and with other people's money, if I may put it thus.

We find ourselves in an almost uncomprehending situation. How does it come about that a measure of this consequence is reported from the Agriculture Committee without any evident consensus within the executive branch, and far less within the legislative branch?

In an effort to see whether there was such a consensus, yesterday the chairman of the Committee on Banking, Housing and Urban Affairs, Chairman RIEGLE of Michigan held a hearing at which that most able and deservedly respected chairman of the Federal Reserve, Dr. Alan Greenspan; the Under Secretary of the Treasury, Honorable Robert Glauber; Chairman of the Securities and Exchange Commission, the Honorable Richard Breeden; and the chairman of the Commodity Futures Trading Commission, the Honorable Wendy Gramm, Dr. Gramm, as she is known to so many of us, testified. The chairman put to this panel the question, given the alternative we have in title III of the measure on the floor and

the alternative as proposed by Senators BOND and WIRTH, which was the soundest way to regulate our financial markets. That is, which would promote more innovation in the markets, new products, serving new needs that had not existed before, like the "swaps" described earlier by Senator BOND, which did not exist until markets were sufficiently international to need them. Chairman RIEGLE also asked which would foster more competition, and which would result in greater legal certainty, avoiding greater litigation. With great respect to the law profession, we ought not to create demand for its services, if I may put it that way.

The Chairman of the Federal Reserve said unequivocally—"Do what Senators WIRTH and BOND propose."

Secretary Glauber said, "What Senators WIRTH and BOND propose is the better policy." The Wirth-Bond alternative is better public policy.

And Chairman Breeden, having obviously the most direct interest in this matter, said the same. We needed to hear his view. His position was created in the 1930's for exactly this kind of question.

The factors cited by Chairman RIEGLE—innovation, competition, legal certainty—are the basis for choosing here, and we should heed the expert advice we have gotten, which is very clear.

But I would like to speak, if I may, to the matter of certainty which was touched upon by the Senator from Missouri, and ought to concern every Member of this body, which is that we are trading in an international system, and if we enact legislation which clogs up our own decision process, makes uncertain the validity of legitimate trading here or there, opens to litigation matters which previously would not have been in any way exposed, buyers and sellers have a very simple recourse. They go to London. They go to Tokyo. Those exchanges will handle these matters very quickly and efficiently in the traditional established places for the exchange of financial instruments.

I recall that the 1987 crash had as its immediate precipitance two events. One took place in the Longworth Office Building, and the other arose from bad news about our trade deficit. And bang, nearly a trillion dollars disappeared from the net value of our Nation's stocks and bonds. That is the international nature of markets today.

I do not see how a responsible body can say, well, we will act contrary to the advice of Dr. Alan Greenspan, the Chairman of the Federal Reserve, we will dismiss the judgments of the Under Secretary of the Treasury, and we will discount as somehow institutionally self-interested the views of the Chairman of the Securities and Exchange Commission.

To do that is to trifle with the well-being of the American financial markets. That is not the kind of behavior which the 20th century encourages. To the contrary. It encourages predictability, orderly procedures, and confidence in the fact that outcomes will be accepted and not be subject of litigation or uncertainty.

I simply would say to you, Mr. President, that we have heard from the executive branch and from the regulatory bodies independent within the executive branch. I can say to you I have heard from the community in New York where traditionally the exchange of financial instruments has been centered, Wall Street, so-called, and I would mention particularly the American Stock Exchange. I feel very confident in the proposal by the Senators from Colorado and from Missouri, and I very much hope it prevails. To do otherwise seems to me to put in jeopardy the preeminence of our Nation in the financial markets.

Mr. President, I have spoken at greater length than I intended. I see other Senators on the floor. I respectfully yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Illinois.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. I ask unanimous consent I be recognized as in morning business for a period of 3 minutes to introduce a bill.

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

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 834 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WIRTH. Mr. President, I rise today to express my concerns about the Futures Trading Practices Act of 1991, the legislation before us today, S. 207, as reported by the Committee on Agriculture and recently revised by the Commodity Futures Trading Commission.

Titles I and II include some important provisions to reauthorize the Commodity Futures Trading Commission and to enhance the regulation of trading practices in our Nation's commodity futures markets. But, as we have discussed in the Banking Committee and elsewhere, I have deep concerns and reservations about title III of S. 207. The provisions of title III in my opinion fail to address the fundamental problems plaguing our financial market regulatory structure. Since the October 1987 market break—more than 3 years now—these problems have been studied, exposed, and debated. Yet the legislation before us would deny American investors meaningful solutions. Specifically, title III does not unify the equity and equity derivative markets in stocks, stock options, and stock index futures. Title III would stifle innovative financial products and competition and as a result does little to enhance the competitive position of our markets, which should be one of our primary concerns. And title III does little to restore investor confidence—I think perhaps our top priority—in terms of looking at financial instruments and dealing with a very broad and, unfortunately, increasingly skeptical body of consumers.

We should not be competing among ourselves with regulatory bodies devoting time and energy to jurisdictional battles. And, unfortunately, too much of that is going on here. Instead of competing with ourselves, what we ought to be doing is competing with Japan, Germany, France, and the United Kingdom.

(Mr. ADAMS assumed the chair.)

Mr. WIRTH. If there is a problem in our market structure, and I believe there is, we should address that problem and not just reauthorize the agencies responsible for regulating the markets without making fundamental changes.

All of this has a very complicated but important background, which I would like to briefly sketch.

In 1974, Congress created the Commodity Futures Trading Commission, designed to regulate futures trading in commodities, like pork bellies and soybeans. The Securities and Exchange Commission was to continue to regulate equities. At that time, this seemed to be a very sensible, functional approach to regulating the markets.

During the 1980's, however, hybrid financial instruments have blurred the essential distinction underlying this functional regulatory system. The old functional regulatory system between commodities and equities no longer was as clear as it should have been.

For example, an important instrument, the stock index futures, began to trade in 1982. These contracts gave holders the right to buy or sell a group

of stocks whose value mimics changes in certain stock indices, such as the Dow Jones industrial average. Because this kind of an instrument constitutes a future, the stock index futures have been regulated by the CFTC. But stock index futures have a much closer relationship to stocks and stock options than to futures and agricultural commodities.

At this point, Mr. President, people's eyes begin to glaze over. On the one hand, you have the jurisdiction of a stock index future under the CFTC, but a stock index future is, in fact, based upon a stock, presumably falling within the jurisdiction of the SEC.

The jurisdictional clarity which at once exists begins to cloud. Between 1940 and 1986, the Dow industrials declined by more than 6 percent only three times. We are now getting into the issue of why these instruments are important, and why what happens in the Chicago market has a major impact on the overall market structure and has a major impact on what we call market volatility.

During this 45-year period of time, a 6-percent decline had occurred only three times. But in just the last 4 years, these markets have experienced four such devastating 1-day downturns. Something in going on, Mr. President. We had a relatively stable set of financial markets for 46 years. In the last 4 years, we have had some violent ups and downs, very unlike any in history and one of the things that I think we have to look at is: Is this important? Is this dangerous? Should we be alarmed by it? I think the answer to all three of those questions is, "Yes."

Numerous economists and financial experts have analyzed these changing financial structures in order to better understand the recent dramatic volatility of the stock market: Four major ups and downs in the last 4 years. And there is astounding unanimity among those who have studied this issue.

The Brady Commission, chaired by our current Secretary of the Treasury, the General Accounting Office, the New York Stock Exchange Blue Ribbon Smith Commission, the Office of Technology Assessment, Federal Reserve Board Chairman Alan Greenspan, and others, have all concluded that uncoordinated and insufficient regulation of financial instrument trading contributed significantly to the market volatility of the 1980's.

In other words, we had these two major markets that were uncoordinated, essentially in overlapping instruments, and what was going on is because there was not, in Mr. Brady's terms, a rationalization of those markets, that they were not working together. We, therefore, could have great damage done to them by one whipping up and coming back down, and it will spread across them all.

That is one of the fundamental issues underlying the relatively arcane but extremely important debate that is going on on the floor of the Senate today, and which will end up in a vote on the amendment which Senator BOND and I will be offering.

The Brady Commission report—that was the report chartered by President Reagan, chaired by former Senator Brady, now Treasury Secretary Brady—the Brady Commission report noted that the problems of the October 1987 stock market downturn could, to a large extent, be traced to the failure of the markets to act as one. That is the rationalization issue.

When faced with massive selling demand, the regulatory and institutional structures of the market places were unable to respond effectively to intermarket pressures. Let us remember that that was what the Commission found after the enormous drop that almost resulted in a major financial disaster in October 1987. Secretary Brady was asked to chair the Brady Commission and try to get to the bottom of it.

In sum, said the Brady Commission, the Nation's financial markets evolved in such a way that coordinated, meaningful regulation is necessary to promote market stability. New products closely linked our markets, and where we have in effect one market, we should regulate it as if we have one market. Not to do so is asking for trouble.

To continue this bifurcated, unrationalized, uncoordinated approach is to ask for further ups and downs and, Mr. President, in my opinion, to ask for the potential of the near disaster that we had in October 1987.

The market crises of the recent past are bound to occur again unless we address the problem of fragmented market regulation. There are three fundamental problems in this business of fragmentation. There are three basic problems, Mr. President, that exist because of the fact that we have these two disparate and relatively uncoordinated markets.

First, regulatory jurisdiction over stocks, stock options, and stock index futures is split, even though the economic functions of these various instruments are inexorably linked. We regulate what are essentially stock equity functions differently. We split them. That leads to one of the problems leading to volatility.

Second, the exclusive jurisdiction of the Commodities Futures Trading Commission—let us remember, it is a commission set up to trade pork bellies, futures on commodities, and so on—the exclusive jurisdiction of the CFTC over any instrument which has some element of futurity is stifling innovation and competition in new financial instruments.

Third, the lack of a coordinated regulatory authority over margins for stock index futures, coupled with the inability to devise a unified margin structure for all equity instruments, poses great risks of continued market volatility. In other words, if you go in and you want to borrow to buy a stock, you have a much tighter set of requirements on you than you do to go in and buy an instrument regulated by the CFTC.

Let me take each of these problems one at a time. First, the uncoordinated regulation. The markets for stock, stock options, and stock index futures are closely joined by common, underlying products and trading strategies that cross traditional market boundaries.

The 1988 report of the Presidential Task Force on Market Mechanism—that is, the Brady Commission—concluded that since the introduction of stock index futures trading in 1982, the markets for stock, equity options, and stock index futures have become "one market linked by financial instruments, trading strategies, market participants, and clearing and credit mechanisms."

Secretary Brady concluded, and he is chairing that Commission, "This is essentially one market."

The Brady Commission also went on to say these are "fundamentally driven by the same market forces.

Today, financial disruptions in one market can be transmitted quickly to other markets. Federal Reserve Chairman Alan Greenspan testified that:

> Losses can lead to the failure of key market participants, jeopardize contract performance, and threaten the integrity not only of the market in question, but other markets as well.

Likewise, Chairman Breeden of the Securities and Exchange Commission recently testified before the Agriculture Committee that:

> Our equities securities markets are vulnerable to destabilizing trading in the futures market that is then channeled into the securities market through program trading and other market linkages.

Mr. President, if this cross-market volatility is to be controlled, the bifurcated regulatory structure in which the SEC regulates stock and stock options, while the CFTC controls stock index futures, simply has to be addressed. The differences between these markets believed to be inherent when Congress created the fragmented structure in 1974 have almost completely disappeared. I explained that earlier. We thought commodities and equities were different, and they are now merging together. We have to rationalize the regulatory structure to recognize the realities of these market places.

Fragmentation weakens the ability of regulators to detect and pursue intermarket fraud. One of the important things we have to do to maintain consumer confidence so the consumers believe the market is not being rigged,

that they are getting a square deal, is to make sure we unearth fraud. In order to unearth fraud, you have to be able to detect it, pursue it, and prosecute it.

Regulators who oversee only part of the market action simply cannot be expected to detect abnormal intermarket behavior. The financial players treat actions and stocks, stock options, and stock index futures as a unified market. So should the financial cops.

Fragmentation also means that potential investors seeking to participate in the complete equity market must understand and comply with the rules of two governing bodies enduring duplicative administrative costs and burdens. These costs undermine the ability of our markets to compete internationally. So we have the possibility of not being able to pursue fraud. We have volatility in the marketplace, and the taxpayers are paying for it.

Perhaps we should learn from the regulatory structures of our competitors. In Japan, trading of stocks and trading of futures are both regulated by the Ministry of Finance and Securities Bureau. In France, the same regulatory body has authority over both trading in stocks and in stock index futures, even though those instruments are traded on different exchanges.

As long as two agencies with different histories and different philosophies and different agendas struggle over the regulation of financial instruments, which in reality are a unified market, investors are going to find other countries' markets more attractive, and our competitive position will continue to suffer.

Since 1987, the U.S. futures market share of worldwide stock index futures has declined—reflecting just what we would expect—from approximately 94 percent to 40 percent. During the same period, stock index futures in Japan and other countries have expanded dramatically. So we are losing a competitive edge.

The second problem is the CFTC exclusivity, which I believe stifles product innovation and competition. The so-called exclusivity clause of the Commodity Exchange Act continues to impede the development of financial products and competition in our financial markets. The exclusivity clause blocks any entity other than a futures exchange from trading an instrument that possesses any element of futurity even if the instrument is predominantly a security. In short, it creates a monopoly for futures exchanges with nearly insurmountable barriers to competition. Many innovative financial instruments have been developed which contain some element of futurity but which also serve as investments in equities or other securities. Because of this anomalous exclusivity clause, the product developer must turn to the CFTC if the product has any element of futurity whatsoever.

So if you have an equity instrument that is predominantly a security, you still have to go to the Commodity Futures Trading Commission, a commission designed to trade pork bellies and agricultural commodities.

In at least 14 cases in the past 5 years, the CFTC has found it necessary to issue interpretive letters advising parties whether instruments are futures contracts or securities. In five cases, questions about the applicability of the exclusivity clause to financial products have been the subject of costly, time-consuming courtroom battles.

The history of one particular financial instrument serves to demonstrate the manner in which the exclusivity clause has worked to prevent useful innovation. The index participation, or IP, is a market basket product representing a broad range of securities. This innovative instrument was proposed for trading on several securities exchanges to provide an additional source of liquidity to the stock market, thereby enhancing the market's strength and stability. Now, this is an index participation based on a broad range of securities. It is an index instrument based upon securities.

The original version of the IP was unanimously found to be a security by the SEC, which approved their trading under the securities law. Instead of applauding this product innovation, the futures markets challenged the authority of the SEC to regulate a security, claiming the exclusivity clause precluded the trading of IP's on securities exchanges. The court, reading the law, that anomalous law which we ought to be trading, sided with the futures market but noted that: "Doubtless such a decision gives the futures markets the opportunity to block competition from an innovative financial product."

Let me read again what the Court said in ruling on this anomalous situation. It noted that, "Doubtless such a decision gives the futures markets the opportunity to block competition from an innovative financial product."

That is fundamental to our deliberations here as well, Mr. President—this whole business of blocking competition and innovation and making the United States even less competitive in a world marketplace in which our share of the market has declined rapidly. The Court, although bound by the exclusivity provision, understood what the legislation would do to competition, and we must understand that here as well.

The commodity exchanges were not trading IP's when they filed suit, nor are they trading them today. It was not that the commodity exchanges were saying that these instruments based on securities were something they wanted to do. They are not trading them at all. Indeed, no futures exchange has announced any intention or interest in making IP products available to the investing public. Here is something that would be good for the investing public, but because of this anomalous situation in the law on the Commodity Futures Trading Commission, those exchanges can block them. The consumer does not have access to them. What a situation for us to be in when we are trying to get a flow of capital moving, when we are, presumably, in this country trying to become increasingly competitive on world markets. No wonder U.S. consumers are going offshore to recognize their desire.

The exchanges only sought to prevent their competitors from offering these products. What we have the opportunity to do, Mr. President, is to break these egregiously anticompetitive practices. The investing public clearly is interested in these products, and it is not as if we are making this up. Before the court stopped trading of IP's on securities exchanges, more than 70 million were sold in just 4 months. That is, a new offering coming on, and immediately 70 million were sold.

The actions of the CFTC and the futures markets have played directly into the hands of our foreign competitors. Today, similar kinds of products are actively traded in Toronto and in Germany, and plans are under way for trading in London. Where are we in the United States? Zero, because one marketplace is saying, "We don't want the competition." Presumably, Mr. President, we ought to be encouraging and not discouraging, not stifling competition.

Many firms no longer will devote energy to developing financial products which might not be allowed to go on because of this anomalous legal situation. Why would anyone endure months or years of costly litigation only to have foreign competitors come in and steal their ideas? It just makes much more sense for innovative firms to take their nontraditional products overseas. If this monopoly practice of the futures exchanges continues, we are going to see more and more of these products going overseas.

The third problem is insufficient and uncoordinated margin regulation. This fundamental problem in our markets today is lack of a unified regulatory oversight of margin requirements on equities and equity derivatives, a clear and resounding finding of Secretary Brady's commission after the market crash of October 1987, the need to rationalize these requirements.

History should teach us, Mr. President, that leveraging can be dangerous. Stock speculation with borrowed funds largely contributed to the market crash of 1929. Today, an investor must put down at least 50 percent to buy stocks. Stock futures, on the other hand, can be purchased by highly leveraged investing.

In other words, if you are buying a security, if you are buying a stock, you have to put up 50 percent of the value at least. That is generally the norm. That is the norm today. That is designed to stop excessive speculation. But, if you are buying a future, if you are going in that direction, stock future, you can put down a very small percentage and leverage enormously. You have little stake in what is going on. But that market can swing wildly through excessive leverage, and we ought to be getting rid of that, Mr. President, if we are concerned about the stability of our financial markets and want to get away from that sharp up and down that has characterized the last 4 years.

At times, the margin on stock index futures has been as low as 2 percent. That means you can put up the money for two and you can get 100. That enormous kind of leverage is going to lead to this sort of volatility and is very dangerous, indeed. Even recognizing the differences between the purpose of margins in the stock and futures markets, low margins result in extreme leverage and an inadequate liquidity cushion in the financial system. It is no coincidence, Mr. President, that margins were low immediately before the market breaks in October 1987 and October 1989.

Futures exchanges have been known to lower margins in times of market stability only to raise them when volatility occurs. In times of market crises, increased demands for cash serve only to drain needed liquidity from the market.

In September 1990, the Office of Technology Assessment, our office in the Congress, report concluded that a unified Federal oversight of margins on stocks and stock derivatives was needed for two important reasons:

First, the OTA found that the links between markets now allow participants with great leverage in the futures market to make great demands on the liquidity of the securities markets.

Second, participants in futures markets also are participants in securities and options markets. The collapse of their financial integrity would threaten far more than the other clearinghouse members and could imperil basic U.S. financial mechanisms.

The OTA went on to say margins on both stocks and stock index futures limit the credit risks of individual participants primarily not to protect those participants but to ensure that in times of stressed markets cascading failures could not in the aggregate cause the breakdown of the market as a whole. And many believe that it was that cascading failure that brought us very close to financial catastrophe in October 1987. There was too much leverage built in; too much speculation when the bottom dropped out; people did not have their own capital at risk.

That kind of leverage and speculation spiraled and in the word of OTA, "cascaded"—a good word.

The OTA is not alone in its concern of uncoordinated markets. Chairman Greenspan has also stated repeatedly over the past 2 years that higher leveraging or lower margining in futures markets poses significant risks to overall market liquidity during market stress periods. The Brady Commission and the SEC have also called for consolidation of margin-setting authority to reduce credit and cash-flow problems in our markets.

Let me turn now, having looked at the background of this problem, to the legislation in front of us. S. 207, the legislation reported out and on the floor today, in my opinion fails to unify the regulatory control in one agency over stock, stock options, and stock index futures. The Brady report and other independent analyses cite the current fragmented regulatory jurisdiction as a major problem reducing investor confidence in our market.

S. 207 does little to address this concern. The provision on CFTC exclusivity are insufficient as well. When it comes to the issue of exclusivity, S. 207 is barely an improvement on current law. The legislation provides that index participations approved by or proposed by the Securities and Exchange Commission before December 31, 1990, are permitted to trade on stock exchanges.

In other words, the legislation simply grandfathers its first batch of instruments but would prohibit any further innovation in this area. Remember the IP's example. Millions of people wanted to buy these instruments, could not do so, and went offshore to do so. That is going to continue under S. 207 as written and on the floor. It has to be amended. We are going to continue to lose this competitive advantage in the United States.

What possibly could be the reason for all of this? Let me look at these. The four securities exchanges will be able to trade IP's, to go back to that example, as only those exchanges had submitted proposals before the 1990 cutoff.

There is this bizarre grandfather clause. Apparently all other securities exchanges will be precluded forever from trading in IP's. These exchanges will not be able to do it at all in the future, the Boston Stock Exchange, the Pacific Stock Exchange, the Midwestern Stock Exchange, the New York Stock Exchange, and the Cincinnati Stock Exchange, as well as that rapidly growing over-the-counter operation of NASDAQ.

What could possibly be the reason for this arbitrary cutoff? If the characteristics inherent to index participations qualify those instruments for trading on securities exchanges, why should we limit trading authority to preexisting products?

As for future innovations in hybrid securities, it appears that developers of future hybrid securities may trade those products on securities markets only if they prove that their product meets one of two tests.

The CFTC would be entitled, but not required, to grant an exemption from the exclusivity clause for products which satisfy five factors. The product must involve only institutional participants, must be designed only for hedging or risk management, must not adversely affect CFTC's ability to perform its regulatory duties, must not adversely affect a futures exchange, and must be consistent with the public interest.

These criteria are excessively narrow and I would say vague. Could the CFTC block a new useful product just because it might offer some competition to the futures exchanges? The CFTC has demonstrated previously its inclination for classifying any hybrid products as a futures contract in order to maintain jurisdiction over that product. We should anticipate that the CFTC will be no different in the future. Under a second test products would fall inside or outside CFTC regulation based on whether the commodity-based portion of the return of the instrument is more or less than 50 percent.

Although this provision provides the pretense of fairness, it is in fact capricious and autocratic. The CFTC would decide when an instrument's value is tied to a commodity and even how value is to be defined. The establishment of the 50-percent test means that the CFTC, not the SEC, will possess sole authority for deciding what is and is not a security.

The SEC enjoys no such jurisdiction. If the CFTC determines that an instrument lies within its jurisdiction, the SEC would be powerless to seek any jurisdiction over that product.

These new twists in CFTC exclusive jurisdiction will do little or nothing to promote product innovation and competition. Issuers would have to prove numerous detailed factors to the CFTC, could have their exemption revoked at any time, and could still be sued by futures exchanges seeking to prevent competition. American business and consumers would once again be sacrificed as innovative financial product developments go offshore to avoid regulatory uncertainty.

I believe Chairman RIEGLE noted the letter from Chairman Greenspan earlier. It is important to state it again. Federal Reserve Chairman Greenspan recently said in a letter to the Banking Committee chairman:

> The approach taken by S. 207 will continue to preserve impediments to innovations in hybrids and risk-management products and may well forestall developments in swap markets that could reduce systemic risk.

The 50 percent value test embodied in the bill is arbitrary, as will be any procedure for determining the value of the commodity component of a financial instrument and could yield anomalous results for similarly structured instruments. The exemptive authority given to the CFTC under the bill is narrow and in some cases would prohibit the commission from making appropriate exemptions.

That, Mr. President, is a quote from Alan Greenspan, the Chairman of the Federal Reserve.

There are other problems in S. 207 as well. Another relates to margin regulation for stock index futures. The problem of margin regulation has been addressed partially by S. 207. I referred to that problem before. That is the problem of excessive leverage.

The legislation would empower the Federal Reserve Board to direct a futures exchange to adjust its margins on stock index futures contracts to levels which the Board finds appropriate to preserve the financial integrity of the exchanges or its clearing system or to prevent system risk. So far so good. S. 207 for the first time would grant a Federal authority the power to regulate margins on stock index futures on something other than an emergency basis. This is a step in the right direction. But there are concerns surrounding this provision as well.

First, the Federal Reserve is empowered initially to request a contract market to set margins for stock index futures.

Only if the market fails to do so, may the Board direct the market to act. This delay could effectively reduce the ability of the Federal Reserve to control margins in a sufficiently timely manner, to avoid market volatility. In other words, there is a loophole within this that could lead us right back into the excessive leverage we have had before.

Second, and perhaps more troubling, the Federal Reserve is authorized under the legislation to delegate any or all of its margin-setting authority over stock index futures to the CFTC. The Federal Reserve also has jurisdiction over margins on stock options but has delegated that authority to the SEC. If the Fed delegates margin-setting authority over stock index futures to the CFTC, we are going to get right back into other business of uncoordinated margin rules.

Because of these concerns that I have with title III as it presently reads, and as the CFTC proposes to revise the legislation, Senator BOND and I have worked to develop an alternative to that portion of the legislation, that part which is most of title III. The alternative addresses many of the reservations we have with S. 207, which I have described earlier.

The Bond-Wirth amendment restores to S. 207 important provisions, which were a part of the legislation when it was initially introduced, that mandate regulatory coordination of intermarket issues.

Let me go back, Mr. President. This came right out of the Brady Commission in October 1987, during the enormous market crash, near disaster. Mr. Brady is appointed head of the Commission. The Commission works, the Commission recommends; No. 1 recommendation, regulatory coordination. Mr. Brady becomes Secretary of the Treasury, and recommends that again. It is very important that we do that. That is in the Bond-Wirth amendment.

These provisions would require the SEC and the CFTC, in consultation with the Treasury Department and the Federal Reserve, to adopt coordinated circuit breakers to help prevent another market break. Why do we not do that? It should be done.

Second, it would require that we facilitate linkages between the clearance and settlement systems in ther securities and futures markets to reduce the risk of a collapse of the Nation's financial infrastructure.

Third, require that we coordinate efforts to detect and deter frauduent trading activities across securities and futures markets. Again, going to that issue, Mr. President, of investor confidence, it is absolutely imperative that investors do not think these markets are rigged, and one of the ways you do that is not only to have policemen, but policemen who have the tools to follow where fraud exists.

Fourth, to promote a cross-margining system to protect against financial gridlock when margin calls threaten to strip liquidity from the markets.

Fifth, promoting regulatory harmony with securities and futures markets abroad, and that the United States speaks with a single voice.

As it is now, you go to Toronto, London, or Tokyo, or Paris and look at this bifurcated United States system, and the SEC is squabbling with the CFTC over there. Senator BOND and I say we are going to have a single voice in the United States. These important intermarket directives would put the so-called working group on financial markets, established after the stock market crash of 1987, back to work to harmonize the regulation of interrelated markets—the premier recommendation coming out of now Secretary Brady.

Second, the Bond-Wirth alternative would provide the CFTC with authority to exempt new financial products from some or all of the provisions of the Commodity Exchange Act in order to promote financial innovation. S. 207, as described below, restricts the CFTC's flexibility by prohibiting exemptions except under certain narrow conditions. That is leading to U.S. investors having to go overseas, which is the opposite of what we want to accomplish.

Our alternative would permit the CFTC and SEC to decide which new innovative financial products with attributes of both securities and futures can trade in securities and futures markets. We would do so by retaining the CFTC's 50 percent test in S. 207, but also authorizing SEC to determine if a hybrid product is predominantly a security. This approach would encourage financial market innovation and promote competition by permitting a hybrid product to trade in both securities and futures markets.

Our alternative also addresses concerns about the regulatory treatment of two specific types of innovative financial products, swap agreements and index participation. In the area of swap agreements, these, as you know, Mr. President, are customized products designed to lower the financing costs and promote the export of U.S. firms. Unfortunately, they are being driven out of the United States because of uncertainty over their possible regulation as futures. S. 207 attempts, but fails, to lift this uncertainty by providing an exemption from futures regulation under certain circumstances. However, the uncertainty remains, because the exemption can be changed or revoked by the CFTC at any time in the future.

Our alternative, the Bond-Wirth alternative, includes an exclusion for swaps and makes clear that swap agreements are not governed by the Commodity Exchange Act.

The second area relates to index participation. S. 207 attempts to address the court decision that took index participation out of our markets by permitting IP's that had been approved or pending approval by the SEC prior to December 31, 1990, to trade on securities exchanges. This would, as I pointed out earlier, permit only eight index participations to trade on securities exchanges. Our alternative would permit all index participations approved by the SEC to trade in securities markets. Let us get them into the marketplace.

The Bond-Wirth alternative retains S. 207's provisions authorizing the Federal Reserve Board to set margin levels on stock index futures. It restores the regulatory coordination mandates originally included in S. 207 to help ensure that margins as well as other matters will be coordinated. Coordinated margins will better protect against the risks to the financial system from inappropriate margins and stock index futures. Such coordination is not assured by S. 207.

Finally, Mr. President, under broad interpretations of the Commodity Exchange Act, any financial product with an element of futurity, that is, any attribute of a futures contract or commodity option can be swept under the exclusive jurisdiction of the CFTC, even if those products are subject to intense regulation under other Federal or State laws.

It is possible that a broad reading of the act could bring some types of bank accounts, mortgages, and other loans, and insurance products such as annuities, under the jurisdiction of the CFTC. Any product whose costs or return varies as interest rates change could be construed as having an element of futurity. Do we want the CFTC to be exercising regulatory authority over some types of bank accounts? No. Over mortgages? No. Other kinds of bank loans? No. Insurance products, annuities? No. We want to make sure the CFTC which has blocked all this innovation—and it was originally designed, let us remember, for agricultural commodities, such as pork bellies and the like—does not have jurisdiction over these areas.

The alternative prevents potential duplicative and inconsistent regulation of bank or insurance products and loan transaction by making it very clear that they are not governed by the Commodity Exchange Act.

It is terribly important, Mr. President. We do not want bank accounts, insurance products, and so on, regulated by the CFTC.

S. 207 provides an exemption from the Commodity Exchange Act for certain bank products. However, the exemption can be changed or revoked by the CFTC at any time in the future. S. 207 does not address insurance products and loan transactions at all.

CONCLUSION

Much as I would like to do it, our amendment does not unify the market of stocks, stock options, and stock index futures under a single regulator. I think that ought to be done, but we are short of that in the ideal world. That is the kind of thing that ought to happen but it cannot without support from the administration to take that step, which I believe was really clear in what Secretary Brady was originally recommending. We do, however, make substantial improvements over current law and over the CFTC's proposed provisions.

A great deal of effort has been expended to solve the problems which created the market volatility of the past 5 years and to prevent even greater financial calamity in the future. But in our efforts to do something, let us do it right. Title III of S. 207 simply does not do the job. We need intermarket coordination between our securities and futures markets, not the same regulator—I wish it were not the same regulator but rather at least a coordinative mechanism. We need legitimate and wholesale modification in the exclusivity rule of the CFTC as it applies to hybrid financial products so we can be competitive in a world market. And we need uniform regulation or margin controls.

We are at this for reasons that go far beyond what people might say is just a jurisdictional squabble or far beyond the protection of the New York market or Chicago market which is of no concern to this Senator from Colorado. We are at it because we want to make sure that our financial markets are sound and secure and consumers have faith in them, and that the basic purpose of this regulation is to have consumer confidence. That is the first and foremost thing that we have to do. Our legislation does much, much better in approaching that goal.

Second, we want to assure the consumer so that he will know that we can pursue fraud. If fraud occurs, people should not believe the market is fixed but know that the cops can go after it. The Bond-Wirth amendment does that.

Third, we want to dampen volatility. We had a long history of stability in our financial markets. That has been effectively shattered in the last 4 years. We have had massive volatility up and down, and to calm that down, by having very careful and thoughtful margin requirements.

And fourth, we want to assure that our financial markets are internationally competitive and that American consumers do not have to go overseas to buy their instruments.

The issues here are not a jurisdictional squabble; the issues here are soundness, investor confidence, innovation, and competition. Those are the issues. Not whether something is trading next to New York Harbor or on Lake Michigan. That is not the issue.

Those fundamental issues to our markets are ones that I hope all of our colleagues will understand in this very arcane and difficult issue. Bringing this back to basics, what is this all about. It is about investor confidence, about soundness of our markets; it is about our ability to compete.

I appreciate having so much time, Mr. President, to explain this extremely complicated and important issue.

The Bond-Wirth amendment makes a number of improvements to title III. I encourage my colleagues to support the amendment so we can resolve this issue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, others may wish to speak on S. 207 and in due course Senators may wish to offer amendments. Indeed, during the past few hours we have heard excellent discussion from members of the Agriculture Committee and Banking Committee in particular, and I would expect that within a few hours an amendment will be offered. But prior to that time, I would like to review arguments I have heard and respond to some of them and offer Senators some further general basis on which they might cast votes on these very complex issues.

The underlying bill, S. 207, has as its crucial components titles I and II, titles which make important reform in the authority for the CFTC to monitor trading activity on the Nation's futures exchanges. I make that point, and it was well made by the distinguished ranking member of the Banking Committee, Senator GARN, that there was very little at issue with titles I and II. They are the results of a couple of years of hearings, at least one attempt at legislation last year, and another refinement this year. They are important reforms.

As I mentioned in the debate yesterday, the exchanges have adopted many reforms patterned on this debate and we are grateful for that. Investors are more confident because of that. The controversy before us today comes in title III. Title III is the area of a jurisdictional battle between two basic agencies, CFTC and SEC, and, as it turned out, two Senate committees, the Agriculture Committee and the Banking Committee.

For a long time, many of us involved in CFTC have argued that even though there are jurisdictional battles here, consideration of it ought to proceed and we are grateful that is now occurring.

S. 207, as reported by the Agriculture Committee, is a compromise of very many interests. The primary compromise was the Treasury Department, between the agency that offered basic thoughts about reform following the stock market crash after 1987, and the CFTC.

From testimony we have heard today and the arguments of Senators, the SEC obviously is not in agreement with Treasury or CFTC in this respect. And in fact, able regulators of all these agencies have offered some independent opinions that could give Senators some latitude for their votes.

The administration, President Bush, in its statement of administration policy, said, "Although the amended title III language on exclusivity issues, while containing modest improvements and clarification over the current situation, falls short of the broader competition in financial instruments the administration initially proposed, the administration generally supports title III as amended, in the spirit of the compromise reflected in the amendment."

I have read that in full, Mr. President, because, in fairness to the argument, as Senators will note, this language is not an overwhelming endorsement for title III.

The administration, having reviewed all of this, the argument of Treasury, CFTC, SEC, said it is not all the administration, and in particular the Secretary of the Treasury, Mr. Brady, might have hoped for, but nevertheless, given the long history of this measure, the administration comes down in favor of title III as it is in S. 207. And that is important to note.

I would suggest the votes we have today will not show ringing endorsement by many Senators; it's a very close issue. The administration has the same problem.

Now, Under Secretary of Treasury Robert Glauber yesterday testified before the Senate Banking Committee, and I quote: "While new title III does not go as far as our original proposal, particularly in the area of hybrid instruments, it is timely, it is constructive, and it deserves to be enacted."

Mr. Glauber was before the Banking Committee yesterday, not in the distant past but in the current debate, even as it raged on the floor here, and Secretary Glauber still comes down in favor of title III.

I would say, Mr. President, candidly, S. 207 is not everything that was expected by any party. The administration feels it is a modest achievement in jurisdiction area. Mr. Glauber believes it is a modest achievement. But both finally come down in support of title III as it appears in the Agriculture S. 207 bill. And I would suggest they do this because it was created from something that was hammered out by a lot of parties.

One reason the legislation did not progress last year was because the futures industry, people on the exchanges, a lot of people in business in this country, felt so adamantly that the bill did not recognize the jurisdiction of CFTC, and many Senators were asked to place holds on the legislation and many responded. We could not move forward or backward.

It is a source of satisfaction that we are at this point. We have an opportunity finally to get votes on these amendments and to progress toward reauthorization.

The Bond-Wirth amendment, which I understand will be offered later today or in due course in this debate, which has been discussed by its authors on the floor this afternoon, was drafted without the benefit of input from any segment of the futures industry or any regulator with regard to the futures industry. Although in full fairness I note that I understand an attempt was made as late as last evening by the authors of the amendment with the CFTC to try to gather support or see if changes might be suggested. But the Bond-Wirth amendment is a product essentially of the SEC and the Banking Committee.

This does not condemn that amendment. But if one is trying to weigh the merits of how we came to this juncture, the sorts of refinements that come from give and take in very controversial areas, there is something to be said for the S. 207 approach given the number of parties already involved.

The amendment of the distinguished Senator from Missouri and the distinguished Senator from Colorado, the Bond-Wirth amendment, is in my judgment the final product, as a very bitter war for turf between the two agencies comes to conclusion.

Some have argued it is really not a turf war, but, Mr. President, obviously the two agencies are not reconciled. I have been involved in the CFTC matter throughout my Senate career, and over the 14-year period of time I have seen occasions when CFTC and SEC were reconciled.

The so-called Johnson-Shad accord occurred at the beginning of the first Reagan administration. The two regulators, in this case Phil Johnson of the CFTC, and John Shad of the SEC, saw that a growing agenda of disputes was occurring between their two agencies, not unlike the situation we have today. It was not easy for them and for their staffs and for their constituencies in those exchanges to come to an accord, but they did so, over many weeks and months of discussion.

Ultimately, the so-called Johnson-Shad accord was put into legislative language and has served for nearly 10 years as a model to demonstrate a way in which these two great agencies, with dynamically growing industries behind them, could be reconciled. For a variety of reasons, Mrs. Gramm and Mr. Breeden have not been able to emulate their predecessors in this respect. To the contrary, they have both had very strong ideas as to how those products that have come up and those innovations that have occurred should be dealt with.

Ideally, we might have had a Gramm-Breeden accord. We do not have such a thing. We have the Treasury, finally, nominally in favor of the CFTC position in which it participated; the administration nominally in favor of that; and, likewise and still to this day, the SEC and the Banking Committee falling in support with the Wirth-Bond amendment.

So that, I suppose, will lead Members to say, "If this is the nature of the dispute, on what basis can we finally come down to one side or the other, and how do we characterize the arguments?"

I suggest that one basic way of characterizing this debate, and probably we will reiterate this argument from time to time, is that if there are investment products that are developed and there is dispute over who should be charged with regulating those products, a possible Bond-Wirth approach is what is called the jump ball approach.

The jump ball approach is, when you have one of these complex instruments with elements of a future and elements of a security, you choose your regulator. You take a look at the product you have, take a look at SEC, take a look at CFTC, and choose which one you want to regulate your product.

As a rule, in a commonsense way, that approach is suspect. The whole business of regulation is not meant to provide choices to Americans as to which regulators they would choose. Rather, the public policy behind regulation usually is to provide regulators to make certain people do not take liberties with the situation.

All I am suggesting is, in this particular case, as I understand what may be the Bond-Wirth amendment, the argument is being made that those who are innovative and have new products by and large will be discouraged in terms of providing these new products if they do not have the ability to choose their regulator.

Furthermore, if they are not able to choose a regulator they like in this country, they might choose one in another country. The argument is being made we are losing, offshore, some of these complex products because those who are fostering them are uncertain about their regulatory hurdles here and, therefore, have chosen to head overseas.

Let me mention, Mr. President, the Bond-Wirth amendment, at least in my judgment, as has been proposed, can be interpreted as an effort to deregulate the futures market. In the quest for promoting market innovation and competition, the proposal could also be said to sacrifice sound regulation and customer protection by letting the futures products leave the jurisdiction of the CFTC. Further products that are currently within the regulatory sphere of CFTC could find themselves under the SEC, or even worse, from a public policy perspective, without any regulator.

Even in the best case, where the product retains regulatory oversight, does the Senate want to take the position that futures products containing futures risk characteristics should be packaged as security-type products and sold to traditional securities customers? I doubt it. I do not think, really, as a matter of public policy, we want to come to that point.

It could be deduced the underlying reason for the Bond-Wirth action is that the Agriculture Committee bill does not give up enough of the committee and CFTC jurisdiction to satisfy proponents of the amendment. It is attractive to securities interests to be able to trade new futures-type products on their exchanges because the universe of customers who might purchase stock products is much larger than the

universe of customers who might purchase products designated and regulated as futures contracts.

But it may be troubling to think that an unwary investor would purchase a product labeled as a stock when the product, in fact, has the risk attributes of a future. If we have the ability to choose our regulator, we have the ability to create that impression. We have that ability as the innovator, not as the regulator.

The Bond-Wirth amendment changes the CFTC-Treasury proposal in several respects. Some of these changes fail to foster sound public policy, in my judgment. Let's take a look at one area to begin with, the so-called exemptive authority. It is a feature of both S. 207, the Agriculture Committee bill, and the Bond-Wirth amendment that may be offered, that the CFTC should have the ability to exempt from CFTC regulation those products that do not require such regulatory oversight.

But the Bond-Wirth proposal does so in a manner that gives the CFTC very little ability to determine whether or not the product should have some regulatory oversight. I make that point because the Bond-Wirth amendment, perhaps inadvertently, may cast a particular new innovation out into regulatory limbo where there is no oversight by either of the Commissions.

One of the careful features of S. 207 was to make certain that somehow all of these hybrids, or innovative products, were regulated by one of the two: SEC or CFTC. My contention is that the language, as I read it, on the potential Bond-Wirth amendment, under some cases, could leave a product out in limbo without any regulation.

The Bond-Wirth proposal requires the CFTC to exempt from the requirement that products be traded on a regulated futures exchange, if the CFTC finds such an instrument to be consistent with the public interest. By requiring the CFTC to take exemptive action, the amendment removes any possibility of a regulatory safeguard to backstop and restrict products that are proper for futures-type regulation.

In S. 207 on the other hand, exemptive authority is discretionary rather than mandatory. It gives the CFTC the ability to exempt products, but it would not require them to do so.

The Bond-Wirth amendment, in my judgment, could place at risk retail customers who are unsophisticated in the risks inherent in complex financial transactions, whereas S. 207 restricts the application of these exemptive provisions to institutions, which are large, well-financed, and have supposedly sophisticated investors.

Mr. President, in addition to the problems of exemptive authority, there are problems that we need to discuss with the so-called hybrid instruments that have consumed such a large portion of the debate to date.

The original rationale offered by the SEC for changing the agriculture bill, S. 207, was that the committee-reported version supposedly was drafted to steal jurisdiction from the SEC and give it to the CFTC. S. 207, as amended with the CFTC-Treasury refinement, eliminates that objection. The Bond-Wirth amendment if offered in the current form goes the other way and takes jurisdiction and products, above and beyond that which were voluntarily given up under the 50-percent test, currently vested with the CFTC and permits those products to trade outside of the reach of the CFTC.

Critics of S. 207 have contended it may stifle innovation and drive offshore new financial products. That argument is used to justify the changes in the Bond-Wirth proposal. However, the facts do not support that position. Since 1986, only two instruments have not been permitted by the CFTC to trade outside of their jurisdiction. One of those was index participation [IP's] which the CFTC believes, and a court supported, are futures contracts. I say that, Mr. President, because we are talking about a span of almost 5 years; a period of time where products were not and could not have been driven offshore by the so-called intransigence of the CFTC. As a matter of fact, only two instruments have been denied the proper jurisdiction, at least that sought by the originators, by CFTC.

The Bond-Wirth proposal, in fact, may overturn 50 years of precedent. Over the years, the courts have carefully defined the scope of the securities statutes and the commodity futures laws. The Bond-Wirth proposal would scuttle all of this by permitting instruments to select their regulator or, worse, select no regulator. That, I think, Mr. President, is a point that those who are proposing this amendment really have to address and have not done so.

Under the Bond-Wirth amendment before me, if the SEC can find that a product derives at least 50 percent of its value from the elements of one or more securities, the product is suddenly outside of the sphere of CFTC regulation. This arguably would shift products like Treasury bond futures, stock index futures, and perhaps currency futures to a position of being regulated by someone other than the CFTC.

The question is: Who will regulate those products now outside the jurisdiction of the CFTC? That is another important consideration. Under the securities laws of 1933 and 1934, the SEC has jurisdiction over securities, and the courts over the years have established a working definition of what exactly constitutes a security. But the plan before me would allow futures products containing elements of a security to leave CFTC control.

In the first case, what are the elements of a security? And, following that, does the SEC have the authority to regulate something that may be a futures product that contains elements of a security? At a minimum, I foresee a great deal of litigation to define "elements of a security." We hope that the objective of title III was to minimize that litigation.

With regard to the so-called jump ball approach to the Bond-Wirth amendment, I would counter that the best approach is to establish a bright line test and let industry work inside of those parameters. S. 207 establishes such a bright line test. Although both contending sides in this argument say that the proposal of the other will encourage litigation, a bright line test will result in the certainty the industry is seeking.

The jump ball approach has too many negative aspects to warrant serious consideration, in my judgment. The jump ball approach permits issuers of a product to look for the best deal they can get, which may not be the best deal for the public. A good deal for the issuer might be the cheapest form of regulation, easiest method of registration, the least obtrusive form of regulation. It might deceive the public. If the SEC says that a particular hybrid product, which may have all the risk of futures contract, is a security, investors would be purchasing something that is called a security but may have very different risk profiles than a true security. Although not likely, it could encourage regulators to weaken regulatory structures to attract new products to their jurisdiction.

Last, if the promise is that both of the regulators can equally competently regulate the same type of transaction, ultimately it would lead to the demise of one of the regulatory bodies; in this case, probably the smaller and the lesser funded of the two, the CFTC.

Some may try to characterize the Bond-Wirth amendment as an attempt to resurrect the compromise put together by five Senators last year. I was one of those Senators, and I can testify the Bond-Wirth amendment goes far beyond the scope of that compromise, a compromise which purposely left the current jurisdictional situation regarding plain vanilla futures untouched and attempted to address the hybrids question only. Unfortunately, that compromise was found to be unacceptable by both the futures and securities industries. The Bond-Wirth amendment goes well beyond hybrid instruments and permits plain vanilla futures to trade in the securities markets.

Because the language in S. 207 is designed to address only the hybrid instrument situation and does not tamper with existing products, it is the preferable approach.

Mr. President, with regard to arguments concerning swaps transactions,

the justification for change from the CFTC-Treasury compromise is even less clear than the jurisdictional fight on hybrid instruments. The interest groups who are concerned with the swaps provision believe that CFTC-Treasury fix is an acceptable compromise. So they have likewise joined that general aggregation of the Treasury, the CFTC, the administration, the Agriculture Committee, having come at least to some basic compromise through the weeks of argument about it.

The Bond-Wirth proposal would totally exclude all swaps transactions from CFTC oversight. The amendment would not permit any CFTC review or action. I agree with the assertion that if other regulators review swaps, which have been likened by the Office of the Controller of the Currency as similar to other financial futures, regulation a second time by the CFTC is not necessary. The CFTC has shown no indication of injecting a new regulatory burden on swaps products. Quite to the contrary, and a source of concern for the futures industry, the CFTC has been very permissive in leaving swaps transactions outside of CFTC jurisdiction.

However, the concern of CFTC that the Bond-Wirth amendment fails to address is that there may be situations where another regulator really does not exist. For example, the subsidiaries of investment banks that run swaps markets are not regulated by the SEC or anyone else. The CFTC is merely trying to ensure that someone is looking at those transactions and the risks posed by them. It is like the safety valve we have suggested on margins. In that case the safety valve was created by putting the Federal Reserve as the overseer of margin levels on stock index futures. If a problem surfaces, someone, in this case the CFTC, should ultimately be accountable.

The language in S. 207, the language acceptable to the interested parties, takes a more restrained tack. Given the fact that CFTC and bank regulators agree that certain deposits and swaps perform the same economic functions as commodities futures and options, S. 207 permits the CFTC to exempt deposits and swaps from CFTC jurisdiction if it is in the public interest. After the experience in the savings and loan industry following deregulation and what happened in the junk bond market, does it not make sense to have most oversight, albeit minimal, by the agency that is knowledgeable about futures-type transactions?

The swaps market has proliferated under the CFTC's July 1989 safe harbor policy statement. Why is there now concern the CFTC, when given the legal authority to exempt from regulation swaps products, would change tack and restrict the growth of this important industry?

Mr. President, I conclude with one final predicament that the Bond-Wirth amendment will pose when it is offered.

The provisions of Bond-Wirth would exclude from the CFTC's jurisdiction "any instrument that is issued by an insurance company that is exempted under the 1933 securities act."

A common thread of all of the amendments offered to modify S. 207, the agriculture bill, is to ensure that the CFTC will not have the ability to regulate transactions conducted by certain parties; in this case, insurance companies.

I have to wonder why, Mr. President, and I hope Senators will likewise have a question, should CFTC be prohibited from regulation of futures because of their origin in insurance companies?

In the first place, I do not think the CFTC deserves the reputation as a regulator that is interested in broadening its jurisdictional base.

Public policy suggests that situations might arise where a regulatory presence is warranted or even desired. Consider a situation created by a product issued by an insurance company—the focus of this amendment—where futures market expertise and regulatory oversight would be warranted. Do the authors of the Bond-Wirth intend that no regulatory oversight should exist? Literally interpreted, if an insurance company chose to issue treasury bond futures contracts or any other futures contract, it could do so without fear of any regulatory oversight.

Ignoring competitive aspects of such a law upon futures exchanges that might trade the same products and the fact that these exchanges have to comply with a great deal of regulation for the benefit of the investing public, is it prudent to demand that the CFTC not review any product that might otherwise come under its jurisdiction merely because of the issuer of the product, in this case, for example, insurance companies?

I make that point, Mr. President, not simply to be excessively technical. We are talking here about a broad principle, and that is, with these complex investment instruments, is there consumer protection? Is there somebody out there who finally regulates?

For all these reasons, Mr. President, I draw the attention of Senators back to the careful work done now over the course of 2½ years on S. 207. One reason that it does not have the defects that I have suggested with competing legislation is that careful screening, debate, compromise, check and balance within all the rest of the groups have led to a situation in which we believe all the instruments involved are finally covered by someone, and we have suggested a so-called bright line test to decide which agency, CFTC or SEC, will regulate. We also have established a very clear set of criteria for the courts to decide in the event there is ultimately a dispute, to create certainty for the investing public.

For these reasons, Mr. President, I commend once again S. 207, hopefully without the Bond-Wirth amendment or other amendments that would open gaps with regard to regulation; lead to an element in which those who initiate complex instruments could pick and choose the regulator; and, finally, hopefully, to bring criteria that provide clear certainty for the courts to resolve debates stemming from litigation if that is necessary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The the Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I hope that Senators have listened to the statement by the distinguished senior Senator from Indiana, who has laid out very clearly not only the history of what has gone into S. 207 with respect to item 3, he has given the history of attempting to reach agreements and compromises, an effort with which he was intimately involved. He has clearly laid out the frustrations we faced where just about every compromise you might reach would be acceptable to one side but not to the other, and back and forth.

We continued to try to get something that makes the most sense without giving undue weight to the other side. I think we have done that.

The reason I mention this, Mr. President—and I will not, of course, encourage a move to the regular order at this point because there are not members of the Banking Committee on the floor or Senators who have talked about an alternative amendment, and as manager of the bill I want to be protective of all Senators' rights—there has been a lot of debate yesterday, a lot of debate today about an amendment to title III, a possible amendment to title III. As of right now, and I make this as a parliamentary inquiry, Mr. President, is there any amendment pending to title III?

The PRESIDING OFFICER. The Chair advises the Senator that the only pending amendment is the committee substitute as modified.

Mr. LEAHY. Further parliamentary inquiry. The committee substitute, it is my understanding, has been modified as we have a right to do on the committee substitute, is that correct?

The PRESIDING OFFICER. The Senator from Vermont is correct.

Mr. LEAHY. Let me make a further parliamentary inquiry. I am not suggesting this will happen, but I make this further parliamentary inquiry. If we were to go to the regular order now, the regular order would be—assuming no Senator seeks the floor, assuming there is no further debate, and assuming there is not a quorum call—to go to the completion of this bill—first, the

acceptance of the committee amendment and completion of the bill, is that correct?

The PRESIDING OFFICER. The Senator is correct. The regular order would be a vote on the pending amendment which is the committee substitute.

Mr. LEAHY. And then, following the vote on the pending amendment, if there was nobody seeking to be recognized or to engage in debate and if there was not a quorum call, what then would be the order?

The PRESIDING OFFICER. The Chair advises the Senator that the order then would be third reading of the bill and vote on final passage.

Mr. LEAHY. I thank the Chair. Obviously, I ask the question knowing the answer. I say this because a number of Senators have expressed to me concerns that they have: Either meetings this evening, dinners to attend, other commitments, and are wondering when we might be completed of this action.

I think it is safe to say—other than the fact, of course, we will protect the floor and hope that those who may offer another amendment might come back—the Senator from Indiana and I are ready to complete this bill, to have a vote on the committee substitute and to go to third reading and would be happy to do that in the next 29 seconds or so to give plenty of time.

I say this not sensationally, Mr. President, but we constantly have Senators come up and say how late are we going to go? How much will we go here? When are we going to get done? If Senators want to, we can vote on this bill right now.

So I say that because there is nobody that I know of on the Senate Agriculture Committee who is seeking an amendment or seeking a vote on anything other than the committee substitute as modified which can be done with a voice vote, or a third reading.

Having said that, Mr. President, I am about to suggest the absence of a quorum. I would like my colleagues to know that I will not suggest another absence of a quorum later on. This Senator is ready to complete it. I will not ask, as I said, to go to third reading until those who propose talking about another amendment have a chance to come to the floor.

Having managed bills off and on for 17 years here I think Senators know I have the well-deserved reputation of protecting the rights of Senators whether they agree or disagree with it, and I am not going to violate those rights.

I am hoping as I talk here that I may focus the attention of Senators who may want to offer amendments, but let us get it done. We can finish this thing in the next hour or two, or we can spend half the night here tonight, which I would hope we would not do. I know that distinguished leadership would like to keep us on track, and I would.

With that, Mr. President, now that there are people on the floor who have opposing views to mine on title III, I will yield the floor. I have done my duty I believe in putting everybody on notice that we are ready to go to third reading if there is no further debate and no further amendments. I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, as always we appreciate the kind elucidation of our distinguished colleague from Vermont. As I am sure he realizes there have been discussions going on back and forth between staff with respect to one particular amendment that we thought we were going to be able to resolve.

Since my colleagues from Colorado, Senator WIRTH, and I returned from the Budget Committee in which we have had votes trying to get out the budget resolution, it appears that some difficulties have arisen with that amendment and the ability to get an amendment adopted by unanimous consent on both sides. We are continuing to explore that amendment and hope to be able to bring up that amendment or one like it very quickly.

It does not appear as I indicated that we will be able to get that amendment adopted without a vote. But in the interest of saving Members time and expediting the proceedings we have been conducting the discussions and negotiations. This is a very complicated matter in which every hour as we speak, as the weatherman says on early morning television, further revised improved conditions are being drafted to take account of the concerns that have been expressed by Members.

So I thank the Chair. I thank my distinguished colleague from Vermont.

Mr. LEAHY. Mr. President, if the Senator will yield for a question, I believe in continual refinements. We all do, but I can refine it so far. I am a proverbial small-town lawyer from Vermont and may not understand just how refining things can get.

So I ask the question of the distinguished Senator from Missouri. Does he have an idea when he might have an amendment, if he is going to, on a particular matter? I know of the one on which he wishes to speak. And also when he might have an amendment on title III? And also when we might vote on either or both of those? I ask this. I am going to be here no matter. But for those who are trying to juggle their times throughout this evening and so on, so they might know, too.

Mr. BOND. Mr. President, my colleague from Colorado, Senator WIRTH, and I have been discussing this, the possibility that I wanted to raise with the managers of the bill, that while we do have some minor amendments that may require votes there is a major amendment which has been discussed that essentially revises everything in title III beyond section 301.

If the managers and the leaders feel it is appropriate, perhaps we could lay the amendment down, establish some kind of time agreement on it, and have a vote at a time certain tomorrow. Knowing the schedule of our colleagues, it sometimes is of great assistance to know that at a time certain a vote will be held.

There is an amendment on which several of us have spoken at length already and could continue to do so for an even greater length of time. But I see the possibility that we could lay it down and have a vote at a time certain on tomorrow.

I ask my colleagues if that is agreeable.

Mr. LEAHY. Mr. President, if the Senator will withhold for just a second, obviously we all want to finish. I might note that the Senator from Missouri has always been cooperative in trying to set times, as have I might say all Senators who have been involved in this on both sides of the issue. I also have a great deal of respect for the two leaders, the Democrat and Republican leaders, who have to work in setting some kind of a schedule around here. I always get nervous when they try to plan schedules if it is my bill that is on the floor, or one that I am asked to manage.

The further thing is that the Senator from Indiana and I as the Republican and Democratic managers of this bill are being constantly asked by our colleagues on either side of the aisle what the schedule might be. That is an entirely different question than the substance.

Might I suggest this: Before we have any discussion rearranging the schedule we should consult with the distinguished majority leader which can be done either off the floor or during the quorum call. In fact, the distinguished majority leader is here now. Because as I said earlier, I do not have the authority to commit to anything like that. I wonder if we might suggest the absence of a quorum. I yield.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, before my good friend, the distinguished manager of the bill and the chairman of the Agriculture Committee suggests the absence of a quorum so that this matter will be discussed, I would like to express my opposition to a request that has been made by my friend from Missouri to put over the vote on this bill until tomorrow.

Mr. President, we have been on this issue for 3½ years.

The administration has entered into an accommodation of honor with every

interested party in America concerning this legislation. It came out of the Agriculture Committee unanimously, with every Democrat and every Republican on the Agriculture Committee voting in favor of this bill.

I am a member of the Banking Committee. I attended the Banking Committee hearing yesterday. There is absolutely no merit whatsoever, not 1 percent of merit, in the contention that the Banking Committee has been deprived of any jurisdiction. The Shad/Johnson accord of 1982 settled this thing. The accommodation of honor contained in S. 207 has to do with jurisdiction over hybrids, and if there are more than half futures contracts, they go to the CFTC. If they are more than half stocks, they go to the New York Stock Exchange, and that is a gain. I underscore, Mr. President, with all the power and persuasion at my command, it is a gain for the Banking Committee.

Every person in that committee and every person in the Agriculture Committee who knows about this subject matter understands this issue perfectly well. For the rest of the Senators, they are now fully informed. I suggest that it is absolutely contrary to the interests of the Senate, the country, and the markets concerned to put this issue off until tomorrow; there is no reason for it. There is no justification for it. And should that request be made, unless persuaded otherwise by the leader, since I recognize I work on his team, I am going to be opposed to the idea. It is time to vote. We have been putting off a vote for 3½ years, and the request, in my view, is an unreasonable one. There are stronger words probably to follow if anybody will ever pay attention.

Mr. LEAHY. Mr. President, if the Senator will yield.

Mr. DIXON. I yield the floor.

Mr. LEAHY. Did I miss something the Senator was saying? Am I going to have to now not be able to sleep all night waiting for the CONGRESSIONAL RECORD to come out to find that out?

The PRESIDING OFFICER. The Chair advises the Senator from Vermont that he would be well to consult the video tape of the proceeding.

Mr. LEAHY. Mr. President, I hate to disappoint the 12 people in the country who might be watching this, but I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GORTON. Mr. President, as a member of the Agriculture Committee during the last Congresses I worked with the chairman and other members to develop the Futures Trading Practices Act of 1989, a bill to reform the futures markets. The bill was drafted to enhance the effectiveness of the Commodity Futures Trading Commission and to curb abuses in the trading and execution of orders in the futures markets. The bill was a thoughtful piece of legislation and was likely to have raised the integrity of the futures markets and to have removed the cloud under which the futures markets have operated.

I supported the bill in the Agriculture Committee. Nevertheless, I believed that it failed to address a fundamental inconsistency in the regulation of the financial markets, a problem which contributed significantly to the precipitous collapses that rocked our markets and investor confidence during the late 1980's. A contributing factor to those instabilities was fragmented regulation of the securities and futures markets.

Prior to floor consideration of the committee's bill, I offered an amendment to transfer jurisdiction of stock index futures from the Commodity Futures Trading Commission to the Securities and Exchange Commission. My amendment would have ended divided regulation of the financial markets and would have consolidated regulation of markets which are inherently linked.

No action was taken during the 101st Congress on either the Futures Trading Practices Act or on my amendment. In fact, objections even to considering my amendment may have prevented the futures reforms package from passing during the 101st Congress, but I believed then, and believe now, that the problems associated with bifurcated regulation were too important to not be addressed.

Since I offered my amendment, this question has received a great deal of attention. In the Senate, five hearings involving no less than Alan Greenspan, Chairman of the Federal Reserve, Richard Breeden, Chairman of the SEC, Wendy Gramm, Chairwoman of the CFTC, and representatives of the Treasury, have occurred on fragmented regulation.

The Treasury Department even proposed its own bill, which along with Senator WIRTH I was prepared to offer last year. Countless hours were spent discussing this issue, by both Members and staff. In fact, during the final 3 months of 1990, a compromise among five members of the Banking and Agriculture Committees was developed, only to fall apart later. All this debate spurred by a simple one paragraph amendment.

Mr. President, today we are debating S. 207, a revised version of the Futures Trading Practices Act of 1989. S. 207 includes technical changes in securities and futures laws designed to resolve the problems associated with divided regulation. I commend my colleagues for their efforts, but despite all of their hard work this bill still fails adequately to address the principal problem. It does nothing to unify, or even to coordinate, regulation of stocks, options, and stock index futures. The bill will allow Members to claim that the problem has been addressed, but these minor changes will not solve the problem. Mark my words, we will be back debating these questions again in the near future, only then we will be debating legislation to defuse a bomb that will have already exploded.

Mr. President, trading in stocks, options, and stock index futures constitute one interrelated market. This was the conclusion of the Brady Commission which studied the 1987 stock market crash. Trading in either the securities markets or the derivative markets has a direct and material effect on the other. Yet, despite the obvious bridge that exists economically, no such link is present for the regulation of these markets.

What are the consequences of this division?

Divided jurisdiction has adversely affected investor confidence, slowed capital formation, stifled competition and innovation, and prevented the United States from speaking with a unified voice internationally. Perhaps the most apparent affect, though, has been increased volatility.

Since the advent of stock index futures in 1982, and as the futures markets have grown, massive sell-offs or more than 6 percent in the market have occurred four times in the last 4 years. Yet, in the 42 years immediately preceding the trading of stock index futures, the Dow Jones industrial average suffered a daily decline of more than 6 percent on only three occasions. And on each such occasion, the market was responding to a major news event. By contrast, none of the four crises since 1982 was in response to a major news event.

Mr. President, each of these dismal days rocked America's financial markets and seriously eroded investor confidence in those markets. This loss of confidence, in turn, adversely affects the operation of markets and the provision of capital necessary for a growing economy. New equity capital and public equity markets are essential to financing the innovative business ventures which are the primary engine of the Nation's economic growth.

Regulatory fragmentation also has created a serious impediment to innovation. Currently, a financial instrument with any degree of futurity must be traded on a futures exchange. But many hybrid products are not amenable to trading on a futures exchange. The result has been protracted litigation over what consititutes a future. Time which should be spent by exchanges developing new products has been spent in court. Rather than trade

on a market for which they are not suited, many hybrids, such as index participations, have shifted to markets overseas.

Stock index futures are an example of stifled innovation. My amendment focused on stock index futures, not because it is the lone futures instrument capable of playing a role in the securities market, but because it is the only futures instrument that is inextricably tied to the securities market that has survived.

Mr. President, with the globalization of financial markets, other countries have provided us all the competition our markets need. We can no longer afford jurisdictional conflicts that stifle innovation at home and drive important U.S. business overseas.

Finally, divided regulatory agencies prevent the United States from speaking with a unified voice during international negotiations on financial markets. Other countries with major securities markets have a single body regulating those markets. The Japanese, for example, have regulation of stocks, options, and futures under one agency. Thus, they present clearer priorities and negotiating objectives than can the United States.

The CFTC and the SEC are different agencies with distinct agendas and objectives. With separate agencies having differing goals regulating linked markets, the rules governing those markets are inevitably inconsistent. Divided regulatory responses to market crisis is problematic at best. Coordinated regulation, on the other hand, would mean a more consistent approach to regulation of abusive intermarket trading practices and would ensure a coordinated reaction to market swings.

Mr President, the ability to raise capital efficiently is central to a strong economy. The bill we are debating addresses how we regulate some important financial devices and instruments, such as margins, hybrids, swaps. But this bill makes changes only around the edges. It fails to go to the heart of the matter by not focusing on regulatory fragmentation. It does not fill the vacuum which exists from divided regulation. Even with the modest changes propsoed in S. 207 we are leaving our markets and capital generating system open to disaster. Mr. President, more must be done. The markets are naturally linked; our oversight should be, too.

Mr. President, the distinguished Senators from Colorado and Missouri are still working on amendments or a set of amendments which would move significantly in the right direction. None go as far as my amendment did a year ago. We have not even considered whether or not we should have a single regulatory agency.

While, however, we are debating an issue on which debate should have started at least 18 months ago, we should at least see to it that we do the best job possible.

I look forward to supporting the initiatives of the distinguished Senators from Colorado and Missouri as they are presented to us in detail later on today and tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SEYMOUR. Mr. President, I would like to commend the chairman of the Agriculture Committee, Senator LEAHY and also the ranking Republican, Senator LUGAR, for their efforts to bring S. 207 before the Senate. I again want to reiterate my support for the Futures Trading Practices Act of 1991, which was reported unanimously by the Senate Agriculture Committee.

Mr. President, this bill reauthorizes the Commodity Futures Trading Commission for 5 years, institutes strict regulatory reforms to curb trading abuses, and provides for the resolution of long-standing jurisdictional disputes between the CFTC and the Securities and Exchange Commission. This bill ensures that American futures and securities markets remain productive, innovative, and internationally competitive.

It is my hope that the Senate will support S. 207, as reported by the Senate Agriculture Committee. I urge my colleagues to adopt this bill.

Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. The pending question is the committee amendment to the bill S. 207, as modified.

Mr. DODD. I thank the Chair.

Mr. President, I rise this afternoon in opposition to title III of S. 207, the Futures Trading Practices Act of 1991, as currently drafted. Title III has been separately titled the Intermarket Coordination Act of 1991.

Mr. President, it might be useful to take a minute or two to explain to my colleagues my thoughts about the situation in which we find ourselves in considering this legislation.

Frankly, Mr. President, this is a matter that never should be before this body in divisive faction. I deeply regret we find ourselves in a situation where we are asking our colleagues to draw some conclusions on one of the most complicated matters that can come before this body. A good part of last fall was spent in an effort to try and resolve these issues through extensive negotiations and conversations between the Banking Committee and the Agriculture Committee.

In fact, we arrived at such a compromise between myself, our former colleague, Senator Heinz, Senator BOND, Senator LUGAR, the distinguished Senator from Indiana, and the ranking member on the Agriculture Committee, and Senator LEAHY. Mr. President, regrettably that arrangement did not last very long despite the good efforts of many.

We tried to come up with a compromise that would satisfy the interests of all those involved in this matter. Regrettably, that did not work. Despite some efforts over the last several weeks to try to come to some conclusion or compromise on this matter, that also failed. I say that with a deep sense of regret because my feeling is that this matter is going to be decided other than on the merits of this particular case because, frankly, I think it is probably too much to expect that it will be as thoroughly debated as it should be before Members cast their votes.

Mr. President, I should say at the very beginning I am an original cosponsor of S. 207, and I strongly supported the measure as it was introduced. While I continue to support the important reform measures in this bill, reforms that I believe are essential for the protection of the futures market and the broader financial markets, I must object to certain provisions of title III as amended in the committee. I also object to certain provisions of what I understand will be offered as a manager's amendment to title III.

Let me emphasize that my objections cannot be resolved by simply dropping title III, as appealing as that might be. That title, Mr. President, is intended to address critical issues affecting the integrity of our financial markets, the capital formation process, financial innovation, and competition. In the absence of legislation, these issues will remain unresolved and American businesses and financial institutions will be the losers.

Before I discuss these issues in detail, I do commend Senators LEAHY and LUGAR as well as the Agriculture Committee as a whole for developing titles I and II of the legislation, the Futures Trading Practices Act, which was initially reported by this committee as S. 1729 in November 1989. It was a tough and courageous response to the indictments in Chicago and serious problems

in the existing system of oversight of the futures markets.

Many have called this legislation the most sweeping futures reform package in decades, and, Mr. President, I would agree. The chairman and ranking member deserve a tremendous amount of credit for having moved that legislation along.

The bill expands the statutory authority and the resources of the CFTC and imposes industry services fees. It requires exchanges to deploy tamperproof computerized audit trails. It curbs dual trading. It also increases penalties against traders who engage in unlawful activity, and allows victimized customers to sue for punitive civil damages from floor traders and brokerage firms. In addition, Mr. President, the legislation tightens rules against exchange conflicts of interest.

These and other provisions of the legislation have been critically needed to strengthen and improve America's futures markets, which for many years have served the broad interests of America's farmers, industrial corporations, and other users of financial services. Our futures markets have been the most innovative, dynamic futures markets in the world, and there is strong public interest in ensuring their continued vitality and integrity. Titles I and II of this legislation do just that. The authors of those titles deserve the commendation and strong support of this body as we move through the legislative process.

Mr. President, I mentioned at the outset the so-called Leahy-Lugar-Dodd-Bond-Heinz compromise of last fall. Title III of the legislation as originally introduced was a measure that was drafted as an amendment to S. 1729 of last year. I joined Chairman LEAHY as a cosponsor, together with our colleagues Senator LUGAR, Senator BOND, and Senator HEINZ. The amendment was a compromise between the administration's proposal to shift jurisdiction over stock index futures from the CFTC to the SEC and the alternative, which was to do nothing about the risks to the financial system posed by leverage in the futures markets, and the threat to competition and innovation in the futures and securities industries created by an anticompetitive clause in existing laws, and the problems in coordinating regulation over the markets for stocks, options, and futures.

This compromise measure represented, we believed, a very serious effort by the leadership of the Committee on Agriculture, and the Banking Committee's Subcommittee on Securities to resolve the bitter and protracted battle over regulation of stock index futures and related issues.

When we developed it last year, we believed it offered our best chance to break the logjam that had prevented Senate consideration of S. 1729. The measure contained provisions to protect investors and to protect the U.S. financial markets from potential liquidity crises and other systemic risks generated by rapid and extreme price movements in the stock index and stock futures markets.

It accomplished these goals, Mr. President, by assigning authority for the regulation of margins for stock index futures to the Federal Reserve, which now has margin authority for stocks and options and is the agency charged with protecting the liquidity and stability of the financial system as a whole. It seemed to us at that time a good compromise, one with which all sides could live.

Mr. President, it also was designed to foster competition and financial innovation so that the U.S. financial markets can remain the world leader in financial services. It accomplished this by modifying the exclusivity clause of the Commodity Exchange Act to permit certain new and innovative hybrid securities products to trade in either the securities or the futures markets. This, it seems to me, is axiomatic if you are trying to provide a better product for the people who use these products, then we all I think accept the notion that competition will help. And so we tried through this process to make it possible for these hybrids to be traded in one or the other markets to encourage innovation and competition.

Mr. President, this compromise also was designed to provide certainty for the $3 trillion swaps market, which had come under a cloud as a result of the CFTC's statment that attempted to delineate the types of transactions over which the CFTC would assert or decline to assert jurisdiction.

In addition, title III, as introduced, sought to promote coordination between the CFTC and the SEC with respect to critical issues affecting the stability and integrity of the interconnected markets for stocks, options, and futures. Efforts of these two agencies would be directed at the detection and prevention of intermarket frontrunning, coordination of circuit breakers, coordination of clearance and settlement systems, and other such matters.

Mr. President, the Senate last year was prevented from considering S. 1729 as well as the compromise measure by those who, quite frankly, did not want to permit a vote on this compromise. It was a stong compromise. It was one that brought together the leadership of the two major committees to resolve those differences, we think, in a very thoughtful, intelligent fashion. Quite frankly, despite the crowded calendar of last fall, were prepared to come and offer that as a compromise here.

Frankly, those who saw the compromise as in some way eroding some of the business that they presently had were opposed to that compromise coming forward. That is why we are here today. This matter could have been dealt with and resolved last fall. Unfortunately, it was not.

Chairman LEAHY agreed to include it in the CFTC reauthorization bill this year. I agreed to join him as cosponsor of the legislation, along with Senators LUGAR, BOND, Heinz, and others. I hoped through our collective support it would be moved through the Senate early this year. So I did not feel that badly about it being rejected last year—I should not say "rejected." In fact, it was never voted on. I did not feel badly because we could come back this year, work it out, reintroduce it, submit it and, hopefully, given the support it had, move it quite easily.

It was clear since we intended to develop a true compromise, and it was, neither the futures industry nor the securities industry would be entirely satisfied. They were not. They should not be. Our job is not to protect the securities industry, or the futures industry, exclusively. And the fact that both of these markets were somewhat upset over what we had drafted was probably the best piece of evidence I could offer—that we had done something that in fact met the test of a true compromise.

It was also understandable that some members of the Committee on Agriculture would favor the futures industry position over that of the securities industry. Likewise, there were members of the Banking Committee who favored the securities industry over the futures industry. There were members out there in the community that, of course, were anxious to see a proposal that would be offered that would satisfy only their interests. However, I hoped that the compromise, while not acceptable to everyone, would present a middle ground that would permit the Agriculture and Banking Committees to address some, if not all, of their respective concerns.

Mr. President, instead, however, on March 5, just prior to the committee's markup, the CFTC, representatives of the futures exchanges, and Treasury struck a midnight deal on a substitute for title III which was presented at the markup the very next morning. There was no public debate on the proposal at the markup, no long hours such as we had spent last fall, and final language was not available. Nonetheless, it passed without opposition in the committee.

Soon afterwards, I began hearing from other financial regulators and from major banks, securities firms, and stock and options exchanges that the language as passed not only was terrible public policy, but it had the potential to kill a multi-trillion dollar swaps business and drive a host of financial products offshore.

At the end of my statement, Mr. President, I will place in the RECORD

some of the letters that I have received as well as excerpts from those letters which strongly criticize this section of the bill as reported by the committee.

Mr. President, I believe it is fair to say that even the Agriculture Committee leadership, as well as the CFTC and the Treasury, agreed that the language was confusing and overly expansive. At that point, in early March, the CFTC and Treasury was sent off to fix the language, even though it had been passed on a voice vote. Most people recognized there were major gaps.

There were no hearings on the specific language, no debate, and it was done at the last minute, and moved through the committee quickly. Even the parties to the agreement admitted this had been done too quickly and that there were major problems that needed to be resolved.

At the same time, some Senators were urging the Senate leadership to bring the bill to the floor without delay. Senator RIEGLE, as chairman of the Senate Banking Committee, appropriately objected and asked that, at the least, consideration of the bill be put off until there was an opportunity to review the language and ask financial regulators under the Banking Committee's jurisdiction for their views.

Language arrived from the CFTC and the Treasury only last Wednesday. That language clearly did not go far enough to alleviate the concerns that had been raised by Senators BOND and WIRTH, who have been developing an amendment to fully address those issues.

A hearing was held in the Banking Committee yesterday, a rushed hearing, I might add. I was with Chairman RIEGLE when he called the Chairman of the Federal Reserve Board, and he had to literally try to paste together a hearing very quickly to find at least 1 day when we could bring together the Chairman of the Federal Reserve, the Chairman of the CFTC, a representative of the Treasury, and the Chairman of the Securities and Exchange Commission to say, what are we doing here? Had he not done that, this language would have gone through, I suspect, without any word coming in a formal hearing setting about what the implications of these provisions would be on a matter as profound and as potentially debilitaing to competition and to driving business offshore as this is.

This is a matter that is difficult to understand. You need expert advice. This is not a matter to be decided on whim. Yet had Chairman RIEGLE not fought for that, we would have been standing and voting on this matter without the benefit of the views of the Chairman of the Federal Reserve, the Treasury, the CFTC, and the SEC.

I think what was said at that committee hearing yesterday is very instructive. I hope that our colleagues and the principal members of their staff will take a look at what was said at that hearing yesterday. If you read what was said by people who have no ax to grind, no dog in this fight, and are at arm's length, you will draw the only conclusion which can be drawn about what needs to be done as we consider title III in this legislation. That language, Mr. President, clearly, as it was developed in the Agriculture Committee and in the amendment by Senator LEAHY did not go far enough to alleviate the concerns that have been raised.

Yesterday, of course, we had the hearing at which the Federal Reserve, Treasury, CFTC, and SEC commented on the language in S. 207 as reported, the revised language to be offered by Senator LEAHY, and the proposed Bond-Wirth amendment.

Mr. President, I agree that the reforms of titles II and I of S. 207 are vital. I said that earlier. I believe that we should consider them on the floor of the Senate as soon as possible. There has been a lot of work done on those two titles. I am completely satisfied an excellent job has been done. But the reforms sought by title III as originally introduced and as further developed by the Bond-Wirth amendment also are important. I do not believe it is appropriate to drop those provisions from the bill. Instead, we should try to modify them to address the concerns that have been raised.

Mr. President, I would like to take some time at this point to discuss the policy issues relating to those reforms in some detail. The first relates to margins for stock index futures. The differing treatment of margins for stocks and stock index futures has been a concern of many experts, particularly since the stock market break of October 1987.

Mr. President, since 1934 the Federal Reserve has had the authority to establish margins for stocks. However, margins for stock index futures are established by the individual futures exchanges.

As Secretary Brady has testified, and I quote him:

> Because the futures and stock markets are in reality linked as one market, futures margins have a direct and material impact on trading in the stock market. Low futures margins indirectly permit high leveraging in stocks. This leverage creates the potential for extreme volatility, starting in the futures market and washing back to the stock market. The resulting financial exposure cannot be confined to a single market, and can spread quickly to affect the entire financial system.

Last year in hearings before the Banking Committee, as well as the Committee on Agriculture, the Department of the Treasury, the SEC, and the Federal Reserve all testified, each one of them testified, that low margins on futures can drain liquidity from the payment system in times of crisis when it is most needed.

The Federal Reserve expressed concerns about the tendency of futures exchanges "to lower margins on stock index futures to such a degree in periods of price stability that they feel compelled to raise them during periods of extraordinary price volatility."

Chairman Greenspan, who in the past believed the Government should not be involved in margin setting, testified to the following: "I regret to say that the behavior of margin setting in the last couple of years has shaken my confidence in the view" that the Government should not be involved in margin setting.

He pointed out that the futures exchanges raised margins following the 190-point market drop on October 13 of 1989, during a very unstable period. Chairman Greenspan told the subcommittee: "I was shaken by that event."

The Federal Reserve, therefore, supported Federal oversight of margins on stock index futures, as well as stocks, to ensure that margin levels are adequate under a range of market conditions.

However, Mr. President, the same events that caused alarm to the Treasury, the Federal Reserve, and the SEC, were viewed differently by the CFTC, which has argued that there is no need for Federal oversight in this area. That is their argument.

In hearings before the Banking Committee, CFTC Chairman Gramm said, "The proof that the futures margining system works well is unequivocal. No clearing member firm defaulted in either October 1987 or October of 1989."

After sitting through hearings on this subject, I became persuaded that this issue needed to be addressed by Congress in some fashion. We came too close to a financial systems breakdown, as we all know, in October 1987 and October 1989 to find comfort in the fact that a financial catastrophe was, thankfully, avoided. Given the linkage between the stock options and stock index futures markets, one regulator should have overall responsibility in this area.

Let me underscore that this is not an issue of turf. It is not a turf battle, as far as we are concerned. It is a problem that, if unresolved, could threaten the stability of our Nation's financial payments system. For that reason, Mr. President, the compromise proposal developed by Senators LEAHY, LUGAR, BOND, Heinz, and myself, gave authority to regulate stock index futures margins not to the SEC, not to the CFTC, but to the Federal Reserve, which currently has margin authority for stocks and options.

Although the bill proposed by the administration last summer would have given this authority to the SEC, we believed that, given the level of distrust

between the futures and securities industries on this issue, a more modest and thoughtful approach, a more neutral regulator, particularly one with the experience and credibility of the Federal Reserve, would be appropriate.

The bill as reported by the Agriculture Committee contains a more succinct grant of authority to the Federal Reserve than was included in the original compromise contained is S. 207 as introduced. I want to review it further, particularly as to the question of enforcement authority for margin violations. But it appears to carry out our intent in drafting the original compromise.

However, it also would permit the Federal Reserve to delegate its margin authority to the CFTC, while the original compromise did not permit delegation for a period of 30 months. In view of the CFTC's reluctance in the past to support Federal regulation of futures margins, we need to make it clear that we want to see this authority used appropriately, and aggressively, if necessary, to protect the financial markets from liquidity crises that may be brought on by overleveraging.

Mr. President, I want to emphasize that this provision is an essential part of our post market crash reforms. The House bill does not contain a similar measure, and I believe we must insist the Senate provision prevail in conference, even though it does not do everything I would like to see it do.

Mr. President, a second major concern has been the anticompetitive effect of the "exclusivity clause" of the Commodity Exchange Act. This clause has been interpreted by the courts to mean that if a financial instrument is a security but has elements of a futures contract, then the instrument may be traded by only on a registered futures exchange, even if the element of "futurity" is only a minor characteristic of the instrument.

As Federal Reserve Chairman Greenspan explained in testimony before the Security Subcommittee:

> Under the Commodity Exchange Act, any commodity contract with an element of futurity cannot be entered into except on a CFTC-regulated exchange. Moreover, this act defines the term "commodity" broadly to include not only physical commodities, like corn, and wheat, but intangible contractual interests, including financial instruments. This restriction, when interpreted broadly, serves to discourage the development of new financial products that might be offered outside of the futures exchanges and tends to stifle the innovation process.

That was testimony from Alan Greenspan.

In fact, the Seventh Circuit Court of Appeals in a case decided last year, the Chicago Mercantile Exchange versus the SEC, noted that the exclusivity clause, "gives the futures markets the opportunity to block competition from an innovative financial product." That is from that Seventh Circuit Court of Appeals decision.

Surely, Mr. President, this anticompetitive result was not intended by the Congress when it adopted the Commodity Exchange Act in 1974. The exclusivity clause of the CEA was designed to prevent the trading of unregulated futures products, not to prevent the trading of securities products under the regulatory scheme of the Federal securities laws, or banking products under the Federal banking regulators.

If this provision is not corrected, futures exchanges could have a virtual monopoly on the development of new products, preventing innovative and useful instruments from trading on securities and options exchanges.

I refer my colleagues not to my statement but to the statement of the Federal Reserve and the Seventh Circuit Court of Appeals.

Mr. President, it became clear to a number of us in this Chamber that neither the respective agencies nor the President's working group of financial markets have been able to settle this issue by agreement, regrettably. I think that is tragic, and I think the fault, quite frankly, lies at the executive branch level. They just could not get their act together. You had agencies competing with one another, and it looked absurd.

If Congress does not act, however, new products will continue to be subject to litigation, and the U.S. capital markets will see innovative products and market share leave our national boundaries. Frankly, that is happening.

You are not going to find people willing to go up for lengthy court battles if someone decides they belong in the securities field or the futures field. If you are facing litigation, Mr. President—and you do not have to be a brain surgeon to figure this out—you are going to go offshore and trade in that product. You are not going to wait, 2 or 3 or 5 years until a court decides which market you should have been in. That is axiomatic. If we do not clear this up, that is going to happen.

It becomes clear to a number of us that neither of the respective agencies, nor the President's working group, were able to settle this matter. Congress must act.

Accordingly, title III, as introduced, addressed this issue by modifying the exclusivity clause of the CEA to permit certain new hybrid securities products to trade under either the securities or futures regulatory systems.

I add, Mr. President, the futures exchanges have been breeding grounds for financial innovation for more than a decade. In supporting the original provision, it was my belief that the futures exchanges would be made stronger by competition, and they should welcome it, not erect roadblocks around it.

However, title 3, as reported by the committee and in the new language, which I understand will be offered by Chairman LEAHY, does not accomplish this goal of stimulating innovation and increasing competition. As Federal Reserve Chairman Greenspan has noted in a letter to Chairman RIEGLE, I quote:

> The approach taken by S. 207 will continue to preserve impediments to innovation.

Although the language purports to draw a bright line with its 50-percent value test, Chairman Greenspan has written:

> The 50-percent value test embodied in the bill is arbitrary, and could yield anomalous results for similarly structured instruments.

Mr. President, I guarantee that the 50-percent value test, while it looks good on paper, when you are trying to assess value on some of these products at the time of issuance and trying to determine if something is 51 percent a futures or 51 percent a security, you are going to just invite litigation, and that ought to be as clear as the nose on anyone's face.

This is just an invitation to litigation. I presume that every securities lawyer and futures lawyer in America is applauding this particular approach. This is going to be a bonanza of work for them, because I do not believe you are going to have anything but litigation in a tremendous number of areas as a result of that provision.

The original compromise proposal included in title 3 also sought to remove impediments to the markets for swaps—and this is also an extremely important area—an institutional market used by major corporations, banks, and securities firms to manage risk. This purpose was turned on its head in the bill as reported, Mr. President.

Indeed, Chairman Greenspan and virtually all of the major banks and securities firms that wrote to me and to others, have voiced serious concerns about the impact of the bill's language on this important market.

Mr. President, I understand that new language again will be offered by Senator LEAHY, the chairman of the committee, that will make some improvements in this area. But Chairman Greenspan testified just yesterday that it does not go far enough, in his view. In this area, Chairman Greenspan believes it should go beyond even the language of the original compromise. He notes particularly that the new language, and I quote him:

> * * * continues to rely on discretionary, and potentially restrictive, exemptive procedures for dealing with swaps and bank deposits rather than the more certain exclusionary approach.

I should note, Alan Greenspan is not one of these people who is inclined to make bold statements. One criticism of the Chairman of the Federal Reserve is that he does not take a forceful enough

position on a number of questions. I disagree with that characterization. I think he has a very difficult and sensitive job to perform.

I would invite people to read the statement by the Chairman of the Federal Reserve yesterday before the Banking Committee. His statements were as unequivocal, clear, and unambiguous as any I have ever heard uttered by the Chairman of the Federal Reserve. This was a man who was not taking a cautious approach when talking about this legislation. He was sending up as clear a red flag and signal about what we are apt to do as I have ever heard uttered by the Chairman of the Federal Reserve.

So I invite, in fact I urge strongly, Members to review the testimony of the Chairman of the Federal Reserve yesterday. In fact, I suppose it may be the most important testimony. I suppose if you read the statements by Chairman Breeden, you would anticipate that the Chairman of the Securities and Exchange Commission would have a certain point of view. I suppose the same could be said of the Chairman of the CFTC.

Even the Treasury, I might add, sort of apologized for its statement. It argued that what was in the bill on new products was not the best, but you had to sacrifice that because we needed something else. But the most credible witness, I would suggest, is, with all due respect to other witnesses, the Chairman of the Federal Reserve. There is no specific turf he is trying to guard. In fact, he does not want jurisdiction in some of these areas.

If you are anxious to get an objective view, then listen, if you will, to the statements of the Chairman of the Federal Reserve about this matter, and I think you will come to the same conclusion I have and others have, that we need to do better than what we are doing here in title 3.

Title 3 in S. 207, as introduced, addressed other concerns relating to the split jurisdiction over stocks and stock index futures. In testimony before the Banking Committee, Treasury Secretary Brady warned, and I quote him:

With our current system, it is simply too easy for intermarket abuses to slip through the cracks because of the dispersion of regulatory responsibility.

SEC Chairman Breeden said, and I will quote him:

Both agencies, the SEC and the CFTC, only see one-half of what is in fact a coordinated trade that begins in one market and ends in the other.

These officials, Mr. President, therefore urged consolidated jurisdiction over stocks and stock index futures in order to police the market for fraud and manipulation. Both Treasury and the SEC also have said, that, "circuit breakers" for the stocks and futures markets are not coordinated, and that major problems remain in the clearance and settlement area that would have been better addressed by a single regulator over stocks and stock index futures.

Many of us in Congress had hoped that the President's Working Group on Financial Markets could resolve these key issues as a group without the need for new legislation.

However, it is clear, Mr. President, that while many issues have been resolved in a collegial manner by members of the group, a number of major issues apparently cannot be resolved in that manner, and that is why we are here.

Following the release of the Brady report on the October 1987 market crash, and the other reports on that event, the vast majority of studies, as well as the market regulators and private market participants, agreed with the fundamental premise of the Brady task force that stocks, options, and stock index futures really constitute one single market. In my view, that conclusion was simple and unrefutable.

In addition it was and remains clear that regulatory oversight over that one market remains fragmented among regulators with different statutory missions.

The original compromise proposal did not solve this problem entirely. But it did set forth directives to the SEC and the CFTC to coordinate on key intermarket issues and to report to Congress on their efforts. That part of title 3 was removed from the bill altogether. We were told that the reason it was dropped was that it was duplicative of directives contained in S. 648, the Market Reform Act, passed by Congress last year.

In fact, the directives of the original compromise were much broader than those in S. 648. I know that Senator WIRTH will discuss these differences in some detail when he offers his amendment which would restore the intermarket coordination language of the original compromise.

Mr. President, I understand the frustration of those who have worked so hard on futures market reform, and who would like to see the bill voted up or down today. I respect that. However, in view of the importance of the issues raised by title 3, I believe that Senators RIEGLE, BOND, WIRTH, and others have raised legitimate concerns about this legislation, concerns that were underscored in the testimony of the Federal Reserve Chairman before the Banking Committee 24 hours ago.

Senators BOND and WIRTH have developed language which would address these issues in a different manner, and I will have some more to say on the Wirth-Bond amendment at a later time.

At this point, however, I would like to have printed in the RECORD a number of letters that I received on S. 207 as reported by the committee. While I understand that changes reflected in the managers' amendment address some of the major concerns in the swaps area, I believe the letters will help our colleagues understand the importance of the market for hybrid securities, as well as swaps.

These letters will give Members a better understanding of what is at stake in this debate. We are not simply talking about arcane financial products, but products that are used by American corporations to raise capital and to manage risk. These are, as well, products on the cutting edge of financial innovation, which have made our banks and securities firms the most innovative in the world.

Mr. President, my colleagues may not want to read all of the letters, but let me recommend to those who have limited time the first letter I will include, which is a letter from Commissioner Mary Schapiro, of the SEC. Ms. Schapiro is someone the futures industry grew to know and respect, because not only is she a Commissioner of SEC, but she served as a staff member of the CFTC, and later as general counsel to the Futures Industry Association.

She was appointed Commissioner of the SEC, not only because she had the requisite intelligence and good judgment to serve in that capacity, but because it was believed she could bring to the SEC a unique perspective on the futures industry, as well.

Her letter explained that one clause, the exclusivity clause, under the current Commodity Exchange Act, has been interpreted overbroadly, well beyond its original intent, and it is the source of enormous problems for our capital markets.

Remember now, Ms. Schapiro has a background as a staff member of the CFTC, served as general counsel of their association, and now serves as a Commissioner of the SEC. This is a person who has been in and worked in both areas extensively, and she says, and I quote again:

The exclusivity clause, under the Commodity Exchange Act, has been interpreted overbroadly, well beyond its original intent, and it is a source of enormous problems for the capital markets.

She states simply, and I go on further:

Whatever its merits for the regulation of futures contracts, I believe that the exclusivity clause of the Commodity Exchange Act is doing damage to the capital-raising ability of U.S. corporation.

And she goes on:

Quite simply, the exclusively clause deprives U.S. corporation of needed flexibility in designing their capital instruments and hurts U.S. investors, particularly retail investors, by denying them the opportunity to invest in the financial instruments of their choice.

Mr. President, this is not a person with an ax to grind. It is person who understands broadly what is at stake in this debate. I urge my colleagues to

read her correspondence on this matter. The words are clear and unequivocal, and the warnings that she gives us need to be heeded. Commissioner Schapiro's letter very clearly laid out the original intent of the exclusivity clause and the problems that have been created by overly expansive interpretation of that clause. She, along with many others, have urged that hearings be held on the proposals in the title in S. 207.

In closing, I commend her letter to my colleagues for a closer reading, along with others, Mr. President, that I will ask to have them printed in the RECORD, at the conclusion of my remarks.

Mr. President, I know that this is not a matter that is on the front pages of our newspapers. It will not be reported, I guarantee you, tonight on the nightly news. There will be no segments on 60 Minutes, or some of the morning TV programs about it. When you start talking about IP's and swaps and margin requirements and stock index futures and the exclusivity rule, we are talking about a langauge that very few prople in public policy positions, particularly in Congress, understand. But I tell you, Mr. President, those who raise capital in this country, those who take the risks every day in this country, those who depend upon sound markets, stable markets, know what we are talking about here, and they are worried. They are worried that we have not taken the time to do the job right, and they say we are putting our capital markets in jeopardy, and they say that we are going to drive products off our shores at a time when we need to be doing everything to be more competitive in financial services.

So let us put aside the turf battles here. Let us try to forget, if we will, what the Chairman of the SEC might like or the Chairman of the CFTC. Let us do what is important to the people who rely on these markets, listen to what they are saying, listen to what the Chairman of the Federal Reserve Board is saying when he is warning us in clear, clear terms about the steps we are about to take.

So I hope, Mr. President, that those who have the time will review the correspondence and review the testimony of yesterday. If they do, I am confident that they will support the Bond-Wirth amendment as modified so that we might go back at least to approach what we tried last fall, when we could have dealt with this matter.

Mr. President, I ask unanimous consent that the letters to which I previously referred be printed in the RECORD.

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

EXCERPTS FROM THE S. 207 COMMENT LETTERS

Chairman Alan Greenspan, Chairman of the Federal Reserve:

"Clearly, these provisions of the CEA are in need of repair * * * However, as I indicated previously, the approach taken by S. 207 will continue to preserve impediments to innovation in hybrids and risk-management products and may well forestall developments in swap markets that could reduce systemic risk."

"The 50 percent value test embodied in the bill is arbitrary * * * and could yield anomalous results for similarly structured instruments."

"In the case of the swap markets, I am concerned not only about the potential adverse effects of S. 207 on competition and innovation but also about its potential to impede the development of netting arrangements designed to reduce counter-party credit risks and, therefore, systemic risks in the financial markets."

"The enactment of these provisions could push multilateral netting arrangements for swap obligations and the swap markets themselves offshore."

"In addition to extending the coverage of the act to swap transactions, Title III also suggests that the CFTC will have jurisdiction over some depository instruments and lending transactions. We do not believe that it is appropriate for banking activities of federally regulated institutions to be subject to the jurisdiction of the CFTC."

"Further, the bill could be read to preclude banking regulators from overseeing banking transactions that are exempted by the CFTC, a situation that would be inadvisable."

Mary L. Schapiro, Commissioner, Securities and Exchange Commission, Former Staff Member of the CFTC, Former General Counsel of the Futures Industry Association:

"The Banking Committee and the CFTC have rightly recognized that the exclusivity provision now impedes the development of useful, innovative financial products. Unfortunately, the proposed solution does not address the problem and, indeed, makes matters worse."

On the proposed 50% value test for hybrid instruments:

"In reality, however, a 50 percent value test is not a useful or objective measure because various arbiters can measure the value of different parts of the instrument in a variety of ways based on different sets of assumptions."

"The chances that the innovators in our marketplaces will risk the introduction of new hybrid instruments are very small. That would be a very tragic and costly result."

"Swaps and banking products have never before been subject to the regulation of the CFTC or dependent for their continued existence on an exemption from the CFTC * * * I do not believe that (the CFTC's) expertise extends to the swaps and banking industries, nor do I believe there is any logic in doing so."

"The limitations of S. 207 on Index Particpations (IPs) lack any grounding at all in logic * * *. All non-grandfathered IPs proposed by any other securities exchanges based upon any other indices would be prohibited. The logic of this escapes me. If it is good for the public to be able to trade an IP on the AMEX, why not also the Pacific Stock Exchange?"

"These are not results driven by solid reasoned public policy but rather political compromise grounded in protectionism. The public is clearly the loser as it is deprived of the ability to trade IPs."

"These provisions, however well mentioned, do not achieve those purposes and indeed will handicap our markets far into the future."

Richard C. Breeden, Chairman, Securities and Exchange Commission:

"The impact of this legislation would diminish the vitality and competitiveness of U.S. securities markets internationally. It would also weaken their ability to facilitate the raising of capital for U.S. businesses at the lowest possible cost * * *. New products would be barred from heretofore open and competitive markets unless market participants engaged in lengthy and expansive regulatory proceedings to prove to the CFTC that these products should be allowed to exist."

"Under the language of sections 302, 303 and 304 of S. 207 as marked up, for the first time in history, trading in securities on the nation's securities exchanges would depend, by statute, on the affirmative action of an agency other than the SEC * * *. As a result, the jurisdiction of the SEC would be permanently reduced, to the detriment of the SEC's ability to apply a coherent system of securities laws to future developments in the nation's capital markets."

"Title III of S. 207 now represents no compromise at all * * *. In the view of the SEC, it is bad public policy to severely restrict the flexibility of banks and securities firms to design new instruments to serve the financial needs of businesses across the United States as would occur under the provision of S. 207. I personally believe that the needs of our markets should not be sacrificed to domestic protectionism for any group."

Federal Deposit Insurance Corporation, L. William Seidman, Chairman:

"* * * we have reservations regarding portions of S. 207 as reported. Sections 302 and 303 contain provisions which affect institutions insured by the FDIC. These provisions generally would allow the Commodity Futures Trading Commission (CFTC) to regulate under the Commodity Exchange Act certain financial hybrid products, including certain swap agreements, deposit accounts, and hybrid instruments."

"We are concerned that S. 207 as reported would impose an additional layer of federal regulation and supervision on depository institutions. We are also concerned that this additional layer of regulation could increase the cost of developing new banking products and services and stifle innovation in the industry."

"As a consequence of our concerns, we support (Bond/Wirth) proposed amendments to S. 207. Under your proposal, there is a simple exemption for deposits issued by federally insured depository institutions and certain foreign banks regulated under federal law. This statutory exemption will provide certainty, eliminate any confusion, and reduce an unnecessary layer of federal regulation. The FDIC is pleased to endorse (Bond/Wirth) amendments."

Comptroller of the Currency, Robert B. Serino, Acting Chief Counsel:

"Our concerns with the Exemption Provisions of the bill center on the belief that Bank Contracts are not subject to the jurisdiction of the CFTC. Primarily, we are concerned that the exemption authority may imply that the CFTC has regulatory authority over Bank Contracts. We believe this would create confusion as to the regulatory scheme applicable to Bank Contracts, resulting from the creation of the presumption that the CFTC could regulate such instruments, although it would not expressly have this power."

"Any action which would inject the CFTC into the regulation of Bank Contracts would be nonproductive since banks are currently

subject to substantial regulation . . . financial markets might be uncertain as to the regulatory scheme to which these instruments would be subject * * * This result could substantially inhibit incentives for the development of creative bank products."

"Moreover, involvement of the CFTC in the regulation of Bank Contracts might inhibit their development, along with the potential benefits they bring to financial institutions and the public * * * it will be important to ensure that regulatory authority is allocated in a manner that does not result in unwarranted overlapping regulation, which could cause needless disruption of healthy markets and stifle innovation."

Daniel L. Goelzer, Edward F. Greene, Harvey L. Pitt, Three Former General Counsels of the SEC:

"Title III should not be enacted in its present form * * * these provisions (regarding hybrid and new products) represent an ill-advised continuation of the very same ad-hoc approach utilized in the past that has made the resolution of the regulatory fragmentation so intractable in the first instance."

"Because current law does not comprehend these hybrid instruments, and the many forms of instruments that surely will evolve in our financial markets over the coming years, the important task of setting policy initiatives for our financial markets has been relegated to the judiciary, the branch of government most ill-equipped to fashion a regulatory framework for the future * * * the current state of law, therefore discourage innovative new financial products, given the high cost of litigation and the uncertainty of the outcome of such squabbles."

"* * * Title III would impose on issuers, financial markets and market participants an arbitrary fifty percent value test * * *. Title III applies this same arbitrary treatment to index participations * * *."

"* * * the fact that any new product is required to go through an approval process before it could come to the market means that the Euromarket, and other international markets will continue to develop products for issuers, many of which will not be offered or sold in the United States * * *."

"* * * the CFTC will decide what new instruments may be sold in the securities markets, and the CFTC may be under pressure for competitive reasons to limit the number of products which may be sold and traded other than on an commodities exchange * * * thus we will see in the United States only those instruments where the value of the option and future component is less than 50% as determined by the CFTC. The rest of the world—but the United States—will see whatever instruments investors find attractive."

"* * * we urge the Congress to reject Title III to S. 207 as presently drafted, and to amend the CEA to remove the rigid barriers, unforeseen and unintended, that have arisen to impede the development of new and useful products that further legitimate business purposes and diminish the global competitiveness of the United States."

Goldman, Sachs and Co., Robert E. Rubin, Partner:

"S. 207 will continue to deny U.S. investors access to the risk management and other benefits that flow from purchases of such securities. Issuers also will continue to be denied full access to the U.S. capital markets."

Security Pacific National Bank, Joshua D. Cohn, First Vice President and Counsel:

"S. 207 would create regulatory ambiguity for U.S. businesses that depend for their success on constant innovation in globally competitive markets."

"S. 207, as reported, would cast a significant shadow on the legality of the existing swap market. Concerns that business would move offshore as a result of these proposals are certainly well founded. Additionally the range of products available to domestic users would be diminished."

"It is our hope that S. 207 generally will be subject * * * to such revision as may be required to avoid both unnecessary overlaps of regulatory authority and the chilling ambiguity and confusion that may result if products beyond the scope of the commodity markets are viewed through a regulatory looking glass designed for the commodity markets."

Shearson Lehman Brothers, Howard L. Clark, Jr., Chairman and CEO:

"(C)ertain provision of Title III are likely to produce a number of undesirable consequences for the United States financial markets, in particular the swaps and hybrid securities markets * * * the effect of such provisions will be to diminish the competitiveness of important segments of our domestic financial markets, deter financial product development and innovation, restrict capital formation opportunities and eliminate opportunities to reduce risk exposure to interest rate, currency, equity price and commodity price risk, with providing significant countervailing benefits."

"The tangible and unique qualities of the domestic swap market, and the related benefits we see the market continuing to create—in product innovation, risk management and capital formation—would in our view be seriously jeopardized under the current version of S. 207 * * * Title III would * * * substantially reduce future swap activity involving United States counterparties and cast significant doubt on the legal status of existing swap transactions involving such parties. A substantial volume of swap activity will quickly migrate to foreign markets in which our domestic firms have excelled, without any discernible regulatory remedy or prospect of immediate retrieval."

CS First Boston, John M. Hennessy, President and CEO:

"We believe the language of S. 207 as reported to be ambiguous and subjective, which could cause substantial uncertainty in the market."

"The current structure of S. 207 would impact negatively on competitiveness of U.S. firms in the world-wide swap market by creating subjective standards which are ill defined and misunderstood, thereby driving more swap transactions into overseas markets."

American Bankers Association, Edward Yingling, Executive Director:

"In our view, no need exists for the CFTC to regulate certain types of swap agreements, deposit accounts and hybrid instruments since they are either subject to regulation by federal and state banking authorities or do not have sufficient indicia of futurity to require CFTC regulation."

"Given this potential for expensive and duplicative regulation by the CFTC of these deposit instruments, banking institutions will be reluctant to develop new and innovative products to suit the financial needs of their customers."

Merrill Lynch & Co. Inc., Bruce E. Thompson, Vice President:

"Merrill Lynch has serious concerns that S. 207 in its present form will have adverse consequences on the U.S. markets for hybrid securities and swap transactions which could inhibit the orderly development of these markets without commensurate gain in investor protection or systemic stability."

"The purposes of any amendment to the CEA relating to swaps should be to provide certainty to market participants regarding the legal status of swap transactions in the U.S., as well as to protect and enhance the innovative techniques employed in the swap market to hedge risk and provide financing, and to mitigate counterparty risk resulting from a large and growing market."

"The legal uncertainties and restrictions on innovation resulting from these provisions (in S. 207) are likely to have a chilling effect on the continued development of the market in the United States. Failure to address these uncertainties could result in the limitation on the availability of swap products in the United States, without a similar restriction in offshore markets, reducing the competitiveness of U.S. markets and the financial stability of users of these instruments in the United States."

Securities Industry Association, Gedale B. Horowitz, Chairman:

"Any legislation affecting swaps and/or hybrid products should enhance the capital raising process by reducing uncertainty, encouraging further innovation and preserving the efficiency and international competitiveness of these products and markets. Unfortunately, we believe that the provisions conerning swap and hybrids of S. 207 as reported will in fact undermine these very objectives that we believe are so critically important."

"The new section of the bill (that deals with swaps) lacks clarity and objectivity required to enable U.S. participants to conduct swaps business in the United States and to compete in the international marketplace. * * * It will also hurt the competitiveness of U.S. firms by making them unattractive counterparties for the many participants, particularly non-U.S. banks and securities firms, who will be reluctant to provide any such certification as to their subjective intent."

"The overall effect of S. 207 as reported is that it creates confusion and uncertainty. Swaps participants will be inclined to do business outside the U.S. * * *."

"The hybrid and exclusivity portions of S. 207 as reported raise serious questions about the ability of American capital Markets to compete in the future."

"The current language seems designed to move in precisely the opposite direction restricting innovation and competition in a series of existing and future products."

Freddie Mac, Maud Mater, Senior Vice President and Secretary:

"* * * the bill could potentially harm the continued development of swap markets."

"Interest rate and currency swaps are tools that we contemplate employing in order to manage interest rate risk. In addition, Freddie Mac recently has begun to tap global capital markets as a means of broadening the market for mortgage-related securities and lowering mortgage cost for American homebuyers. The proposed legislation increases uncertainty as to whether these types of transactions are permitted."

"The bill also appears to inhibit the development of margining and clearing systems that reduce counterparty credit risks associated with such transactions."

"The treatment of so-called "hybrid securities" also concerns us * * * the ability to be innovative in creating new securities could be affected, resulting in a disruption in the flow of affordable funds to the American homebuying public. The uncertainty relating to hybrid securities products could delay or prevent the creation of innovative security

designs which otherwise would benefit both investors and homebuyers."

New York Stock Exchange, William Donaldson, Chairman:

"With regard to those provisions of Title III dealing with the exclusive jurisdiction of certain trading instruments, we believe that the proposed legislation falls short of the Treasury Department's original proposals."

J.P. Morgan, Michael E. Patterson, Executive President and General Counsel:

"The hybrid instruments provisions of Title III are an attempt to address a problem that has recently severely impeded the development of new financial products in the U.S. * * * We believe Title III does not go far enough."

"Contracts that compete with each other (even though their terms may be different) trade quite successfully on different exchanges and, inm some cases, on different types of exchanges or in the over counter market: currency options trade on the Philadelphia Exchange, which is regulated by the SEC and in the over the counter market, while options on currency futures trade on the Chicago Mercantile Exchange; the S&P 500 futures and options thereon trade on the Chicago Mercantile Exchange, while options on the S&P index trade on the Chicago Board Options Exchange. In each case, regardless of the exchange and applicable regulatory authority * * * trades and investors * * * have the freedom to choose which contract and which market place best suits their needs."

"Considering the hybrid nature of these instruments, J.P. Morgan believes that the market for such instruments is best served by maximum regulatory flexibility and that the market, namely, the traders and investors, should be allowed to determine the most appropriate forum for the trading of hybrid instruments. Logically, this means that hybrid instruments should be allowed to trade on securities exchanges, futures exchanges and the over the counter market."

Bankers Trust Company, James J. Baechle, Executive Vice President:

"The growth in the use of derivative products over the past decade has been one of the most positive developments for U.S. and world financial markets. If Title III passes in its current form, which requires all innovations to be presented to the CFTC * * * such innovation of necessity, will be curtailed."

"The exemption for other hybrid commodity instruments in general is based on an arbitrary (and in some cases unworkable) 50% of value test which creates uncertainty and inconsistency because the exemption depends on transitory market forces. Moreover, this exemption does not begin to address the status of the most innovative structures which combine elements of several different options and forwards in a single instrument . . ."

"Bankers Trust Company would favor ideally the approach to derivative products embodied in the 1990 Capital Markets bill which would have excluded such products from CFTC jurisdiction altogether."

Fannie Mae, Gary Perlin, Senior Vice President:

"There is considerable confusion on how these 50 percent tests would be conducted in practice, heightening chances for the unintended restraint of product innovation. While specific guidance could reduce this confusion, any tests mandated in the final version of legislation, or in accompanying formal interpretations should be simple enough to be practicable for market participants, and be consistent with market pricing conventions.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, April 5, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Senate Subcommittee on Securities, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DODD: I am writing as a member of the Securities and Exchange Commission and former staff member of the Commodity Futures Trading Commission ("CFTC") and General Counsel of the Futures Industry Association, to express my concerns with Title III of S. 207. I do so separately because I would like it to be clear that my concerns arise not out of any issue of jurisdiction or prior debates which have been characterized as turf wars; rather, given my experience with both futures and securities markets, I believe it is important that I express my views on the implications of S. 207 for the securities markets specifically, and the capital markets in general.

At the outset, let me state that whatever its merits for the regulation of futures contracts, I believe that the exclusivity clause of the Commodity Exchange Act is doing damage to the capital-raising ability of US corporations. Quite simply, the exclusivity clause deprives US corporations of needed flexibility in designing their capital instruments, and hurts US investors, particularly retail investors, by denying them the opportunity to invest in the financial instruments of their choice.

The effects of the exclusivity clause are even more troubling because these effects were neither contemplated nor intended when the exclusivity clause was first drafted. For these reasons, I believe that many of the efforts to limit the impact of the exclusivity clause of the Commodity Exchange Act are to be commended. The exclusivity clause, contained in the Commodity Futures Trading Commission Act of 1974, that created the CFTC and introduced the modern scheme of regulation, was an important provision with two primary purposes. The first was to ensure that commodity futures contracts such as silver, copper, sugar and cocoa *traded on exchanges* would be regulated to the same extent as other, already regulated, exchange traded futures such as wheat or soybeans. Prior to the 1974 amendments, a rather curious situation had developed in which a growing number of *nonregulated* futures contracts traded alongside of regulated futures contracts. Congress sought to remedy this anomalous situation by bringing exchange-traded futures under the CFTC umbrella.

The second principal reason for enactment of the exclusivity provision was to protect exchange-traded futures from interference by state regulators and the potentially adverse and costly impact of compliance with 51 different regulatory schemes. Congress recognized and repeatedly reaffirmed the value of a nationally uniform body of standards governing futures trading coupled with state antifraud enforcement.

Giving effect to these two purposes has been extremely important to the successful development of the futures markets. Preemption of state law, with the very wise carve-out for state antifraud provisions, has likely saved the futures exchanges, and financial intermediaries, enormous sums of money. In addition, the credibility, safety and soundness of transactions on futures exchanges have been promoted and enhanced by the inclusion of all types of exchange-traded futures contracts under the umbrella of federal regulation. I believe that the phenomenal growth of the U.S. futures markets since enactment of the 1974 law is testament to the salutary effect of comprehensive regulation. Indeed an increase of nearly 800% in transaction volume would not have been possible if institutional users did not have confidence in these markets—confidence that I believed is born of a belief that the markets are comprehensively regulated.

As the SEC savings clause demonstrates, however, I do not believe that the exclusivity provision was intended or should be used to prevent securities products from trading on regulated securities exchanges or to prevent institutions from utilizing swaps and other legitimate instruments specifically tailored to their needs. This Committee and the CFTC have rightly recognized that the exclusivity provision now impedes the development of useful, innovative financial products. Unfortunately, the proposed solution does not address the problem and, indeed, makes matters worse.

The basic problem with the exclusivity clause in today's markets is well recognized: it requires that *all* instruments (even securities) with elements of futurity be treated as futures contracts and therefore required to be traded on designated contract markets or futures exchanges. As Chairman Greenspan has pointed out, the potential for the strict application of this principle has led to confusion in financial markets and the involvement of the courts, which in turn has discouraged efforts to develop new and innovative instruments.

The 50% value test proposed by S. 207 seeks to utilize a simple, seemingly objective calculation to determine when an instrument is a security or a future. In reality, however, a 50% *value* test is not a useful or objective measure because various arbiters can measure the value of different parts of the instrument in a variety of ways based on different sets of assumptions. More importantly, certain products, such as equity hybrid instruments, simply cannot be broken into intellectually distinct pieces that can then be valued separately. As a result, the percentage test effectively guarantees that no new equity hybrid product will be able to trade. Further, I do not believe that such a test reduces the risk that there will be litigation over each new hybrid product. Hence, the chilling effect of the exclusivity clause will remain intact.

But, there is a further structural problem: if a securities exchange trades a product that the SEC has approved as a security and that exchange is sued on the grounds that the product has more than 50% of its value derived from a commodity, a court will not accord the SEC any deference for its determination because the SEC will be interpreting a commodities and not a securities statute. Rather, the CFTC likely will be asked for its view, and the CFTC will be accorded deference. In effect, the CFTC replaces the SEC as the agency with authority to determine what is a security. Thus, the chances that the innovators in our marketplaces will risk the introduction of new hybrid equity instruments are very small. That would be a very tragic and costly result.

Rather than employing an imprecise and perhaps unworkable exemptive test, I believe the best approach would be one that permits hybrid financial instruments to trade on either type of exchange. So long as the markets are regulated, and the public is protected, it is hard for me to discern any legitimate reason not to allow the exchanges and the regulated over-the-counter market to fully develop new products that meet the needs of investors. Let the SEC approve hybrid products for securities exchanges and

let the CFTC approve hybrid products for futures exchanges, and I believe we will see that the ingenuity and variety of new instruments will enhance and enrich our capital markets.

S. 207 also has the potential to dramatically impact the swaps market. The same fundamental problem created by the exemptive authority for hybrids flows through the exemptive authority that S. 207 grants the CFTC in dealing with the swaps markets and even some banking products, such as demand deposits. Swaps and banking products have never before been subject to the regulation of the CFTC or dependent for their continued existence on an exemption from the CFTC. There is no doubt in my mind that the CFTC has tremendous institutional experience regulating the futures markets and in exercising reasoned and sound judgement over the areas under their existing authority. But, I do not believe that expertise extends to the swaps or banking industries, nor do I believe there is any logic in doing so.

Finally, the limitations of S. 207 on Index Participations ("IPs") lack any grounding at all in logic. The bill would deem all index participations to be futures and then would exempt from CFTC regulation only the eight IPs that were approved or pending before December 31, 1991. There are three fundamental problems with this: First, three of the "grandfathered" IPs are based on the S&P 500 index. S&P has an exclusive licensing agreement for S&P 500 futures with the Chicago Mercantile Exchange. Thus, if an IP is defined as a future, an IP on the S&P cannot trade. Second, all non-grandfathered IPs proposed by any other securities exchanges or based upon any other indices would be prohibited. The logic of this escapes me. If it is good for the public to be able to trade an IP at the AMEX, why not also at the Pacific Stock Exchange? If it is in the public interest to allow trading of an IP based on a grandfathered index, such as the NYSE Composite, why isn't it equally in the public interest to allow trading of an IP on other indexes, such as the Value Line Average or the Nikkei? Third, it is unclear whether the legislation would permit any modifications to the grandfathered IPs. These are not results driven by solid, reasoned public policy but rather by political compromise grounded in protectionism. The public is clearly the loser as it is deprived of the ability to trade IPs. I believe a better result would be to exempt all index participations from CFTC regulation.

This Committee, the SEC and the CFTC shares a deep and abiding interest in maintaining the efficiency, soundness and competitiveness of the US markets for futures and securities. These provisions, however well intentioned, do not achieve those purposes and indeed will handicap our markets far into the future. It is vitally important that the full significance and potential impact of this bill be understood before it becomes law. Hearings should be held to analyze these issues and enable the Congress to explore fully the ramifications of this bill. Once done, I am certain that we will see that some basic changes need to be made to Title III in order to best serve the public interest. In any event, the SEC stands ready, as always, to work with you to develop alternative solutions to the problems created by the exclusivity clause.

Sincerely,

MARY L. SCHAPIRO,
Commissioner.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, April 15, 1991.

Hon. TIMOTHY E. WIRTH,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your letter of April 12, 1991, requesting my views on two proposed alternatives to the exclusivity provisions of S. 207 as reported by the Committee on Agriculture, Nutrition, and Forestry. One alternative was transmitted by Chairman Gramm of the Commodity Futures Trading Commission to the Chairman of the Senate Agriculture Committee by letter dated April 9, 1991 ("CFTC Alternative") and the other alternative accompanied your letter to me of April 12, 1991 ("Bond-Wirth Alternative").

Under the current approach to the implementation of the Commodity Exchange Act ("CEA"), instruments with elements of futurity may be considered to be futures contracts and therefore required to be traded on futures exchanges. This approach has led to confusion in financial markets and involvement of the courts, of which the situation involving index participations is a good example. The developers of new financial instruments—including risk-shifting products—are responding to perceived economic needs, but uncertainty about the treatment of new financial instruments under the CEA tends to discourage such efforts and to give an edge to financial centers abroad.

As I have previously indicated, S. 207, as passed by the Agriculture Committee, would continue to preserve impediments to innovation in hybrid's and risk management products and would forestall developments in swap markets that could reduce systemic risk. The exemptive authority given to the Commodity Futures Trading Commission ("CFTC") under this bill is narrow and in some cases would prohibit the CFTC from making appropriate exemptions. The hearing requirement could lead to a cumbersome exemptive process which itself would pose an obstacle to innovation. Further, the use of regulatory exemptions, once granted, itself creates uncertainty, as they may be revoked at a future date.

In my view, the approach taken by the CFTC Alternative generally addresses the difficulties created by the exclusivity provisions of the CEA more effectively than the provisions of the Agriculture Committee version. Nevertheless, it continues to rely on discretionary, and potentially restrictive exemptive procedures for dealing with swaps and bank deposits rather than the exclusionary approach of the Bond-Wirth Alternative. Further, it does not address lending transactions at all.

The Bond-Wirth Alternative, on the other hand, excludes certain swap transactions as well as certain deposit and lending transactions from the coverage of the CEA altogether, thus avoiding problems that may arise from a cumbersome exemptive process and the potential for revocation of any exemptions that may be granted for these transactions. It also would provide the CFTC with broader discretionary authority to exempt any instrument if the CFTC determines the exemption is consistent with the public interest. The approach taken by the Bond-Wirth Alternative goes further than the CFTC Alternative to alleviate the difficulties for the financial markets created by the provisions of the CEA, and therefore is in our judgment preferable, particularly in the areas of swaps, bank deposits and lending instruments. The exclusion approach also would remove possible conflicts in regulatory jurisdiction that might arise from continued CFTC jurisdiction over swaps. At the same time, the limitations on the exclusions ensure that these transactions are subject to Federal oversight or are limited to sophisticated investors.

I hope you find these comments to be helpful.

Sincerely,

ALAN GREENSPAN.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, March 27, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter requesting my views on Title III of S. 207, the Futures Trading Practices Act, as reported out of the Senate Agriculture Committee. In that letter you ask several specific questions about the regulation of hybrid instruments, including swaps, prescribed by the bill. I would like to focus on those matters on which I believe I can be of most assistance to you and give special attention to the treatment of swaps and deposits.

As I have noted in testimony and previous correspondence on these issues, various problems arise from a basic principle underlying the current approach to the implementation of the Commodity Exchange Act (CEA), under which instruments with elements of futurity may be considered to be futures contracts and therefore required to be traded on futures exchanges. This approach has led to confusion in financial markets and involvement of the courts, of which the situation involving index participations is a good example. The developers of new financial instruments—including risk-shifting products—are responding to perceived economic needs, but the uncertainty about the treatment of new financial instruments in the United States under the CEA tends to discourage such efforts and to give an edge to financial centers abroad.

Clearly, these provisions of the CEA are in need of repair, and I commend the Senate for seeking to make needed changes. However, as I indicated previously, the approach taken by S. 207 will continue to preserve impediments to innovation in hybrids and risk-management products and may well forestall developments in swap markets that could reduce systemic risk. The 50 percent value test embodied in the bill is arbitrary, as well as any procedure for determining the value of the commodity component of a financial instrument, and could yield anomalous results for similarly structured instruments. The exemptive authority given to the Commodities Futures Trading Commission (CFTC) under this bill is narrow and in some cases would prohibit the Commission from making appropriate exemptions. The hearing requirement could lead to a cumbersome exemptive process which itself would pose an obstacle to innovation. Further, the use of regulatory exemptions, once granted, itself creates uncertainty, as they may be revoked at a future date.

Instead of this approach, which seeks to exempt certain hybrids from the CEA, it would be preferable, as I have noted previously, to allow such instruments to trade on markets selected by the parties. Thus, equity-related derivative products could trade on either securities or futures exchanges and banks and other financial institutions could

offer commodity derivative products where appropriate prudential and investor protection safeguards are in place. In this way, owing to different customer bases, similar products could evolve in ways that best meet the needs of those customers.

In the case of the swap markets, I am concerned not only about the potential adverse effects of S. 207 on competition and innovation but also about its potential to impede the development of netting arrangements designed to reduce counterparty credit risks and, therefore, systemic risks in the financial markets. Last November, the Governors of the central banks of the Group of Ten countries released a report that concluded that netting arrangements, if properly designed, have the potential to reduce the size of credit and liquidity exposures incurred by participants in interbank and other wholesale financial markets, including the swap markets, and thereby contribute to the containment of systemic risk. However, the provision of S. 207 that limits the exemptive authority of the CFTC to swap agreements that are "not designed to and would not result in a trading market in the swap agreement" could prevent the development within the United States of multilateral netting arrangements for swap obligations. Other conditions of this swap exemption authority may also result in a failure to exempt certain existing swap transactions. The enactment of these provisions could push multilateral netting arrangements for swap obligations and the swap markets themselves offshore.

Proponents of the prohibition of multilateral netting of swap obligations have argued that such a system would, in effect, be a futures exchange and, therefore, should be subject to CFTC regulation. There are important differences, however, between a traditional futures exchange and the multilateral netting systems that have been developed in other financial markets. Participation in these netting systems generally is limited to commercial banks and other regulated financial institutions that traditionally have taken an approach to risk management that is fundamentally different from the approach used by futures exchanges. In designing multilateral netting systems, generally these institutions have adopted decentralized systems that preserve incentives for bilateral risk management (by allocating losses from a default in the first instance to the original counterparties of the defaulting participant) rather than adopting the centralized systems used in the futures industry that mutualize losses without regard to the original counterparties. For such decentralized systems, the regulatory framework developed by the CFTC for futures exchanges seems inappropriate. The case for CFTC regulation is further reduced if those other systems are subject to regulation by another federal agency.

In addition to extending the coverage of the act to swap transactions, Title III also suggests that the CFTC will have jurisdiction over some depository instruments and lending transactions. We do not believe that it is appropriate for banking activities of federally regulated institutions to be subject to the jurisdiction of the CFTC. Banks are subject to a comprehensive system of federal regulation designed to ensure the safety of the institutions and to protect their customers; there is no need to impose another layer of regulation on their activities, especially where that regulation is designed to meet concerns that are not relevant to banking activities. Further, the bill could be read to preclude banking regulators from overseeing banking transactions that are exempted by the CFTC, a situation that would be inadvisable.

I hope you find these comments to be helpful.

Sincerely,

ALAN GREENSPAN.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, April 12, 1991.

Hon. CHRISTOPHER S. BOND,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR BOND: The Federal Deposit Insurance Corporation is pleased to comment on your proposed amendments to Title III of S. 207 as reported by the Committee on Agriculture, Nutrition, and Forestry.

As you know, we have reservations regarding portions of S. 207 as reported. Sections 302 and 303 contain provisions which affect financial institutions insured by the FDIC. These provisions generally would allow the Commodity Futures Trading Commission (CFTC) to regulate under the Commodity Exchange Act certain financial products, including certain swap agreements, deposit accounts, and hybrid instruments. In addition, section 302 would allow the CFTC to exempt such instruments from regulation if it determined that an exemption would be in the public interest.

Banks regulated by the FDIC and the other federal banking regulators currently operate under a comprehensive system of federal and state regulation designed to protect depositors and ensure the safety and soundness of insured institutions. We are concerned that S. 207 as reported would impose an additional unnecessary layer of federal regulation and supervision on depository institutions. We also are concerned that this additional layer of regulation could increase the cost of developing new banking products and services and stifle innovation in the industry.

As a consequence of our concerns, we support your proposed amendments to S. 207. Under your proposal, there is a simple exemption for deposits issued by federally insured depository institutions and certain foreign banks regulated under federal law. This statutory exemption will provide certainty, eliminate any confusion, and reduce an unnecessary layer of federal regulation. The FDIC is pleased to endorse your amendments.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, March 21, 1991.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of February 22, 1991 requesting comments on S. 207, the "Futures Trading Practices Act of 1991" (Bill). Your letter directs our attention to those provisions of the Bill that might affect financial institutions under the regulatory jurisdiction of the Office of the Comptroller of the Currency. Since receiving your letter, S. 207 underwent a mark-up by the full Committee, and our comments below are based upon the marked-up version.

Specifically, section 302 of the Bill would amend section 4 of the Commodity Exchange Act, 7 U.S.C. §1 *et seq.*, (CEA), to add subsections (c) and (d) to provide the CFTC with discretionary authority to exempt from the CEA certain agreements (Exemption Provisions). Included would be the authority to exempt individually negotiated interbank contracts, swap agreements and deposits offered by banks, either individually or by classes of these instruments (collectively referred to herein as Bank Contracts), after notice and opportunity for hearing. The CFTC would be requried to find that the grant of an exemption would not be "contrary to the public interest." In addition, the CFTC would be authorized to impose conditions on the grant of any exemption.

Our concerns with the Exemption Provisions of the Bill center on the belief that Bank Contracts are not subject to the jurisdiction of the CFTC. Primarily, we are concerned that the exemption authority may imply that the CFTC has regulatory authority over Bank Contracts. We believe this would create confusion as to the regulatory scheme applicable to Bank Contracts, resulting from the creation of the presumption that the CFTC could regulate such instruments, although it would not expressly have this power. In addition, we are concerned that any action which would inject the CFTC into the regulation of Bank Contracts would be nonproductive since banks are currently subject to substantial regulation.

We expressed our position that the CFTC has no power over Bank Contracts when the CFTC issued a proposed regulation concerning hybrid and related instruments (52 Federal Register 47022 (December 11, 1987)) (Proposed Rule). Under the Proposed Rule, the CFTC maintained it had jurisdiction to regulate Bank Contracts on the theory of the "economic equivalence" of these instruments to futures or options. We objected to the proposed rulemaking, and expressed policy concerns over possible disruption of the financial markets and the furnishing of banking products that are well-regulated by banking regulators. The CFTC and its staff addressed the concerns we and other bank regulators raised regarding the proposed rule and the regulatory problems encountered regarding new financial products that combine elements of futures or options contracts with debt or depository obligations. Considerable progress has been made in clarifying regulatory responsibilities since the publication of the Proposed Rule.

It is the OCC's view that, under existing law, swaps and deposits made within the purview of permissible banking activities are not contracts of sale for future delivery. A contract that does not cover potential future delivery of a commodity is neither a futures nor a forward contract under the CEA, and, therefore, is * * * side the regulatory scope of the CFTC.

By granting the CFTC exemption authority, the bill might establish a presumption that a bank's individually negotiated Bank Contracts are contracts for sale for future delivery, subject to regulation by the CFTC. Confusion regarding the regulatory status of financial instruments could follow since a presumption that the CFTC possessed regulatory authority, created by implication, would not necessarily mean that the CFTC would have jurisdiction over Bank Contracts. Thus, financial markets might be uncertain as to the regulatory scheme to which these instruments would be subject. If this were the case, banks desiring to offer products of this sort would encounter substantial

additional legal costs in connection with the development of these products. This result could substantially inhibit incentives for the development of creative bank products.

We note that the Exemption Provisions could have the effect of excluding Bank Contracts from the CEA, if the CFTC so chose. However, it is not certain that any exemptions granted by the CFTC would be unconditional. A conditional exemption could have the effect of subjecting Bank Contracts to the same additional layers of regulation to which they would be subject if they were not exempt from the CEA.

Your letter mentions the concern expressed by some that should the CFTC exempt swaps and the other specified products from the CEA, such action might result in trading in an environment lacking appropriate safeguards, thus posing a threat to financial institutions and the public. As indicated above, we believe that with respect to Bank Contracts, appropriate regulatory authority already exists under banking laws. Moreover, involvement of the CFTC in the regulation of Bank Contracts might inhibit their development, along with the potential benefits they bring to financial institutions and the public.

We recognize the legitimate concerns of the CFTC to examine closely the regulation of products with characteristics of options and futures. Similarly, the CFTC has recognized the legitimacy of the OCC's supervisory responsibility for, and authority over, national banks. Because Bank Contracts are currently subject to extensive supervision, there is no need to subject banks to additional layers of regulation, administered by non-bank regulators. As banks develop new products, other than Bank Contracts, with characteristics that mirror those offered by other financial market participants, however, it will be appropriate to consider how to regulate those products. There must be opportunities for consultation and cooperation. Finally, it will be important to ensure that regulatory authority is allocated in a manner that does not result in unwarranted overlapping regulation, which could cause needless disruption of healthy markets and stifle innovation.

We very much appreciate the opportunity to provide you with our comments. Please let me know if I can provide any additional information.

Sincerely yours,

ROBERT B. SERINO,
Acting Chief Counsel.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, March 12, 1991.

Hon. Richard G. Darman,
Director, Office of Management and Budget, Washington, DC.

DEAR MR. DARMAN: Thank you for your memorandum, dated March 8, 1991, requesting the views of the Securities and Exchange Commission ("SEC") on S. 207, a proposed amendment to the Futures Trading Practices Act of 1991. S. 207 addresses both the issue of margins on stock index futures and the scope of the so-called "exclusivity clause" of the Commodity Exchange Act ("CEA"). We note that the margin language of S. 207 is considerably weaker than either the Administration's proposed legislation of last year or the margin proposals contained in the Intermarket Coordination Act of 1991 introduced by Senator Leahy (the "Compromise Bill"). Nevertheless, while we believe that the stronger language of the Compromise Bill would be preferable, we defer comment on the margin proposals.

For the reasons described below we believe that the proposed provisions concerning exclusivity[1] would be extremely bad public policy, and must either be significantly improved or removed entirely from the legislation. Unless modified, the proposed treatment of the "exclusivity" clause would in our view be considerably worse than continuation of the status quo. Indeed, by codifying the most expansive definition of exclusivity, subject only to the ephemeral possibility of occasional exceptions or exemptions at the sole discretion of the CFTC, the language of the bill would constitute legislated domestic protectionism. As a result, most new "hybrid" securities products would be prohibited or driven offshore. In addition, the $3 trillion index options market would apparently be transferred to CFTC oversight. Most swaps business would be driven to foreign markets, and what remained in the U.S. would operate under crippling conditions. Even demand deposit accounts at banks would implicitly be regarded as subject to assertion of exclusivity—though the CFTC would have less discretion to abolish deposit products than swaps or securities hybrids.

As we have previously testified, the Securities and Exchange Commission believes that increased competition and innovation within the financial markets are critical to future economic growth and prosperity. Wherever possible, our laws should allow securities and futures instruments to be offered to investors free of arcane and unnecessary restrictions. Low cost capital can be achieved by minimizing regulatory hurdles, litigation and uncertainly as to the lawfulness of innovative forms of securities and futures instruments. Sadly, the so-called "exclusivity clause" of the CEA currently restricts significantly the offering of new products. The Administration has consistently proposed to eliminate this impediment to capital formation. Unfortunately, although S. 207 purports to further these goals, in fact—as currently drafted—the bill will stifle competition and crush innovation.

As currently written, S. 207 codifies into law the position that all financial instruments that the CFTC determines to include any degree of "futurity" must be exclusively traded on futures exchanges unless a product (i) meets an unrealistic mathematical test of the degree to which an instrument's "value" is based on a commodity, or (ii) receives a written exemption from the Commodity Exchange Act from the CFTC. While the bill provides the pretense of fairness through its "50 percent value" test, that test is misleading. Since only the CFTC would decide when an instrument's "value" is tied to a commodity, and since under the CFTC's existing analysis, new equity products with characteristics of both futures and securities always are viewed as 100 percent futures, in fact there will not ever be any equity-related hybrid that the CFTC would concede meets the requirements for the 50 percent exception. In effect, for the first time in history, the SEC would be denied the right to define what is a security, and this function will be solely conferred on the CFTC.

Under S. 207, the CFTC would be entitled, but not required, to allow the trading or sale of "any agreement, contract or transaction . . . either unconditionally or upon stated terms or conditions or for stated periods . . ." Exemption "may" be granted where the CFTC decides "that the exemption would be consistent with the public interest." Although the legislation appears to give the CFTC wide exemptive power, essentially all financial products would remain illegal until proven otherwise. In addition, S. 207 would prohibit the CFTC from granting an exemption unless an applicant proves the existence of at least five factors "to the satisfaction of" the CFTC.

The anticompetitive intent of S. 207 is demonstrated by an incredible provision that requires a would-be competitor to demonstrate that there will not be any "material adverse effect * * * on the ability of * * * any contract market to discharge its * * * self-regulatory duties.* * *" This appears specifically designed to allow futures exchanges to veto any exemption for a product that would compete with their own. No standards for the showing of harm to one of the futures exchanges are set forth in the language. Harm to the securities exchanges is never measured or considered, though they are the source of capital for much of American business.

We believe that the language of S. 207 should be revised to permit clearly and unequivocably the development of innovative securities products. In order to encourage competition and innovation, if the SEC determines that more than 50% of the features or characteristics of a product are those of a security (even if that product has some elements of a futures instrument), it should be exempt by statute from the exclusivity clause, so that the product would be eligible for trading in the U.S. securities markets. Similarly, if the CFTC determines that 50% or more of the features or characteristics of a given product are those of a commodity futures contract, that product should be free to trade on a commodity exchange, even though the product has some elements of a security. The SEC has supported such an approach for more than a year.

Discussed below are certain of our major concerns with the proposal.

1. HYBRID COMMODITY INSTRUMENTS

As currently drafted, the hybrid commodity instrument exemption would chill the development and introduction of new hybrid securities products. As drafted, the "50% value standard" depends, among other things, upon (1) what options pricing model is selected, (2) what volatility factor is assumed, and (3) whether there is a ready market by which to compute the value of the options or futures component. Moreover, the 50% value standard is not useful in analyzing innovative new products such as index participations that have characteristics of both securities and commodity options or futures. Under the analysis employed by the CFTC in the past, such products would always fail the 50% test, even though their predominant features are those of a security.

A more relevant test for the statutory language would be whether 50% or more of the "characteristics" of an instrument, not its "value," are those of a commodity or those of a security. for an equity product, mathematical computations of "value" measured only one limited aspect for determining whether or not the instrument is predominantly a security. Accordingly, any "50 percent test" should be based on all "characteristics" of the instrument, not simply one of many characteristics.

More broadly, we believe that any 50/50 test for allowing trading rights should provide that an instrument could be traded in

[1] We first saw the proposed language last Wednesday following the mark-up of the Senate Agriculture Committee. No hearings have been held on this proposed language, which we believe could have a serious and long-lasting negative impact on the nation's securities markets.

the securities markets if "the instrument is determined by the Securities and Exchange Commission to have at least 50 percent of its value or characteristics derived from elements of a security as defined under Section 3(a)(10) of the Securities Exchange Act of 1934 or Section 2(1) of the Securities Act of 1933."

2. EXEMPTIONS FOR INDEX PARTICIPATIONS

The exemption for Index Participations ("IPs") exempts only IPs that were approved for trading prior to April 11, 1989, or pending such approval on or before December 31, 1990. This provision simply creates an exemption for six IPs. All future IPs proposed by any of the nation's securities exchanges or by the National Association of Securities Dealers ("NASD") for NASDAQ trading would be forbidden, as would any successor products to the existing six IPs.

This anti-competitive restriction would lead to ludicrous results. For example, under the terms of this provision, only four securities exchanges would trade IPs, as only those exchanges had proposals to trade IPs included in the SEC's April 11, 1989 order or pending before the SEC by December 31, 1990. All other securities exchanges, including the Boston Stock Exchange, Pacific Stock Exchange, Midwest Stock Exchange, and Cincinnati Stock Exchange, as well as the NASD would be precluded from ever trading IPs. It would be equally ludicrous to allow IPs on the Standard & Poor's 500 Index, because it had been approved by the SEC, but not on other stock indexes that the SEC would also approve, such as the Value Line index or indexes on foreign stock markets, such as on the Japanese or British markets. Nonetheless, this is the utterly unjustifiable result of the express terms of this bill. Moreover, the bill would freeze in place all specifications of IPs, so that no useful refinements could be made in the future. For example, previous IPs provided for quarterly pass-through of dividends to the holders of IPs, but the bill would prevent an exchange from proposing a monthly pass-through of dividends. We see absolutely no reason for such extreme limitations other than pure domestic protectionism.

To ameliorate these concerns, the bill's version of Section 4c(f) of the CEA should provide that any IP approved by the SEC would be exempt from the CEA.[2] This would be entirely consistent with the bill's intent of letting this useful and innovative product, which had volume of over 70 millions IPs before it was abolished from the market by litigation, freely trade on a securities market. In addition, the section should specifically state that IPs are not considered futures.

3. IMPACT ON SEC JURISDICTION

Rather than simply resolving the existing uncertainty over the legal status of new products, the proposal raises serious questions concerning the Commission's current authority under the federal securities laws. Indeed, the bill may be read to give the CFTC jurisdiction over stock index options, other stock index products, and, perhaps, options on individual securities. This would represent a massive transfer of the SEC's existing jurisdiction—that in some cases we have exercised since 1934. Trading in index options alone last year aggregated $2.9 trillion, yet this activity on the Chicago Board Options Exchange, American Stock Exchange, New York Stock Exchange, Philadelphia Stock Exchange and the Pacific Stock Exchange would quite possibly become unlawful under the language of the bill. Aside from its regulatory implications, this would require significant staffing and budgetary increases for the CFTC, an agency that does not offset its costs by fees as does the SEC.

Section 4c(g)(B) would give the CFTC jurisdiction over any transaction "in or involving a commodity" not exempted under the bill. Since a "commodity" includes all goods and services in the world except onions, this would appear to cover any products "involving" stock indexes. Depending on the construction of the term "involving," it could also encompass options on the individual stocks comprising those indexes, or even the underlying securities themselves. Although the securities laws currently contain a provision explicitly giving the Commission jurisdiction over options, the fact that this proposal would be enacted subsequently could raise questions about the continued validity of the earlier provision. Such a result is clearly at odds with any responsible effort to clarify the scope of the CFTC's exclusive jurisdiction, and Section 4c(g)(B) should be deleted from the proposal in its entirety.

Under the Administration's bill, S. 2814, the philosophy was to permit competition and innovation wherever possible. The current language is designed to do exactly the opposite by restricting innovation and competition in virtually every imaginable case. We would strongly support a true 50% test: if the SEC finds a product 50% or more a security, it could be traded on a securities exchange. If the CFTC finds a product 50% a future, it could be traded on a commodity exchange. If both agencies made such a finding, the products could trade on both types of exchanges. Long and expensive regulatory proceedings would not be necessary and competition would be maximized. We believe that this is entirely consistent with the President's express position on S. 2814, as well as his longstanding commitment to minimize, not maximize, regulatory restrictions on competition.

4. IMPACT ON SWAPS

S. 207 also sets out narrow exception and exemptive provisions for swap contracts which would have a devastating effect on that market. While the exclusion may be intended to provide certainty, its limitations dramatically undermine its effectiveness. Specifically, the exclusion requires that any person entering into a swap agreement do so only to hedge or manage a business-related price risk. This requirement ignores the nature of the market and makes the exclusion unavailable to banks and other swap dealers. The exemptive provision is equally ineffective because it gives the CFTC complete discretion to grant no exemptions at all. Moreover, the substantive requirements for any exemption are extremely restrictive, limiting swaps to institutional participations and where the creditworthiness of each party to the swap agreement would be a material term of the negotiation of the swap agreement. Finally, any efforts to improve the efficiency and liquidity of the swap market through developing a trading market would destroy the exemption. The inevitable result of these provisions will be to drive most swaps offshore and to hamper severely the operation of any market remaining in the U.S.

The specific statutory language changes we propose are included in Exhibit A, with additions and deletions [bracketed].

Sincerely,

RICHARD C. BREEDEN,
Chairman.

EXHIBIT A

SEC. 303. HYBRID COMMODITY INSTRUMENTS.

Section 4c of the Act is amended by adding a new subsection (g) to read as follows:

"Sec. 4c(g) "(A) *Notwithstanding any other provision of law,* [n]othing in this Act shall be deemed to govern or in any way be applicable to any transaction which meets the following requirements—

"(1) to the extent that the instrument has elements of a commodity option, *less than 50% of its characteristics are those of a commodity option, or* the instrument derives less than 50 percent of its value at the date of issuance from the value of the commodity option, and

"(2) to the extent that an instrument has elements of a contract of sale of a commodity for future delivery, *less than 50% of its characteristics are those of a contract of sale of a commodity for future delivery, or* at the date of issuance it is expected that less than 50 percent of the change in the value of the instrument or its performance will be due to movement in the price of the commodity or commodities specified in the instrument or in the terms and conditions of the transaction pursuant to which the instrument was issued, *or*

"(3) the instrument is determined by the Securities and Exchange Commission to have at least 50% of its value derived from or 50% of its characteristics attributable to the elements of a security, as defined under Section 3(a)(10) of the Securities Exchange Act of 1934 or Section 2(1) of the Securities Act of 1933, or a group of index of securities; provided that this clause (3) shall not apply to transactions conducted on a designated contract market involving contracts of sale of a commodity for future delivery (or options thereon) or accounts and agreements related to such transactions.

[**"(B) Any transaction in or involving a commodity regulated under this Act not excluded by paragraph (A) above shall be subject to regulation by the Commission under sections 2(a)(1), 4, 4c or 19 of this Act."]**

SEC. 304. INDEX PARTICIPATIONS.

(a) Section 4c(f) of the Commodity Exchange Act (7 USC 6c(f)) is amended to read as follows:

"(f)(1) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.

"(2) Nothing in this Act shall be deemed to govern or in any way be applicable to any contract traded on a national securities exchange *or quoted through an automated interdealer quotation system operated by a securities self-regulatory organization* whereby any party to the contract acquires any interest in a stock index participation unit approved for trading by the Securities and Exchange Commission, *and such stock index participation unit shall not be a contract of sale of a commodity for future delivery.* [by order dated April 11, 1989, or pending such approval on or prior to December 31, 1990.]

"(3) The Commission shall utilize its existing authority under this Act to facilitate the registration of any person who is a 'person associated with a broker or dealer' or 'associated person of a broker or dealer,' as those terms are defined in section 3(a)(18) of the Securities Exchange Act of 1934, for the purposes of marketing stock index futures (or options thereon) to the public."

[2]This would be accomplished by ending Section 4c(f)(2) after the word "Commission".

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, April 4, 1991.

Hon. NICHOLAS F. BRADY,
Secretary of the Treasury,
Washington, DC.

DEAR NICK: In the several weeks since the latest version of Title III of S. 207 (the CFTC Reauthorization Bill) originally surfaced, the SEC, as well as other agencies and firms, has carefully reviewed its provisions. Yesterday, we received a "revised" version of the language that has apparently been suggested by the CFTC to reduce the damage that would be done to the swap market by the original provisions of this legislation.

It is interesting that even the CFTC has acknowledged serious problems in the language of the bill as marked up by the Agriculture Committee. Notwithstanding the current revisions, it is the strong view of the Securities and Exchange Commission that the proposed language would do serious harm to the future competitiveness of U.S. securities exchanges, as well as reducing the ability of securities firms and banks to develop innovative new products to achieve the lowest possible cost of capital for U.S. industries.

Some have characterized the provisions of S. 207 as a slight improvement in current law with respect to exclusivity. In the opinion of the SEC, this legislation would not represent any improvement in current law. Indeed, by appearing to codify the most expansive assertions of exclusivity, the effect of this legislation could be extremely damaging. While some consider this provision to be benign, I want you to know that it is the very strong view of the SEC that this view is inaccurate, and that the provision would cause substantial harm.

I am sure that you have previously read the attached letter from Alan Greenspan to Senator Don Riegle. The SEC strongly supports the comments in Chairman Greenspan's letter, and we fully support his suggested approach to permit competition in America's financial markets.

I understand your previous view that you could support the general concept under consideration by the Agriculture Committee. However, I would hope that the subsequent analysis of both the Federal Reserve and the SEC concerning the actual legislative language produced by the Committee would warrant reconsideration solely directed to the "exclusivity" provision. With markets involving trillions of dollars potentially affected by the resolution of the exclusivity debate, the consequences are too serious to be resolved on the basis of less than complete analysis and deliberation. There is also no reason why haste should be allowed to create even a small risk of seriously adverse consequences for these markets.

I have attached a proposed revision to the Agriculture Committee's legislative language. This language would satisfy our concerns for the future competitiveness of U.S. markets, while maintaining many of the provisions sought by the Agriculture Committee. I would be happy to have the Commission's staff meet with the Treasury to explain any of the provisions of this alternative language so that you could consider it at the same time that you are considering the new proposals of the CFTC. Of course I would also be happy to meet with you individually at any time before you reach any further conclusions on how to resolve this issue.

Sincerely,

RICHARD C. BREEDEN,
Chairman.

SECURITIES INDUSTRY ASSOCIATION,
Washington, DC, April 8, 1991.

Hon. CHRISTOPHER DODD,
Chairman, Subcommittee on Securities,
Washington, DC.

DEAR SENATOR DODD: SIA is pleased to respond to your letter of March 28, 1991, to express our views on Title III of S. 207, The Futures Trading Practices Act, as reported by the Senate Agriculture Committee. As you are aware, SIA has had a longstanding interest and involvement in many of the issues raised by this title. SIA strongly believes that both the general objectives and specific provisions of Title III as reported out by the Agriculture Committee are deeply flawed.

First, you asked about the uses of, and markets for swaps and hybrid securities. Hybrid products and swaps are innovative new financial products that are vital for clients to manage risk and uncertainty in an increasingly risky and uncertain environment. Effective risk management aids the capital-raising process, thus improving long-term investment as well as economic growth for our nation. Moreover, effective risk management in the financial markets helps to promote safety and soundness of the entire financial system, as well as restore confidence in our markets. Any legislation affecting swaps and/or hybrid products should therefore enhance the capital-raising process by reducing uncertainty, encouraging further innovation and preserving the efficiency and international competitiveness of these products and markets. Unfortunately, we strongly believe that the provisions concerning swaps and hybrids (Sections 302 and 303) of S. 207 as reported will in fact undermine these very objectives that we all believe are so critically important. Before describing the specific problems created by these provisions as reported, we offer a brief chronology of SIA's interest and involvement in the evolution of this legislation.

Following the 1987 market break and the report of the Presidential Task Force on Market Mechanisms ("Task Force") chaired by now Secretary of the Treasury Nicholas F. Brady, SIA endorsed the major recommendations of the Task Force, including calls for one principal regulator to coordinate the critical regulatory issues which affect related market segments throughout the financial system, as well as one unified consistent margin-setting authority for functionally related products such as stocks, stock options and stock index futures. The Task Force and SIA also endorsed coordinated circuit breakers for the equity and equity-related markets.

After the 1989 "mini-crash," SIA again supported these and other proposals and made further recommendations to help curb the unsettling bursts of severe intraday volatility affecting the equity markets. The Administration's "Capital Markets Competitiveness, Stability and Fairness Act" (S. 2814), introduced last Congress, addressed virtually all of the recommendations made by SIA and received our strong support. SIA testified in support of the legislation in both the Senate and the House.[1]

The compromise drafted at the end of the 101st Congress, under your leadership, along with Senators Bond, Leahy and Lugar also addressed a number of important recommendations made by SIA, particularly the margin and coordinated circuit breaker proposals. However, it did not contain any language relating to the issue of jurisdiction over stock index futures which was of vital importance to SIA. Nonetheless, in testimony before the Agriculture Committee earlier this year, SIA testified that the proposed compromise in the last Congress was an important first step in rationalizing the regulation of our capital markets. It was acceptable to SIA as far as it went, but we testified that it did not go far enough because it did not address the jurisdiction issue.

SWAPS

The swaps provision of the original S. 207 was by and large satisfactory to SIA. While we had some qualms about the language concerning hybrids, it was generally unobjectionable, since it would have left our capital markets free to innovate and compete.

Title III of S. 207 as reported by the Agriculture Committee radically alters most of the key elements of that compromise. Oversight authority over margins would be granted to the Federal Reserve Board, but it could immediately delegate that authority to the CFTC without the 30-month trial period for Fed margin control envisioned by the original compromise in S. 207 as introduced.

Particularly great damage was done to the original thrust of the bill by the changes made to the swaps provision of the legislation. The new section lacks the clarity and objectivity required to enable U.S. participants to conduct swaps business in the United States and to compete in the international marketplace. It is particularly troubling that this provision, which was originally intended to create a workable exception for swaps free of many of the limiting provisions of the CFTC's 1989 Policy Statement Concerning Swap Transactions, is instead significantly more restrictive than the Policy Statement.

As reported, S. 207's swaps provisions are in two parts. Both parts rely on the definition of swap agreements set forth in the Bankruptcy Code as well as in S. 207 as introduced. The first part (proposed 4(d)(1) of the CEA) provides for exclusion from the CEA for certain qualifying swap agreements. The second part (proposed 4(d)(2)) mandates the CFTC to issue an exemption for certain other swap agreements under specified conditions. Both parts as drafted would undermine the existing swaps market and business by greatly increasing uncertainty and risk. Moreover, the existence of both an exclusion insofar as excluded swaps would not be deemed to be future contracts; whereas conceivably, exempted items might be.

The exclusion may well be intended to provide greater certainty, but the limitations on the exclusion dramatically undermine its effectiveness and, in fact, create vastly more uncertainty. The exclusion as written is so narrow as to define an illusory set of transactions. To be eligible for exclusion, the swap agreement must meet two criteria. The first is that "each party enters into the swap agreement to hedge or manage a business-related price risk." This criterion, which is significantly more restrictive than the Policy Statement's "line of business" test, ignores the nature of the market, making the exclusion unavailable to swap dealers (those banks, securities firms, and others whose business it is to offer swaps and manage the resulting interest rate or commodity price risk). Instead, this criterion would only apply when swaps are entered into between

[1] Testimony of Edward I. O'Brien, President of SIA, before the House Subcommittee on Telecommunications and Finance, May 3, 1990; testimony of John Bachmann, past Chairman of SIA, before the Senate Banking Committee, July 11, 1990; and testimony of Marc Lackritz, Executive Vice President, SIA, before the Senate Agriculture Committee, February 20, 1991.

"end users" who are hedging or managing other business risks. The swaps business doesn't operate this way—swaps intermediaries (brokers and dealers) are integral to the operation of the market because the credit facilitation provided by intermediaries is necessary for the transactions to occur.

The second criterion necessary for the exclusion is that "each party reasonably expects to perform fully its obligations to make or receive payments at the time or times specified in the swap agreement." This provision requires an uncertain subjective evaluation of the intent of the parties entering into the swap. The criterion is intended to preclude termination and netting, two important risk reduction techniques that are encouraged by bank regulatory authorities. It will also hurt the competitiveness of U.S. firms by making them unattractive counterparties for the many participants, particularly non-U.S. banks and securities firms, who will be reluctant to provide any such certification as to their subjective intent.

The second part of the swaps proposal directs the Commission to exempt certain swap agreements. However, unlike S. 207, which included a mandatory provision requiring the CFTC to exempt swaps from all of the provisions of the CEA, the CFTC's proposal requires no exemption at all, but instead gives the CFTC discretion to exempt swap agreements "from any or all of the prohibitions and requirements" of the CEA. In addition, S. 207 as reported contains three substantive requirements for exemption not contained in S. 207 as introduced or the CFTC's Policy Statement.

The first requirement for exemption is that "each party to the swap agreement is an institutional participant" as defined elsewhere in the proposal to include certain financial institutions and corporations with net worth greater than $1 million. This requirement, while perhaps intended to be broad (since it includes registered floor brokers and floor traders), is generally very limited. Corporations and others must have net worth exceeding $1 million. Nowhere else in the world is it necessary to receive proof of a counterparty's net worth, evidence of which may not always be available or understood. Even if guaranteed by substantial companies or supported by other credit enhancements, corporations with less than $1 million of net worth would not be eligible. In addition, quasi-governmental entities like the IMF or the World Bank would not be eligible. Thus, the "discretionary exemption" would exclude many current participants in the market. Further, this $1 million net worth requirement would preclude insolvent companies and those in Chapter 11 bankruptcy or in workout situations from utilizing the swaps market to hedge their risks.

The second criterion for exemption requires that "the creditworthiness of each party to the swap agreement would be a material term of the negotiation of the swap agreement." While the CFTC's explanatory statement indicates that this provision is not intended to prohibit margin or collateral provisions, the criterion would appear on its face to embody a strict (if undefined) limit on such provisions. As a result, its intent is unclear. The criterion is also far too subjective to be workable and it is not clear whether it applies to the parties' master agreement or to each transaction under the master. In addition, the applicability of the section to options, where creditworthiness does not apply to the premium payor or to swaps with option features, such as caps and floors, is particularly unclear. Then too, where each side of a swap is a triple A credit, creditworthiness may not in fact be a negotiated term. The last criterion for exemption requires that "the swap agreement is not designed to and would not result in a trading market in the swap agreement." The term "trading market" is not defined. On its face, it would appear to prohibit completely a swap dealer from engaging in its customary business of making a market in swaps.

The overall effect of S. 207 as reported is that it creates confusion and uncertainty. Swap participants will be inclined to do business outside of the U.S. rather than answer intrusive questions about their business and face the uncertainty of their counterparty's eligibility under the CFTC's criteria. The imposition of congressionally mandated new and extraordinary requirements on swap participants creates new regulatory responsibilities for the CFTC and defeats the intent of the original framers of S. 207, who sought a statutory amendment on swaps to provide clarity and certainty for international and domestic participants.

We note for the record that some have called for an express exclusion for bank deposit account swaps and hybrid products structured as depository instruments. We are troubled by this primarily because of the negative inferences that might be drawn were certain types of products to be automatically excluded from the CEA, while others would have to rely on the exemption process. This could unnecessarily and unintentionally harm non-bank deposit products and the firms that engage in that type of swaps business.

HYBRIDS AND EXCLUSIVITY

The hybrid and exclusivity portions of S. 207 as reported (Sec. 303) raise serious questions about the ability of American capital markets to compete in the future. The United States has traditionally had the broadest, most liquid, and most innovative capital markets in the world. After the imbroglio over the ambit of the CEA developed around the IPs products, a principal purpose of Title III was to resolve questions over hybrids and exclusivity which threatened to drive new product trading and development overseas. The original compromise contained in S. 207 as introduced, while imperfect, did at least resolve some of the legal ambiguities and uncertainty inherent in the status quo.

Here too, the new language in S. 207 as reported is a radical step backwards in a dramatic change from the original compromise. As reported, S. 207 codifies into law the position that all financial instruments that the CFTC determines to include any degree of "futurity" must be traded on futures exchanges unless a product (1) meets a misleading mathematical test that less than 50% of its value derives from the value of the commodity option or future commodities prices or (2) receives a written exemption from the Commodity Exchange Act from the CFTC.

Even that apparently "neutral" 50% of the value test would likely provide no real relief since the test would be determined by the CFTC, and under the existing CFTC analysis, new equity products with characteristics of both futures and securities are always viewed as futures. Thus, it is highly unlikely that there would ever be an equity related hybrid that the CFTC would determine meets the requirement for the 50% exception. Moreover, the descriptive language accompanying the ostensibly clear value test is very murky and would lend little or none of the certainty promised by the numerical standard. Ultimately what is a hybrid remains unclear given the overly broad reach of the defining language.

Were this provision to pass unchanged, a number of deleterious results would ensue. Innovation in American securities markets could be stifled; all hybrids having any element of futurity could be subject to regulation by the CFTC; issuers would bear the heavy burden of proving numerous factors to the CFTC. Exemptions (if granted) could be revoked; the exemptive process itself takes too long as it calls for a hearing with all of its cumbersome procedures and delays. Specifically, hybrid products with embedded futures would have to pass muster in an exemptive process that may well be too narrow to accommodate them. Issuers would still be subject to suits based on competitive considerations, thus chilling competition among securities and futures exchanges. American markets would thus remain at a competitive disadvantage in this area.

The process of raising capital could be inhibited by the costs of potential litigation, or even driven to overseas markets. The confusion and uncertainty that the original compromise was designed to reduce or eliminate would only be exacerbated by the additional court challenges that would inevitably ensue.

The reported legislation has additional unfavorable aspects which make its modification imperative. The SEC's ability to define a security is called into question by the legislation. For example, it could be read to give the CFTC jurisdiction over stock index options, other equity index products and perhaps, options on individual securities. Contrast this with the original Administration bill in the last Congress, S. 2814, which was intended to stimulate competition and innovation wherever possible. The current language seems designed to move in precisely the opposite direction by restricting innovation and competition in a series of existing and future products.

The exclusivity definition codified by S. 207 as reported is strengthened in its application to banking, securities and other financial instruments. That expansive definition of exclusivity is subject only to the occasional exceptions or exemptions granted at the sole discretion of the CFTC. Many new hybrid securities products would, like index participations, be effectively banned or driven offshore. Arguably, jurisdiction over the entire index option market could be transferred to the CFTC. The net result of these rewritten provisions might well be to stifle precisely the increased competition and innovation critical to future economic growth and prosperity. Whenever possible our laws should allow securities and futures instruments to be offered to investors free of unnecessary restrictions. Low cost capital can be achieved only by minimizing regulatory hurdles, litigation and uncertainty as to the lawfulness of innovative forms of securities and futures instruments.

Despite seemingly broad exemptive authority, a financial innovator would have to meet the heavy burdens of proving at least five factors "to the satisfaction of the CFTC." One of the factors could even be read to give the commodities exchange a near veto over the exemption process by requiring that there be no material adverse effect on a future exchange's performance of self regulatory duties.

SIA has worked long and hard on the panoply of issues in this very complex and crucial area. We are deeply troubled that the result of all the effort to date is a measure we regard as destructive of the swaps market and

injurious to the United States capital markets as a whole. We stand ready and eager to work with you, your colleagues, and staff to correct the inadequacies in the legislation.

Thank you for your consideration of our views.

Sincerely,

GEDALE B. HOROWITZ,
Chairman.

J.P. MORGAN,
New York, NY, April 9, 1991.

Re The Futures Trading Practices Act of 1991 (S. 207).

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: We at J.P. Morgan have been following the developments and debate concerning Title III of The Futures Trading Practices Act of 1991 (S. 207) with both interest and concern and I welcome the opportunity to respond to your questions regarding those provisions.

Since its inception in 1982, the swap market has grown to $2.5 trillion in notional principal amount. J.P. Morgan is one of the largest swap dealers in the world with a notional swap book in excess of $260 billion. The swap market is characterized by the participation of sophisticated financial institutions and corporations and government entities which generally enter into swaps in connection with market-making activities or in order to manage exposure to interest and exchange rate fluctuations. We believe it is important that S. 207, as finally enacted, not restrict unnecessarily the ability of American institutions to engage in these activities and either place them at a competitive disadvantage to foreign counterparts or drive the market for these products and services off-shore (as was the case recently with the Brent oil forward market following the *Transnor* decision).

The language of S. 207, as reported out of the Senate Agriculture Committee on March 6, 1991, raises concerns in this regard.

The exclusion contained in the language only applies to transactions between two end-users of swaps. Since almost all swaps are entered into on at least one side by a swap dealer, the exclusion is virtually meaningless.

The exemptive language contains two troublesome requirements. It requires that the creditworthiness of each party be a material term of the negotiation of the swap. While the creditworthiness of a counterparty is a material factor in the decision of whether or not to enter into a swap, it is not generally the subject of negotiation. It is also unclear as to whether it would be permissible to enter into a collateral or margining arrangement since arguably this may eliminate (or drastically reduce) credit risk to the counterparty. In order to prudently manage credit risk, J.P. Morgan has used various forms of risk reduction techniques, including bilateral netting, collateral and margin. As the size of the swap market grows, management of counterparty risk will be a critical factor in enabling us to continue in the business. As the market currently exists, these arrangements are on a bilateral basis. However, the ability to enter into multilateral netting arrangements, most likely in the form of a clearinghouse, would be an extremely useful tool. Title III as currently drafted would either restrict or absolutely prohibit all or some of these mechanisms.

The final requirement for the exemption is that the swap not be designed to, and not result in, a trading market. The term trading market has no established meaning in the context of the commodities regulation and is not defined in the legislation. On its face it might prohibit a swap dealer from engaging in the business of making a market in swaps as is customary today.

I should also point out that we would have preferred to see S. 207 explicitly exclude swaps from the provisions of the Commodity Exchange Act (the "Act"). Because S. 207 instead gives the CFTC the power to exempt swaps, it creates a negative inference that in the absence of the exemption such transactions are futures or options contracts subject to the Act. As such, market participants would be exposed to the risk that a counterparty could attempt to avoid performance of its obligations with respect to one of these transactions on the basis that it is an illegal off-exchange futures or options contract. To a certain extent, this risk exists even with respect to exempted products, as a counterparty could claim that the CFTC overstepped its authority or abused its discretion in providing the exemption.

The case for an exclusion for bank deposits is even more compelling. These are products offered by banking institutions which are already subject to extensive regulation by a combination of either state banking authorities, the Comptroller of the Currency, the Federal Reserve Board and the FDIC, each of which has, as a primary concern, the safety and soundness of the banks which they regulate and the safeguarding of the deposists of those banks' customers. In light of this comprehensive regulatory scheme, there is little, if anything, that CFTC regulation, even in the form of conditions for exemption from the Act, could add to further protect the deposists of bank customers, whether those deposits of bank customers, whether those deposits be tied to the value of commodity prices, equity indices or traditional interest rates.

The hybrid instruments provisions of Title III are an attempt to address a problem that has recently severely impeded the development of new financial products (including equity derivatives) in the U.S.—the so-called "exclusivity clause" of the Act. We believe Title III does not go far enough. Traders and investors have in the past, through their willingness to trade, determined the most viable and appropriate market for new financial products. Thus, contracts that compete with each other (even though their terms may be different) trade quite successfully on different exchanges and, in some cases, on different types of exchanges or in the over-the-counter market: currency options trade on the Philadelphia Exchange, which is regulated by the SEC and in the over-the-counter market, while options on currency futures trade on the Chicago Mercantile Exchange; the S & P 500 futures and options thereon trade on the Chicago Mercantile Exchange; the S & P 500 futures and options thereon trade on the Chicago Mercantile Exchange, while options on the S & P index trade on the Chicago Board Options Exchange. In each case, regardless of the exchange and applicable regulatory authority, traders and investors are generally protected against fraud, abuse and market manipulation, and they have the freedom to choose which contract and which marketplace best suits their needs. Those contracts that do not meet the needs of market participants (and examples abound), regardless of where they are traded and the regulatory scheme under which they are traded, will not be viable and will not survive.

Considering the hybrid nature of these instruments, J.P. Morgan believes that the market for such instruments is best served by maximum regulatory flexibility and that the market, namely, the traders and investors, should be allowed to determine the most appropriate forum for the trading of hybrid instruments. Logically, this means that hybrid instruments should be allowed to trade on securities exchanges, futures exchanges and the over-the-counter market.

Again, we appreciate the opportunity to express our views on S. 207. If we can be of any further assistance to you or provide you with any more specific information, we would be pleased to do so.

Very truly yours,

MICHAEL PATTERSON.

CHEMICAL BANK,
New York, NY, April 9, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Securities Subcommittee, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Mr. Shipley has asked me to respond to your letter to him dated March 28, 1991 regarding Title III of the Intermarket Coordination Act, as reported out of the Agriculture Committee of the United States Senate. As a Director of the International Swap Dealers Association, Inc. and a Managing Director of Chemical Bank responsible for interest rate, commodity and currency swap activity, I am delighted to have the opportunity to express Chemical Bank's views on Title III.

The swaps market has grown into a substantial market providing liquidity, stability and risk-shifting capability to market participants. Today swap agreements are considered important tools for risk reduction for both banks and their customers. Despite the established nature of the swaps market, since the Commodities Futures Trading Commission suggested the possible applicability of the Commodity Exchange Act to swap activities, the swaps market has been subject to legal uncertainty. This has created the risk of litigation, both by the Commodities Futures Trading Commission in the exercise of its enforcement powers and private litigants.

It is Chemical Bank's view that some form of legislation regarding the swaps market is desirable. However, if Title III is enacted in the form reported out of the Agriculture Committee, it will have a chilling effect on the swaps market. The result of this legislation could be that much of the swaps business now conducted in the United States will be driven offshore, and that many firms in the United States will no longer be able to utilize these risk mitigating instruments. Further, innovation and product development will be stifled.

There are several solutions which are possible. One approach could be the exclusion of swap agreements from the ambit of the Commodity Exchange Act, just as the Treasury Amendment excludes certain transactions of a similar nature. This approach would implicitly or by its formulation provide for regulation through existing channels, such as bank regulators in the case of bank participants in the swaps market. This is apparently the basis for the approach suggested by Chairman Greenspan in his letter to Senator Riegle dated March 27, 1991. This exclusionary approach with respect to the Commodity Exchange Act is in many respects the most appropriate in our view, but we realize that it is possible to obtain a similar result by providing an exemption from the provisions of the Commodity Exchange Act.

Accordingly, a solution which may be acceptable to all interested parties is legislation that permits or requires the Commodities Futures Trading Commission to exempt certain swap agreements or classes of swap agreements from all or part of the Commodity Exchange Act. This is the approach we are now pursuing in negotiations with the Commodities Futures Trading Commission through a coalition of banks and investment banks.

Title III is as originally reported out of the Agriculture Committee is formulated in such a way that it requires the Commodities Futures Trading Commission to undertake detailed determinations with respect to very specific aspects of the business and the practices in the swaps market and establishes a significant burden to the granting of exemptive relief. This undercuts the basic thrust of legislation to mandate relief that is at least analogous to the Treasury Amendment and equal to the safe harbor standards set forth in the Policy Statement issued by the Commodities Futures Trading Commission in July, 1989. Title III also creates circumstances under which parties which are dissatisfied with the granting of any exemption might mount time-consuming, debilitating and expensive challenges. If Title III were to be adopted as originally reported, we believe it would have the effect of perpetuating the legal uncertainty associated with legitimate and beneficial swap activity. The result would be to further hamper the competitiveness of the United States over the counter market, both vis a vis domestic exchanges and international competitors. It is also likely that the cumbersome exemptive process envisaged would stifle financial product development and innovation and risk management activities.

The existing negotiations with the Commodities Future Trading Commission appear at this time to be constructively addressing the major concerns we have within the framework of an exemptive approach, but ultimately we believe it is the responsibility of the Banking Committee, which has jurisdiction over both commercial and investment banks, and the full Senate to determine which solution best serves the public interest. We welcome the opportunity to keep you advised of developments as they occur, and we look forward to resolving the issues expeditiously.

Very truly yours,

JOSEPH P. BAUMAN.

NEW YORK STOCK EXCHANGE, INC.,
New York, NY, April 8, 1991.

Hon. DONALD W. RIEGLE, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR RIEGLE: The New York Stock Exchange has reviewed the drafts of the proposed amendments to Title III of S207 as proposed by the Treasury Department, the Commodities Futures Trading Commission and the Securities and Exchange Commission.

The amendments to Title III regarding the establishment of margin requirements represent a vast improvement over existing law and we support these amendments. We wish to express our appreciation to the Treasury Department for their efforts in developing these new margin provisions.

With regard to those provisions of Title III dealing with the exclusive jurisdiction of certain trading instruments, we believe that the proposed language falls short of the Treasury Department's original proposals. We have consistently supported those original proposals.

We recognize that the Treasury Department and the Commodities Futures Trading Commission have put much effort into reaching the proposed compromise on jurisdiction. However, we feel that the alternative language proposed by the Securities and Exchange Commission, which parallels that originally proposed by the Treasury Department, would allow for a free competition among products of similar characteristics.

For that reason, we support the language proposed by the Securities and Exchange Commission and urge that it be incorporated in the final legislation.

Sincerely,

BILL DONALDSON.

NEW YORK STOCK EXCHANGE, INC.,
New York, NY, April 17, 1991.

Hon. CHRISTOPHER S. BOND,
Hon. TIMOTHY E. WIRTH,
U.S. Senate,
Washington, DC.

DEAR SENATORS: The New York Stock Exchange has reviewed the drafts of the amendments to Title III of S. 207 proposed by the Treasury Department and the Commodity Futures Trading Commission and the alternative proposed by Senators Bond and Wirth.

The amendments to Title III regarding the establishment of margin requirements represent a vast improvement over existing law and we support these amendments. We wish to express our appreciation to the Treasury Department for their efforts in developing these new margin provisions.

With regard to those provisions of Title III dealing with the exclusive jurisidiction of certain trading instruments, we believe that the Treasury-CFTC proposed language falls short of the Treasury Department's original proposals. We have consistently supported those original proposals.

We recognize that the Treasury Department and the Commodity Futures Trading Commission have put much effort into reaching the proposed compromise on jurisdiction. However, we feel that the alternative language proposed by Senators Bond and Wirth, which parallels that originally proposed by the Treasury Department, would allow for a free competition among products of similar characteristics.

For that reason, we support the language proposed by Senators Bond and Wirth and urge that it be incorporated in the final legislation.

Sincerely,

WILLIAM H. DONALDSON.

GOLDMAN, SACHS & CO.,
New York, NY, April 5, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR CHAIRMAN DODD: On behalf of The Goldman Sachs Group, L.P. ("Goldman") and its subsidiaries, including J. Aron & Company ("Aron"), I am pleased to respond to your request for our view regarding Title III of S. 207, the Futures Trading Practices Act, as reported by the Senate Committee on Agriculture, Nutrition, and Forestry.

Goldman and its affiliates offer a full range of investment banking services on a global basis to corporations, governments and other investors. Goldman, Sachs & Co. and related companies are registered broker-dealers and futures commission merchants, and are members of the major futures and securities exchanges domestically and overseas. Goldman affiliates are major market makers and block traders in equity and fixed income securities and use futures and options extensively for their own account as well as for their clients. Aron is a significant dealer in the international markets for precious metals, foreign exchange, coffee, grain, crude oil and petroleum products. In connection with these activities, Aron actively participates in the futures, options, forward and cash markets.

In addition, as both principals and as financial advisors to institutional clients, Goldman entities have played an important role in developing and executing many of the financial products that are covered by Title III. Goldman and certain of its affiliates have acted as issuer or underwriter of billions of dollars of hybrid securities issued in the U.S. or foreign capital markets. These include hybrid securities with rates of return linked to various commodities and indices, securities with detachable warrants on foreign currencies or other commodities and commodity swaps and other commodity transactions in the forward and options markets. These types of financial products serve critical capital formation needs and hedging and achieve important risk management goals.

The global financial, futures and commodities markets have become increasingly interdependent and competitive. In this environment, hybrid securities, swap agreements and off-exchange commodity transactions play a crucial role in the conduct of the financial affairs of the institutions we advise, as well as in the management of our own finances. Accordingly, it is critical that the regulatory scheme for these instruments develops in a way that does not stifle the existing markets and that does not place U.S. firms at a competitive disadvantage with their foreign counterparts. U.S. investors and those seeking access to our capital markets will best be served by a framework that encourages the development of useful new hedging techniques and innovative capital markets products.

There are positive elements contained in Title III of S. 207 as reported by the Senate Committee. Nonetheless, we are concerned that portions of the regulatory structure contemplated by the bill do not provide the optimum degree of necessary flexibility. Our specific comments are set forth below.

1. HYBRID SECURITIES

Section 303 of S. 207 would amend the Commodity Exchange Act (the "CEA" or the "Act") to provide that if the option or futures component of a hybrid security accounts for less than 50 percent of the overall value, or expected change in the value, respectively, of that security, the security will not be subject to CFTC jurisdiction. We are pleased that this provision modifies the current regulatory treatment of hybrid securities insofar as it reduces the number of standards that such an instrument must meet in order to qualify for an exclusion from CFTC jurisdiction. It also increases the maximum permissible commodity components of instruments that are eligible for the exclusion.

However, in our view, S. 207 does not go far enough. Under the CEA, the offer and sale of hybrid securities that do not qualify for the new statutory exclusion will continue to be effectively prohibited. Securities with a commodity component that equals or exceeds 50 percent of the value of the security will continue to be prohibited in this country despite the fact that they can be, and are now being, issued and sold under the securities laws of other countries. Moreover, the CEA will continue to permit the issuance of

debt securities with detachable warrants on foreign currencies while effectively prohibiting the issuance of similar securities linked to warrants on, for example, gold or oil. This leads to an arbitrary and unduly restrictive result despite the fact that, to our knowledge, no material regulatory problems have arisen in connection with the offer and sale of such hybrid securities in the numerous jurisdictions in which they are permitted.

Under current interpretation of the CEA, the limits placed on hybird securities have stifled domestic innovation and, with it, our international competitiveness. The changes contemplated by S. 207 will allow only a marginal increase in the market for these instruments. S. 207 will continue to deny U.S. investors access to the risk management and other benefits that flow from purchases of such securities. Issuers also continue to be denied full access to the U.S. capital markets. We, therefore, strongly urge review of the regulatory approach to hybrid securities embodied in S. 207 and development of a more balanced approach that will protect the public interest without sacrificing competition and innovation.

2. OFF-EXCHANGE COMMODITY TRANSACTIONS

Section 302 of S. 207 would authorize the Commodity Futures Trading Commission (the "CFTC") to exempt off-exchange commodity transactions that meet certain criteria from the general requirement of the CEA that futures contracts be traded on exchanges. While the scope of this exemptive authority is somewhat limited, its enactment would represent a material advance over existing law, which does not vest the CFTC with any similar authority. The current lack of exemptive authority for off-exchange futures transactions, coupled with the existing uncertainty regarding the precise line of demarcation between forward contracts and futures contracts, has created certain problems of U.S. participants in a number of important international commodity markets, including the Brent crude oil market. The bill's new exemptive authority can be used to alleviate problems of this type. Indeed, the Senate Agriculture Committee's Report on S. 207 specifically encouages the CFTC to review the situation in the Brent market and other off-exchanges commodity markers to determine whether the grant of exemptive relief would be appropriate. We view this as a very positive development.

3. SWAP AGREEMENTS

Section 302 of the bill excludes certain swap agreements from regulation under the CEA and directs the CFTC to exempt other swap agreements that meet various criteria from regulation under the Act. We have a number of concerns regarding these provisions. First, we question the bill's apparent assumption that most or all swap agreements are subject to CFTC jurisdiction. Second, the currently proposed exemptive authority is not broad enough to encompass significant components of the existing swap markets. Third, the bill may interfere with the development of collateral and netting arrangements that are desirable to reduce counterparty credit risk and, by extension, systemic risks in the financial markets. We understand that representatives of the CFTC, the Federal Reserve, the Treasury Department and the swap industry currently are discussing these and other issues, and we are hopeful that these discussions will produce a proposal that will concerned parties can support.

I hope that the foregoing is responsive to your inquiry. If we can provide you with any additional information concerning these matters, please do not hestitate to contact me.

Very truly yours,

ROBERT E. RUBIN.

MERRILL LYNCH,
Washington, DC, April 8, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Securities Subcommittee, Committee on Banking, Housing, and Urban Affairs, U.S. Senate. Washington, DC.

DEAR SENATOR DODD: Before undertaking to reply to your letter of March 28, 1991, we at Merrill Lynch would like to express to you and to Senator Heinz's other colleagues in the Senate our deep regret and sympathy at his tragic and untimely passing, and our appreciation for his interest in the issues affecting our industry.

Merrill Lynch appreciates the opportunity to comment on Title III of The Futures Trading Practices Act (S. 207) as reported by the Senate Committee on Agriculture, Forestry and Nutrition. Merrill Lynch has serious concerns that S. 207 in its present form will have adverse consequences on the U.S. markets for hybrid securities and swap transactions which could inhibit the orderly development of these markets without a commensurate gain in investor protection or systemic stability. Representatives of Merrill Lynch met with Commodity Futures Trading Commission (CFTC) Chairman Gramm to express our reservations regarding the swap provisions; we have also been part of an industry group working with the CFTC to arrive at acceptable statutory language regarding swap transactions.

THE SWAP MARKET

The global market for interest rate, currency, commodity and other index-linked swap transactions is today a massive one. Industry statistics suggest that in excess of $3 trillion of interest rate and currency swaps alone are currently outstanding. These instruments are used by U.S. government agencies and government sponsored entities, supranational entities, foreign sovereigns, municipalities, corporations and financial institutions to manage interest rate, currency, commodity and other price or rate risk, and as an integral element of financing and funding transactions. Indeed, it is estimated that in 1990 as much as 15 percent of underwritten corporate debt financings in the United States were linked to, and made possible by, related swap transactions. Accordingly, swap transactions are a vital risk management and hedging tool and a fundamental component of domestic and international capital markets.

Two important, and interrelated, characteristics of the swap market are particularly relevant in the discussion of the impact of S. 207 as it presently stands. The explosive growth of the market over the last several years has been fueled by the flexibility of the products and the ingenuity of market participants in designing such products to meet the needs of customers. Rapid innovation and an ability to respond to changes in the marketplace and in customer needs have been hallmarks of the development of the market. Thus, Merrill Lynch was particularly comfortable with the "individual negotiation" standard contained in the original version of the bill (directing the CFTC to exempt individually negotiated swaps undertaken in connection with a line of business or hedging activities).

The "customized quality of swap market transactions distinguishes the swap market from futures markets. Since the transactions involve counterparty-to-counterparty credit risks, the market is characterized by careful evaluation of counterparty credit and, where necessary, use of collateral or other forms of credit support. Because of the generally high credit quality of participants in the market, and the prudential employment of collateral and credit support, the incidence of default has been low. In fact, from the inception of its swap business in the late 1970's to date, Merrill Lynch has yet to experience a loss as a result of a counterparty default on a swap transaction. Thus, we believe that one of the principal purposes of an amendment to the Commodity Exchange Act (CEA) regarding swaps is not to redress any perceived inadequacy of regulation in the market, but rather to provide certainty regarding the legal status of swap transactions in the United States.

As the swap market has grown, a variety of efforts to reduce any potential credit risks and counterparty exposure, particularly among the dealer community, have been undertaken. Amendments to the U.S. Bankruptcy Code, and similar provisions in FIRREA, were adopted last year, clarifying the rights of parties upon the bankruptcy or insolvency of a counterparty to a swap transaction. Bilateral risk mitigation techniques are actively being employed or developed, and multilateral techniques are under consideration. The flexibility and innovation which distinguish the swap market are also evident in these developments.

EXISTING PROVISIONS OF S. 207 WITH REGARD TO SWAPS

The purposes of any amendment to the CEA relating to swaps should be to provide certainty to market participants regarding the legal status of swap transactions in the United States, as well as to protect and enhance the innovative techniques employed in the swap market to hedge risk and provide financing, and to mitigate counterparty risk resulting from a large and growing market.

These purposes are best achieved by exclusion of swap transactions meeting explicit and objective standards from the provisions of the CEA. S. 207 as it currently stands does not provide such an exclusion.

On the contrary, the exemptive authority granted to the CFTC in S. 207 would, we believe: enable the CFTC to exempt qualifying swap transactions from some, but not all, of the prohibitions and requirements of the CEA; authorize the establishment of financial or other requirements for the enumerated "institutional participants" in exempted swap transactions; leave unclear what role the creditworthiness of a party must play in qualifying swap transactions; and create vague limitations on the development of "trading markets" in swap agreements.

The legal uncertainties and restrictions on innovation resulting from these provisions are likely to have a chilling effect on the continued development of the market in the United States. Legal uncertainties under current law have already driven some swap business offshore. Failure to address these uncertainties could result in the limitation on the availability of swap products in the United States, without a similar restriction in offshore markets, reducing the competitiveness of U.S. markets and the financial stability of users of these instruments in the United States.

RECENT DEVELOPMENTS WITH REGARD TO SWAPS

We continue to believe that an exclusion from the provisions of the CEA for swap transactions meeting objective standards

which foster market-driven innovation in risk mitigation is the preferred method of meeting the goals outlined above. We have joined with representatives of a large number of U.S. participants in the swap market to discuss with the CFTC and other regulators ways of addressing our concerns regarding the uncertainties and strictures in S. 207 as reported. Substantial progress has been made in developing language which would address many of these concerns and we appreciate the responsiveness of the CFTC and its staff to the concerns raised in these discussions.

HYBRID INSTRUMENTS

Merrill Lynch has been integrally involved in the developing market for hybrid instruments, including products indexed to physical commodities, indices and currencies. The ability of issuers and underwriters to develop new types of financial instruments, however, has been affected by the restrictions imposed under the CEA, as interpreted and applied by the CFTC. As a result, issuers have been prevented from exploring alternative means of financing their business operations in an increasingly competitive market environment, and investors have been prevented from taking advantage of valid investment opportunities. Accordingly, we believe that the CEA should be amended to provide greater certainty and flexibility to issuers and underwriters seeking to introduce new types of financial instruments.

To date, the CFTC has promulgated certain rules and interpretations concerning hybrid instruments which have facilitated their development by providing some degree of guidance to issuers and underwriters of these products. We recognize that certain of these products, if they in fact constitute futures contracts and commodity options rather than simply containing elements of such instruments, could implicate the customer protection and market integrity objectives of the CEA, and therefore, we understand the regulatory concern that such products not be marketed to members of the general public without the necessary safeguards against potential abuses.

Nevertheless, we believe that simpler and more objective tests can and should be adopted to provide a greater degree of certainty to issuers and underwriters. The development of innovative hybrid products historically has been a function of the evolving needs of market participants. Such innovation should not be discouraged on the basis of unnecessary legal uncertainties, particularly if our capital markets are to remain competitive with others worldwide. Consequently, in seeking the appropriate balance between the need to encourage flexibility and innovation in the capital markets and the purposes of the CEA and the CFTC's statutory mandate, consideration should be given to existing statutory frameworks which may also be applicable to the issuance of these products, such as the disclosure and investor protection provisions of the federal securities laws and the banking regulatory framework.

In our view, the hybrid instrument provisions of S. 207 represent substantial progress toward reconciling these competing interests and implementing a workable and effective approach to the regulation of these products. The creation of a "bright line" test, which seeks to determine whether an instrument is predominantly a futures contract or commodity option, should provide greater certainty to the marketplace than the existing CFTC precedents, which condition the availability of relief on complex formulas and computations. In addition, the adoption of a statutory exclusion for products which are not predominantly futures or commodity options would allow issuers and underwriters to avoid the substantial expense and delay associated with obtaining relief from the CFTC on a case-by-case basis.

Our one remaining concern rests with those products that do not meet the statutory "bright line" test and thus, under S. 207, would be prohibited, since they would be outside the scope of the exclusion. In certain instances, we can envision that products might be developed that would serve valid portfolio or risk management purposes, and we would suggest, at a minimum, that the CFTC be given the authority to grant exemptions from the CEA, either unconditionally or on specified terms and conditions.

We also believe that, where such instruments have significant characteristics of a security, their failure to be excluded from the CEA should not necessarily result in the complete prohibition of the product. We note that the SEC and others have suggested that, in certain instances, such instruments might properly be regulated and traded as securities. Certainly, where Congress or the SEC is comfortable that the federal securities laws are adequate, both in terms of disclosure and customer protection, then it may be appropriate to permit such a product to be regulated as a security and traded in the securities markets. At a minimum, serious consideration should be given to the proposals of this kind that have been articulated to date.

Again, we appreciate the opportunity to discuss our views on this topic so important to the operations of the U.S. capital markets.

Sincerely,

BRUCE E. THOMPSON, Jr.

SHEARSON LEHMAN BROTHERS,
New York, NY, April 5, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, Senate Russell Office Building, Washington, DC.

DEAR SENATOR DODD: This is in response to your letter of March 28, 1991, in which you asked for Shearson Lehman Brothers' views on Title III, the Intermarket Coordination Act, of S. 207, The Futures Trading Practices Act. We appreciate the opportunity to provide our thoughts on this important legislation.

Shearson Lehman Brothers shares the concerns raised by various federal regulators and others that certain provisions of Title III are likely to produce a number of significant undesirable consequences for the United States financial markets, in particular the swaps and hybrid securities markets. We believe the effect of such provisions will be to diminish the competitiveness of important segments of our domestic financial markets, deter financial product development and innovation, restrict capital formation opportunities and eliminate opportunities to reduce exposure to interest rate, currency, equity price and commodity price risk, without providing significant countervailing benefits.

The most immediate and dramatic effects of the legislation will be felt in the domestic swaps markets. Swaps are exchanges of payment streams which are used by market participants to manage interest rate, currency or commodity price risks. Because they are economically customized, swaps offer users unrivaled flexibility in managing their balance sheets and interest rate and currency exposure. Their utility is evidenced by the healthy expansion of the market since its inception in the early 1980's, a development in which United States firms, including banks, securities firms and insurance companies, have been at the forefront. Market participants include major corporations, financial institutions, U.S. government-sponsored agencies and foreign governments. Recent figures indicate that U.S. firms comprise just under 40% of the worldwide market for swaps.

The swaps market is a particularly unlikely forum for the types of abuses that have in recent years unsettled the financial markets and which usually create a need for remedial legislation. The market excludes the general public, being limited to financial intermediaries and sophisticated corporate, governmental and quasi-governmental participants. Market practice compels participants to evaluate counterparty creditworthiness carefully to assure that appropriate credit protections are met. In any market there is always risk; however, the likelihood of the swaps market experiencing significant credit difficulties is small.

Unlike futures contracts, which offer some abstract analytical parallels but are distinguished by a number of features—not the least of which is their fungibility—swaps are privately and individually negotiated and are not subject to futures exchange style offset and margining. Consequently, market participants have both the need and the opportunity to manage credit exposure contractually on a counterparty-by-counterparty basis.

Payment on swaps are tied to the value of debt, equity or other financial or commodity products. Because such values are based on standard interest rate, currency, equity, or commodity prices, which are almost always publicly available and readily verifiable, and because pricing of swaps at their inception is subject to negotiation between sophisticated parties, swaps are particularly unsuitable vehicles for fraud.

The tangible and unique qualities of the domestic swap market, and the related benefits we see the market continuing to create—in product innovation, risk management and capital formation—would in our view be seriously jeopardized under the current version of S. 207. If the bill as reported by the Agriculture Committee is adopted, the provisions of Title III would, we believe, substantially reduce future swap activity involving United States counterparties and cast significant doubt on the legal status of existing swap transactions involving such parties. A substantial volume of swap activity will quickly migrate to foreign markets, lessening U.S. competitiveness in an area of the financial markets in which our domestic firms have excelled, without any discernible regulatory remedy or prospect of immediate retrieval.

Minimizing the chronic jurisdictional uncertainities and legal conflicts that have beset the futures, securities and banking markets, which is a primary purpose of S. 207, would in our view exact an inordinate and harmful toll if such resolution were to come at the expense of the present viability and future vitality of the swaps market. We believe strongly that any resolution of this issue should at a minimum (i) make clear that the current swaps market is a discrete marketing falling outside the ambit of the Commodities Exchange Act and (ii) allow some reasonable flexibility for the future growth of the market, including the possibility of multilateral mitigation of credit risk falling short of the type performed by an exchange. To this end, we have been discussing with federal regulators appropriate changes to S. 207 as reported by the Agriculture Committee.

Hybrid instruments—regulated securities and bank-issued obligations having a greater or lesser proportion of their principal or coupon payments tied to the values of debt, equity or commodity products—offer considerable promise as customized and flexible risk management and capital formation vehicles. The growth and vitality of this market should be sanctioned statutorily by the establishment of broad and non-arbitrary jurisdictional boundaries that allow issuers and investors to use the most appropriate market, be it a securities, bank instrument, or commodities market, for their needs. The legislation should provide certainty in order to resolve ambiguities that exist under the current regulatory structure and to enable products to come to market in an efficient and expeditious manner. As in the case of swaps, legislation should not lessen U.S. competitiveness in an area where our own firms have excelled.

In closing, let me reiterate our appreciation for the opportunity to share our views on S. 207, and commend you for your recognition of the significance of the issues the bill raises. We look forward to assisting you in any way we can on these matters, and trust that you will not hesitate to contact me if we can be of further assistance.

Very truly yours,

HOWARD L. CLARK, Jr.

CS FIRST BOSTON,
New York, NY, April 5, 1991.

Hon. CHRISTOPER J. DODD,
Chairman, Securities Subcommittee, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SIR: We appreciate the opportunity to express our views in response to your letter, dated March 28, 1991, regarding Title III of The Futures Trading Practices Act (S. 207). You requested a description of the market for swaps and certain other derivative products, a discussion of our concerns about the impact of Title III on competition, innovation, risk management and the capital markets, and our related suggestions for modifications to Title III.

In providing an overview of the swaps and derivative markets, including hybrids, we will briefly describe: (1) the products themselves; (2) the major participants; (3) the applications and uses of these instruments; (4) the mechanics of executing transactions; and (5) the secondary market for these instruments.

"Swaps" has become an almost generic term for a wide variety of derivative instruments whose values depend on underlying movements in interest rates, exchange rates, equity prices and commodity prices. In its narrowest sense, "swaps" refers to interest rate swaps and currency swaps. However, in its broader connotations, "swaps" would include a wide array of derivative instruments including: equity swaps, commodity swaps, options on interest rate and currency swaps ("swaptions"), and caps, floors, and collars on interest rates, exchange rates, equity prices, and commodity prices. Moreover, each of the products named above can be further sub-divided into separate types of transactions. For instance, the classification "interest rate swaps" would include such transactions as amortizing swaps, reverse amortizing swaps, extendable swaps, cancelable swaps, forward swaps, zero coupon swaps, etc. "Hybrids" generally refers to customized swaps that take the form of a derivative security.

Obviously, a description of each of these instruments is far beyond the scope of this letter. However, it is possible to make a few general statements about these instruments. The products that fall under the broader meaning of swaps can typically be characterized as entailing a contractual agreement between two parties that extends for a certain period of time, in which payments will be made by both parties according to a formula that depends on an underlying notional principal amount and the value of an underlying variable (such as an interest rate). Although conventions have developed over the years with regard to definitions and broad contractual forms, an important characteristic of a "swap" is that it represents an agreement, negotiated transaction-by-transaction, between two counterparties that is tailored to each party's required specifications. Each party in a swap accepts the credit risk of its counterparty in the swap and the terms and extent of such credit risk are frequently an important point in the swap negotiation. Notional principal amounts are generally in excess of $5 million and can run as high as $500 million to $1.0 billion.

The swap market participants can be separated into professional swap dealers, swap brokers, and end-users. The professional swap dealers are generally affiliated with major investment banks, commercial banks and, more recently, insurance companies. Swap brokers act as an agent in arranging swap transactions between swap dealers or between swap professionals and end-users. Swap brokers are not parties to the swap transaction and do not risk capital. They charge a negotiable fee for arranging transactions. End-users consist of a fairly heterogenous group which would include: (1) financial institutions such as banks, thrifts, insurance companies, and finance companies; (2) business corporations; (3) sovereigns, governmental agencies, and supranationals; and (4) major investors such as pension funds, bank trust departments, hedge funds, and asset managers that exercise fiduciary responsibility.

Each category of end-user named above actively uses the swap market. Financial institutions have historically been the most active users of the swap market, although the use of swaps (and other derivative instruments) by corporations has increased sharply in the last five years. We believe that virtually all of the institutional clients at one time or another have used swaps or other derivatives to reduce borrowing costs or manage the financial risks of their underlying business. Sovereigns, governmental agencies, and supranationals use the swap market extensively to transform borrowings from fixed rate into floating rate (or vice-versa) or from one currency into another. Finally, there is a significant and growing use of swaps on the asset side of the balance sheet as major investors seek to transform fixed rate investments into floating rate (or vice-versa), as market viewpoints and arbitrage opportunities develop.

Swaps and related derivative instruments are not executed with individual investors, which is understandable given the large notional amount of the transactions, the credit criteria demanded of swap counterparties, and the financial sophistication required.

Swaps have generally been used to:

(1) Lower financing costs or increase investment returns by arbitraging fixed rate and floating rate securities markets in the same currency (using interest rate swaps) or in different currencies (using currency swaps).

(2) Hedge exposures to interest rates, exchange rates, equity prices and commodity prices.

(3) Create synthetic investment or financing structures that satisfy the investor's or borrower's objectives better than "plain vanilla" securities would.

Interest rate and currency swaps were initially created to arbitrage financing costs in different markets. While interest rate and currency swaps still are actively used to arbitrage markets, a large portion of swap transactions are now executed to hedge exposures against adverse interest rate and foreign exchange movements. Banks routinely use swaps to manage the gap between the duration of their assets and liabilities. For example, financial institutions that borrow on a floating basis and lend on a fixed basis can manage this mismatch with swaps by swapping the floating liabilities into fixed rate liabilities to lock-in a positive spread between its lending rate and its borrowing rate and to remove interest rate risk. Corporations are also active users of the swap market in their liability management programs. Interest rate caps and swaps in U.S. dollars and foreign currencies are commonly used by corporations to hedge the financing cost of their commercial paper and bank loans against rising interest rates.

Swaps, hybrids and other derivatives are also being used to custom-design investment and borrowing transactions that satisfy the user's underlying objective better than standard securities would. For example, issuers have used swaps to "front load" or "back load" effective interest payments on bond issues so they match projected cash flow patterns. Rather than having to search for a small group of investors who may happen to want this particular cash flow pattern, the issuer is able to sell a conventional bond into the market and re-engineer the desired cash flows privately using swaps. Alternatively, there are numerous examples of investor-driven deals in which the investor requests an unusual structure for a security that reflects its market outlook or liability exposure. The issuer sells the "hybrid", i.e., a custom-tailored security, to the investor and then uses derivatives to transform the security back into a more traditional format. In such a transaction the investor benefits by being able to design a security that satisfies its particular objectives and the issuer obtains an attractive financing because it was able to sell a security that exactly fit the investor's demand parameters. Swaps and other derivatives make these transformations possible.

Swaps are generally executed between a swap dealer and an end-user or between two swap dealers. Swap dealers generally have a marketing team that works with end-users to design swap structures appropriate for the end-users' objectives. When an end-user wants to enter into a swap for the first time, a master swap agreement is negotiated, which is a relatively extensive contract presenting the terms, conditions, and the responsibilities of each party. Although a standard form of swap document has been prepared by the International Swap Dealers Association, extensive negotiation between the parties on the contract is common. Subsequent transactions are typically documented by shorter confirmations which refer to and rely on the general terms and conditions previously negotiated in the master agreement. These confirmations put forth the specific economic terms of the transaction and exceptions, if any, to the master swap document that apply to the particular transaction.

When a party wants to execute a "plain vanilla" swap, it is not uncommon for the

party to contact several swap professionals with whom master swap agreements have been previously negotiated and ask them to compete for the swap. The swap professional offering the most attractive terms is awarded the swap. Swaps that are more highly engineered are not generally put into competition, but are separately negotiated with the swap dealer that has developed the swap structure.

When a party wants to unwind an existing swap, one of the following three methods is employed:

(1) The swap is legally terminated with the opposite counterparty by mutual agreement. A payment by one of the counterparties to the other is made which reflects the market value of the swap at the time the swap is terminated. The payment depends on such things as interest rate levels, the remaining period of the swap, and other conditions in the swap market.

(2) The party wishing to unwind the swap assigns its rights and responsibilities to another party which is acceptable to the remaining swap counterparty. A payment is made between the party exiting the swap and the party being assigned the swap which reflects the market value of the swap at the time of the assignment.

(3) The party wishing to unwind a swap enters into an offsetting "mirror-image" swap with another counterparty. For instance, a swap counterparty paying fixed and receiving floating in a three-year swap can economically offset the transaction by entering a new three-year swap with another counterparty in which it receives fixed and pays floating. An adjustment payment may also be made on the new swap to reflect the terms of the new swap which are required to offset the original swap. In this technique, the party is legally responsible for both swaps but the cash flows of the two swaps offset one another.

In conclusion, swaps and hybrids, in their generic and specific forms, are invaluable tools to manage risk, reduce financing costs and increase investment yields for our U.S. institutional client base; without free access to such tools, U.S. financial managers would be at a substantial disadvantage to their foreign counterparts in competing for low cost capital in the 1990's.

Turning to the remaining questions in your March 28th letter regarding the current and foreseeable impact on competition and innovation of S. 207 as reported, our concerns fall mainly in two areas, swaps and hybrid instruments.

In regard to swaps, it is clear it was the intent of the Senate Agriculture Committee to clarify treatment of swaps under the Commodity Exchange Act; unfortunately, in its reported form, this statutory design has the potential to disrupt an extraordinarily successful institutional crossborder market. We believe the language of S. 207 as reported to be ambiguous and subjective, which could cause substantial uncertainty in the market. Extraordinary care must be taken when imposing regulatory requirements on an existing market; even clear, unambiguous rules which are more restrictive than offshore rules can be as damaging to the U.S. market as uncertainty.

Taken to its extreme, it is possible to suggest the current structure of S. 207 would impact negatively on competitiveness of U.S. firms in the world-wide swap market by creating subjective standards which are ill-defined and misunderstood, thereby driving more swap transactions into overseas markets. We concur with the views of Federal Reserve Board Chairman Greenspan that the potential for desirable reduction of systemic risk may be impaired by possible interpretation of S. 207 to prevent development of private netting arrangements designed to reduce counterparty credit risks.

However, we do not believe these possible dysfunctional results to have been the intent of either the Senate Agriculture Committee or the Commodity Futures Trading Commission. Our concerns about ambiguity and subjectivity can be adequately addressed by redrafting certain provisions of S. 207, and a correctly drafted, objective test for statutory and regulatory exemptions will provide greater certainty to the market and market participants than has been previously available. In this regard, it may be constructive for the legislative history accompanying S. 207 to address more specifically and in greater detail how the implementing regulations should be crafted to avoid disruption of a large and efficient global market. Finally, we believe a solution allowing the continued development of netting systems to reduce systemic risk can be achieved.

We are aware of and support the efforts of the major swap dealers, both banks and broker dealers, to resolve some of the issues discussed above. We believe that if accepted as part of S. 207, the recommendations of this coalition (including clarification of the definition of institutional participants and clarification of use of netting arrangements to reduce systemic risk) will resolve major concerns with the language of S. 207 as reported.

The hybrid instruments provision of S. 207 presents issues which are potentially less capable of resolution without more analysis and discussion. Others, including Chairman Greenspan and Securities and Exchange Commission Chairman Breeden, have expressed concerns (which we share) that the statutory language of S. 207 on hybrid instruments will have a negative impact on product innovation and competition and could further drive such product development into overseas markets. It should be noted that most product innovation in recent years has been in overseas markets and, ironically, engineered by U.S. firms operating in those markets. More regulatory uncertainty will only aggravate this trend.

Considerable attention has been paid to the 50 percent test embodied in the hybrid provision. From a pragmatic business perspective, we are concerned that the 50 percent value test, which is the linchpin of the provision, is vague and could create anomalous results. For example, over the life of an instrument, its "value" can change, even without any movement in the cash market; a simple change in the yield curve could result in the "value" of the commodity portion of the instrument dropping below or increasing above 50 percent. This means that the same hybrid instrument could, at time of issuance, have more or less than 50 percent of its value linked to commodities depending on market movements, so that the same instrument would be treated differently depending upon when it was issued. It is unclear to us how the regulatory scheme would impact on such an instrument when this occurred, particularly given the exclusive jurisdiction of the CFTC over products with the commodity value of more than 50 percent. Much depends on how "value" is to be computed, and S. 207 does not provide sufficient guidance.

We understand it was the intent of the Senate Agriculture Committee to create a functional regulatory approach to jurisdictional decisions involving hybrid instruments. We do not disagree with this approach fundamentally. However, as with swaps, our concerns are basic, i.e., to avoid ambiguity and uncertainty but also to avoid creation of clear rules which will unduly restrict innovation in a new and developing market.

We believe the hybrid instruments provisions is in need of further discussion and revision. A solution may be possible with further debate, perhaps by expanding the exemptive authority of the CFTC in order to achieve a more pragmatic result.

I hope the views of CS First Boston are helpful to you in your deliberations on this important legislation.

Very truly yours,

JOHN M. HENNESSY,
CS First Boston, Inc.

SECURITY PACIFIC NATIONAL BANK,
New York, NY, April 3, 1991.

Hon. CHRISTOPHER J. DODD,
Hon. JOHN HEINZ,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATORS: Thank you for requesting Security Pacific's comments on The Futures Trading Practices Act (S. 207) and, in particular, The Intermarket Coordination Act. I have been asked to respond to your inquiry. We have been following the development of S. 207 with some concern. We are aware of, and share to a considerable extent, Chairman Greenspan's reservations.

Most importantly to Security Pacific, S. 207 promises to formalize another tier of regulatory oversight upon businesses already fully supervised and, in the case of holding company-owned national banks, by multiple regulators. S. 207 would create regulatory ambiguity for U.S. businesses that depend for their success on constant innovation in globally competitive markets.

Security Pacific National Bank's swap group, as a case in point, has been a recognized world leader in interest rate and currency swaps and related products. In the present climate of diminished credit availability, our swap group has thought to apply developing mechanisms (such as marking-to-market and collateralizing) to limit credit risk in ways acceptable to Security Pacific and its counterparties. Since the CFTC issued its 1989 policy statement creating a "safe harbor" for swaps from regulation under the Commodity Exchange Act, however, risk elimination mechanisms have been viewed as potentially dangerous, apparently because risk elimination is effected in exchange-trading of futures contracts. We see a counterintuitive element in this safe harbor scheme that encourages market participants to preserve risk to mitigate their regulatory exposure.

S. 207, as recently reported by the Senate Committee on Agriculture, Forestry and Nutrition contains similar anomalies with respect to swaps. The exclusion from CEA jurisdiction proposed in new Section 4(d)(1) of the Act extends only to swaps between end users, leaving the bulk of swaps involving market makers (who provide credit intermediation and liquidity to the market) with only the potential for exemptive relief following CFTC notice and hearing. The standards within which the CFTC would be able to exercise its exemptive discretion are ambiguous and entirely novel, and therefore unilluminated by precedent. Subparagraph (C) appears designed to preserve credit risk

in swaps, while subparagraph (D), fairly construed, would deny the swap market the benefit of risk netting and potential clearinghouse mechanisms that both international and national bank regulatory organizations now view favorably.

S. 207, as reported, would cast a significant shadow on the legality of the existing swap market. Concerns that business would move offshore as a result of these proposals are certainly well founded. Additionally, the range of products available to domestic users would be diminished.

We are aware that various firms and trade organizations have been negotiating possible revisions to Section 302 of S. 207 with the CFTC. Our understanding is that the CFTC has been receptive. It is our hope that S. 207 generally will be subject, with the cooperation of the CFTC, to such revision as may be required to avoid both unnecessary overlaps of regulatory authority and the chilling ambiguity and confusion that may result if products beyond the scope of the commodity markets are viewed through a regulatory looking glass designed for the commodity markets alone.

If I may be of further assistance, please do not hesitate to call at (212) 836-5997.

Sincerely,

JOSHUA D. COHN,
First Vice President and Counsel.

MORGAN STANLEY,
New York, NY, April 4, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Securities Subcommittee, Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of March 28th regarding Title III of The Futures Trading Practices Act (S. 207). We appreciate your efforts in addressing our industry's concerns with the legislation, and we are eager to assist you and your staff in analyzing its impact.

Several officers at Morgan Stanley have been working with our government relations representatives to communicate our concerns with Title III to the relevant agencies, including the Commodity Futures Trading Commission, the Securities and Exchange Commission and the Treasury. I have enclosed a memorandum we have prepared that presents our views on the market for swaps, hybrids and other similar financial instruments and the impact of Title III on product innovation.

I hope our comments are helpful and will look forward to hearing from you and your staff if we can provide any further assistance.

Thank you again.

Best regards,

RICHARD B. FISHER.

MEMORANDUM—RE: TITLE III, S. 207 THE FUTURES TRADING PRACTICES ACT, APRIL 4, 1991

Swaps, hybrid securities and similar financial instruments have emerged to meet the real economic needs of market participants. The development of these products is characterized by a high degree of innovation to meet market requirements, and their viability is often highly sensitive to market conditions. A product that makes economic sense one day may no longer make sense just a few days or even hours later. Swaps are generally used by market participants to manage exposure to price risk on interest rates, commodities and other financial indices and to allocate the price risk in an economically efficient manner. Hybrid securities and similar financial instruments provide capital formation opportunities for issuers, attractive investments for investors and opportunities for financial intermediaries to match buyers and sellers of the options and futures embedded in these products. These instruments were not contemplated when the Commodity Exchange Act (the "CEA") was adopted. As a result, under the language of the CEA, it is often not clear whether these new instruments fall under the jurisdiction of the Commodity Futures Trading Commission (the "CFTC"). In some cases, this uncertainty has stifled innovation, forced transactions offshore, increased the cost of capital to U.S. issuers and made the U.S. financial markets less competitive.

We would welcome changes that eliminate this uncertainty. Title III attempts to address these problems with a new specific exclusion for swaps, a new functional test for whether a hybrid instrument should be treated as a future and a new procedure for securing exemptive relief from the CFTC. While we recognize and are pleased that the thrust of these changes is to clarify that the CEA does not apply to instruments which bear only some incidental resemblance to futures, we do not believe that Title III as proposed will eliminate the majority of the uncertainty.

As you know the International Swap Dealers Association has been active in suggesting improvements to the language in Title III for the swap exclusion. Concerns have been raised that the proposed language may unintentionally raise new questions about the exclusion of swaps. Furthermore, Alan Greenspan, Chairman of the Federal Reserve Board, believes that the development of proposed netting arrangements for swaps may inadvertently be impeded by Title III.

In the area of hybrid securities, Title III's new 50% "commodity value" test while simple in formulation leaves much to the rulemaking discretion of the CFTC. Whether a 50% test will provide clear guidance and will exclude instruments that only have incidental elements of "futurity" will depend on the rules promulgated by the CFTC to implement the test. Experience has shown that rules to quantify the "commodity value" of an instrument would be impractical; rule making of this kind would be very difficult to develop and would need ongoing refinement to deal with innovative new products which test the boundaries of, and the assumptions used to develop, the rules.

Finally, the new exemptive procedures, although theoretically helpful, may not be of much practical use. As proposed, the exemptive procedures are limited to privately placed offerings and would not be available for publicly registered offerings. Excluding public offerings from the exemptive procedures severely limits their usefulness. Furthermore, the hearing requirements will lead to a time-consuming process that is inconsistent with the speedy time tables necessary to develop and offer instruments whose appeal may quickly disappear with the passage of time and a change in market conditions. Finally, the public hearing process may interfere with development of new products since proprietary technology may have to be shared prematurely with competitors in the hearing process.

While we believe that Title III attempts to address the difficulties with the current regime, more can be done to increase regulatory certainty and to provide a speedier mechanism to resolve jurisdictional issues. These changes will be necessary to insure the competitivenes of the U.S. financial markets, to promote innovation and to expand capital formation activity. We hope our comments have been helpful and would be pleased to provide your Committee and your staff with more information.

MORGAN STANLEY & CO., INC.

SOLOMON BROTHERS, INC.,
New York, NY, April 9, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Securities Subcommittee, U.S. Senate, Washington, DC.

DEAR CHRIS: Thank you for your inquiry regarding Title III of S. 207.

You refer to concerns expressed by Messrs. Breeden and Greenspan regarding this proposed legislation. We share many of their concerns. We do believe that the version of Title III approved by the Agriculture Committee would have a crippling effect on the market for interest rate swaps in this country and on the development of new financial market products needed to reduce interest rate and currency risk in an uncertain world. A critical component of the intermediary function performed by both commercial and investment banks would be driven offshore, but more importantly issuers and institutional investors, including fiduciaries, would be forced to employ market alternatives (if available at all) that have inferior risk management capabilities.

Accordingly, we have, through the Securities Industry Association, worked to find common ground with the CFTC to offer significant revisions to Title III. If the modifications that appear to have resulted from that process were effected, Title III could become a useful measure to the extent that it clarifies the legal status of swaps and other hedging instruments.

Please feel free to contact Michael Andrews in our Washington office if we can be of further assistance in this matter.

Very truly yours,

JOHN H. GUTFREUND.

FREDDIE MAC,
Washington, DC, April 8, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to provide you with the views of the Federal Home Loan Mortgage Corporation ("Freddie Mac") on S.207, a proposed amendment to the Futures Trading Practices Act of 1991 which addresses the so-called "exclusivity clause" of the Commodity Exchange Act (the "CEA"). Although the bill does not affect Freddie Mac's current business in a pervasive manner, certain aspects of the legislation could inhibit future activities, and, as a result, the fulfillment of the corporation's housing mission.

Our first concern is that the bill could potentially harm the continued development of swap markets. Although Freddie Mac's participation in swap transactions historically has been minor, we can foresee an increasing need to utilize this type of transaction. Interest rate and currency swaps are tools that we contemplate employing in order to manage interest rate risk. In addition, Freddie Mac recently has begun to tap global capital markets as a means of broadening the market for mortgage-related securites and lowering mortgage costs for American homebuyers. If, for example, Freddie Mac were to issue mortage-related securities denominated in a foreign currency, we would want to enter into a currency swap transaction to eliminate foreign exchange rate risks.

The proposed legislation increases uncertainty as to whether these types of transactions are permitted. The bill also appears to inhibit the development of margining and clearing systems that reduce the counterparty credit risks associated with such transactions. Freddie Mac encourages any effort to revise the bill's language to eliminate these potentially adverse developments. We would encourage a broad "exclusion" for swaps from the Commodity Exchange Act as opposed to the somewhat narrow exemptive power given to the CFTC under S.207.

The treatment of so-called "hybrid securities" also concerns us. Although it does not appear that any securities previously issued by Freddie Mac would be affected, the ability to be innovative in creating new securities could be affected, resulting in a disruption in the flow of affordable funds to the American homebuying public. The uncertainty relating to hybrid securities products could delay or prevent the creation of innovative security designs which otherwise would benefit both investors and homebuyers.

I hope this information has been helpful to you. Please do not hesitate to contact us if you require any further assistance.

Very truly yours,

MAUD MATER,
Senior Vice President,
General Counsel and Secretary.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, March 22, 1991.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: The American Bankers Association ("ABA") wishes to express its strong concerns with the Futures Trading Practices Act (S. 207), as reported by the Senate Agriculture Committee. In particular, the ABA is extremely concerned about the detrimental impact that Section 302 covering exemptive authority and Section 303 governing hybrid commodity instruments may have on the development of new financial products. In large part, these Sections seek to extend the jurisdiction under the Commodity Exchange Act ("CEA") of the Commodity Futures Training Commission ("CFTC") over certain financial products. In our view, no need exists for the CFTC to regulate certain types of swap agreements, deposit accounts and hybrid instruments since they are either subject to regulation by federal and state banking authorities or do not have sufficient indicia of futurity to require CFTC regulation. The ABA is concerned that the manner in which these provisions have been drafted will have potentially wide ranging and undesirable effects on a vast array of existing and new financial products that may be offered outside of future exchanges. For example, as the bill is currently drafted, any financial product, including a deposit account, that does not satisfy all the enumerated prerequisites for exemption would be subject to CFTC jurisdiction. Given this potential for expensive and duplicative regulation by the CFTC of these deposit instruments, banking institutions will be reluctant to develop new and innovative products to suit the financial needs of their customers.

From a policy point of view, extending the jurisdiction of the CEA to require futures exchange trading for swap agreements, deposit accounts and hybrid instruments is both unnecessary and burdensome. Swap agreements are not offered to the public and financial institutions and securities firms, participants in the swap market, are currently subject to federal oversight and protection. Deposit accounts, while offered to the public, are also subject to comprehensive regulation by federal and state banking regulators. Hybrid instruments, to the extent they are structured as depository instruments, are similarly subject to comprehensive federal and state banking regulation.

Consequently, it is the ABA's position that these instruments, to the extent they are subject to federal or state banking regulator oversight or are not offered to the general public, should be expressly excluded from CFTC jurisdiction. The ABA is confident that any such exclusion could be drafted to ensure that the public interest is adequately protected.

The ABA would note that it would not support in any manner the total elimination of these provisions from the bill. Rather the ABA believes that the CEA should be clarified to exclude bank products currently subject to federal and state regulation from duplicative and potentially inconsistent regulation by the CFTC.

For example, an exclusion could be drafted for deposit accounts by removing current paragraph (d)(2) to Section 302 and, instead, inserting the following language in Section 2 of the CEA:

"This Act shall not apply to any demand deposit, time deposit, or transaction account (as defined in subsections (b)(1), or (c)(1), and (e) respectively, of Section 204.2 of Title 12, Code of Federal Regulations) subject to regulation by an appropriate federal banking agency."

This exclusion would ensure that new product development would not be stifled because duplicative and burdensome regulatory requirements would not be superimposed on existing bank regulation governing deposit accounts. Moreover, concerns that these instruments could escape any federal oversight would be avoided as the exclusion would be predicated on the deposit account being subject to federal or state banking regulation.

We appreciate the opportunity to express our concerns regarding Title III of S. 207. The ABA staff will be pleased to work with you and your staff to address these important issues for the banking industry.

Sincerely,

EDWARD L. YINGLING.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, April 17, 1991.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: The American Bankers Association ("ABA") wishes to express its strong support for the proposed amendment to be offered by Senators Bond and Wirth ("Bond/Wirth Amendment") to the Futures Trading Practice Act (S. 207). The ABA is the national banking trade association representing banks of all sizes and types, and in all locations. The asset of our membership represent approximately 95% of the industry total.

The ABA is extremely concerned about S. 207, particularly the provision applying to deposit instruments and loans. Specifically, the ABA is concerned about the detrimental impact those provisions would have on both the current legal status of these banking products, as well as future development of new financial products. For example, as presently drafted, S. 207 would provide that any deposit account that does not satisfy all the enumerated prerequisites for exemption would be subject to CFTC jurisdiction. As these accounts are already subject to comprehensive regulation by federal and state banking regulators, the ABA sees no need from a public policy point of view to subject them to a further layer of regulation. Moreover, given this potential for expensive and duplicate regulation by the CFTC of these deposit instruments and loans, the ABA believes that banking institutions would be reluctant to develop new and innovative products to suit the financial needs of their customers.

The Bond/Wirth Amendment would alleviate many of our concerns in this area. By providing that deposit instruments and loans offered by insured depository institutions are not subject to CFTC jurisdiction, the Amendment would clarify the legal status of these products. In addition, the Amendment would ensure that banking institutions will be able to continue to offer these bank products to their customers, as well as to keep pace with market demands by developing and offering new and innovative products that suit their customers' needs. Moreover, federal oversight over these products will be assured as they will continue to be subject to federal and state banking regulation.

The ABA appreciates the opportunity to express its full support for the Bond/Wirth Amendment. The ABA staff will be pleased to work with you and your staff to address these important issues for the banking industry.

Sincerely,

EDWARD L. YINGLING.

Mr. SIMON. Mr. President, I shall be very brief. I agree with some of the things that my colleague from Connecticut said. There is no question that the means that we have in this country for raising capital is extremely important to our country, which is one-fifth of the world economy, and important to the world. Just today, I think, in the Washington Post, maybe the New York Times, is a story about Poland's experiment in the stock market. They are going to open it up, I believe, in a few months. They have followed our means of raising capital, and they are trying to learn from us.

Second, I agree with the Senator from Connecticut in saying we should not worry about whose jurisdiction, whose toes we are stepping on. We have to do what is best for this country. But there is also on old saying, "If it ain't broke, do not fix it." And the system that we have is working basically pretty well.

Now, there has been some concern about margins. A year ago when we were talking about this not on the floor, but basically off the floor—I see Senator GRAMM, from Texas, here. We were talking about margins. And there has been a compromise here where we give jurisdiction ultimately to the Federal Reserve on that important question of margins. So, if the theory was correct—and I do not happen to believe it was correct—but those who say the futures market has been responsible for excessive velocity in the markets so that we can regulate it a little better, that has been taken care of.

The second major problem is the hybrid problem. Here my friend from Connecticut talks about if something is 51

percent one way or 51 percent another, there are going to be huge problems. They are rarely in these hybrids any 51 percent things. They are 80 percent, 20 percent. They are overwhelmingly one or the other. And the compromise that has been worked out here I think is a very practical compromise.

What the amendment offered by my friends from Missouri and Colorado would do would tilt things very dramatically in the direction of the SEC. And if we just ask ourselves which of the bodies has more problems within its jurisdiction already, the SEC or the CFTC, it is fairly clear almost every day's newspaper has some kind of an SEC problem. For us to shift more jurisdiction in that direction, I do not think makes sense.

Then, finally, Mr. President, I think one of the rules that we ought to follow in this whole area is the rule of prudence. Let us be careful. The Agriculture Committee, much to the credit of Senator LEAHY and Senator LUGAR, has come up with a carefully crafted answer that moves, but does not move too dramatically, moves more than the House. The House has simply reauthorized CFTC as it is right now. Candidly, we could leave that reauthorization as it is right now and I think have no jeopardy to the capital markets in this country.

But this compromise has been fashioned, and the futures industry has accepted this compromise. Frankly, I am a little surprised that they have accepted as much of a compromise as they have. But let us exercise prudence. Let us not accept in Bond-Wirth amendment that could cause real jeopardy to the future of something that is extremely important to the economy of this country and the economy of the world.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in support of the Agriculture Committee bill and in opposition to the Bond-Wirth amendment.

Mr. President, I guess everybody that has spoken today has said that this is a complicated, technical issue. In a sense it is a complicated, technical issue. But in another sense, we have voted on few issues in the 7 years that I have been in the Senate that have been any more clear-cut than this issue.

It is always instructive, when you are looking at a jurisdictional dispute, to go back and look at the source of the dispute. I do not want to go all the way back, but let me go back 3 years to talk about the source of the current controversy, because I think it is very instructive as to what we are talking about.

I remind my colleagues that 3 years ago there was an effort made by the Ag Committee to reauthorize the CFTC and to strengthen its enforcement powers. The Ag Committee had held a series of hearings. They had looked at problems that had emerged as the futures market had expanded and they sought to give more power to the CFTC to try to strengthen the market and to try to protect the public interest.

If we all think a little bit, we will remember what happened. What happened was that the SEC sought at that time to take jurisdiction over stock index futures from the CFTC and transfer them to the SEC. Three years later we are still involved in this debate.

Let me remind my colleagues a little bit about the source of that dispute. In 1978 an effort was made to trade stock index futures. A petition was made that they be allowed to be traded and the SEC, which is being portrayed to us today as this "fountain of all innovation and competition," looked at stock index futures and said, "They have limited utility. They have no demonstrated economic purpose." So the SEC said do not let these instruments be traded.

I remind my colleagues, that was in 1978. This whole story reminds me of an analogy, where a baby is born and the baby is ugly. So the mama of this baby puts this baby up for adoption. That, in essence, is what the SEC did in 1978.

They said we do not want this baby. This baby is ugly and we do not want to have anything to do with it.

So they put it up for adoption and along came the CFTC, which adopted this baby and took it off to the country. It grew up with its country cousins, pork bellies and grain futures, and it prospered and became one of the most important financial markets in the world.

Now, 3 years go by and the SEC comes back and says: "I love this baby. I want this baby back. This is my baby. I love it. I want it back." It cried great tears, demanded to have the right—maybe to kill the baby for all I know—but they wanted it back.

We were not swayed by those tears. We were not swayed and that effort was defeated. But our efforts to strengthen the regulatory powers of the CFTC were prevented from becoming a reality because of this jurisdictional dispute. Now we are back in round 2. Round 2 is called the Bond-Wirth amendment and before I get into it, let me remind my colleagues where we are in this debate because I think it is very important. I am sure a lot of legislative assistants are sitting in their offices—I hope you are listening to me; if you are, pay attention—trying to decide how to advise your Senator to vote. Let me remind you where we are.

First of all, the House dealt with this issue. They rejected all these changes. They adopted a clean reauthorization bill that simply strengthens CFTC's enforcement powers but does not get into this jurisdictional dispute at all. They do not have any intention of getting into it.

That is one half of this puzzle that is coming to the conference committee. When the Ag Committee, after 3 years of frustration, decided to work something out, the Treasury had opposed the CFTC's position and they sat down and worked out a compromise. This compromise, as one would expect, is an effort to come together and to work out an agreement.

They came together and worked out an agreement and it represented compromise on both sides—not unheard of, I would say, in the democratic process. This compromise was a compromise whereby the CFTC gave up its power to set margins. It gave it to the Federal Reserve Board. The fact that these margins have nothing to do with credit, and it makes absolutely no sense economically or logically, did not change the fact that it was part of the fabric of this compromise. The proponents of change wanted the Fed to have this ability to set margin requirements, even though the margin on a future is earnest money, whereas margin on a stock is downpayment on a loan.

But the CFTC made the compromise. The Treasury entered into an agreement and the agreement deals with hybrid products. Let me remind my colleagues that basically, while there is dispute about what the current law says—it was written before any of us on the floor were here; had we been here, of course, it would have been clearer—but that law basically says that anything that has any futurity in it belongs to the CFTC.

We can debate about that, but that is basically what the law says. What did the CFTC say in a spirit of compromise? The CFTC said: Look, rather than spending millions of dollars on lawyers, spend $10 on a calculator and basically, in a hybrid product that is part a future and part a security, if it is more like a security than a future, give it to the SEC and the securities market. If it is more like a future than a security, give it to the futures market and let it be regulated by the CFTC. And set up a simple process to try to calculate it. That was the essence of the compromise.

Now we are caught up in this battle of egos. Now the SEC, rather then claiming victory, which would have been wise, claims that this compromise is a great defeat. Those of us in politics understand you get defeats every day. But in any case we are now involved in this ongoing jurisdicational dispute whereby the whole 70-year financial regulatory process of the country is proposed to be turned on its head.

And that brings me to the Federal Reserve Bank. I have the highest regard for the Chairman of the Federal Reserve Board. He has been quoted many times today on the floor but let me try to place what he said in context.

First of all, he said that the committee bill before us is an improvement on current law. As compared to current law, he is in favor of the committee bill. If the vote is on adopting the committee bill or not adopting it, Chairman Greenspan is in favor of the committee bill. Nobody will disagree with that.

Chairman Greenspan, however, says there is a preferable alternative and that alternative is to allow financial instruments to choose which market they will trade on. Let me remind my colleagues that for 70 years we have had what is called functional regulation. Functional regulation is where we look at what something is, and then it is regulated by an entity that is specialized in regulating that type of financial asset.

Chairman Greenspan did not disagree with the thesis that this is counter to the current banking bill which is pending before the Congress, which is a movement away from letting different financial institutions choose their regulators. We had great experience with that, I might say, in the current financial crisis in the S&L's and the banks. In fact, for 15 years, virtually everything we have done in the name of regulation reform has been movement toward functional regulation.

The Chairman of the Federal Reserve Board is an economist and he believes that we ought to, in the equities and the futures markets, change 70 years of regulation and let new instruments choose which market they want to be in and who ought to regulate them.

Mr. President, maybe that is a good idea and maybe it is a bad idea. But it is a dramatically different idea than we have contemplated.

While I am going to argue that it is a bad idea, I guess I would say to my colleagues that if we are going to turn 70 years of regulatory process on its head, we ought to be doing that on a bill that is dedicated to that purpose, not a simple reauthorization bill for only one of the two affected agencies. If we are going to radically change the regulatory process whereby we regulate financial instruments in this country, we ought to hold many hearings, not one 90-minute hearing. We ought to have a bill dedicated just to that purpose. We ought to reauthorize the CFTC and then come back and adopt a bill to change dramatically the regulatory structure.

Mr. President, I do not think we are ready to do that. But let me explain why I think it probably is not a good idea.

First of all, futures and equities are not the same thing. That is why we have a Commodity Futures Trading Commission and why we have an SEC. If I sell you a stock, then that is an arm's-length transaction and I do not incur any liability in the process. If I sell you a future, there is an obligation for future delivery, and I take on some risk. The market for futures and the market for securities is fundamentally different, and that is why we regulate them separately.

Mr. President, while Alan Greenspan would like to change that and simply let these new emerging instruments choose their market, that is not really what the Bond-Wirth amendment does. It does not go as far as as Chairman Greenspan wants to go. It simply says that traders in futures can choose the equity market, but it specifically denies equities that are in this transition range on this continuum from moving in the other direction. It would allow stock exchanges to trade futures on individual stocks, but it would not allow these futures to be traded on a futures exchange. It gives the power of designation to the SEC, not to the CFTC, not to a joint determination.

Mr. President, if the logic of the Greenspan proposal is to allow new emerging instruments to choose, then we ought to let them choose and we ought to let them move in both directions. We ought to repeal the old agreements that prevented options from being sold on the futures exchanges. We ought to allow options to be sold anywhere and allow these hybrids to be sold anywhere.

That is not what the Bond-Wirth proposal does. The Bond-Wirth proposal is totally one-sided in that it allows futures to move under the jurisdiction of the SEC and, even further than that, it allows the SEC to have the power to designate.

Mr. President, what stuns me is that all of this is done in the name of competition, in the name of innovation. I ask my colleagues, is there anybody who is willing to say in the last 15 years that the SEC has allowed more innovation than the CFTC? In fact, Mr. President, I do not believe that the SEC would make that claim. I do not think any living person would make that claim. In fact, almost all of the financial innovation in the country has come from the futures exchanges which have been the very hub of innovation, not only in this country, but in the whole world.

In fact, I raised an example yesterday that I would like to raise again today: If stock index futures did not exist today, but came into existence in the future, and if the Bond-Wirth amendment as now written were the law of the land, and if SEC claimed jurisdiction and then refused to let them be traded, then, Mr. President, I am not certain that they could be traded.

Let me talk about foreign competition. What is the major impediment today to America's competitiveness on the world financial market?

Before I answer my own question, let me make it clear that we dominate the world market because we dominate the trading of American securities. But if we were going to take an action today that would increase America's competitiveness and increase our share of the world's financial market, what would we do?

I do not think we would adopt this amendment. I think we would by statute override the Securities and Exchange Commission which, despite requests by the New York Stock Exchange to be allowed to trade foreign securities and to interpolate from foreign accounting procedures to our generally accepted accounting procedures, has denied those requests. We would override the SEC and allow foreign securities to sell with the review of the New York Stock Exchange. That does not happen today because the SEC forbids it.

Mr. President, I have heard several examples of these phantom securities that are precluded from trading because of these jurisdictional disputes. There may be securities that have been precluded, but every time that I have tried to run one down—and I stand to be corrected because there are tens of thousands of them—but every time I try to run one down, it is either about to be traded somewhere else or it is being discussed somewhere else, or it turns out to be some gold index that is traded abroad because they did not want to meet the stringent reporting requirements in the United States.

So I am not claiming that every instrument finds America its home. What I am claiming is that we are the source of 99 percent of the innovation in the financial markets in the world, and at least 90 percent of that 99 percent comes in the futures markets under the jurisdiction of the CFTC.

Mr. President, what the Bond-Wirth amendment does is take half of the Greenspan proposal. It says "let futures trade on the equity market," but it does not say "let options trade on the futures market." It does not say let futures on individual stocks trade on the futures market.

Do my colleagues know why? Because the New York Stock Exchange is opposed to that. Mr. President, all we are saying is that you have freedom of choice in one direction. You have freedom of choice in the Soviet Union. You can join the Communist Party or not—at least in the Soviet Union prior to 5 years ago.

I want to be sure the equities markets of America understand what is going to happen if the Bond amendment is adopted. I hope we will be so wise as to reject the Bond amendment, and I feel increasingly confident we

will. But I want to tell my colleagues, if this amendment is adopted, then I intend to come to the floor with other amendments and repeal all of the prohibitions that prevent options from being traded on the futures market and all of the prohibitions that keep hybrids from moving back in the other direction. If we are going to let futures trade on the equities market, why can we not have futures on individual stocks trade on the futures market?

Mr. President, listening to Chairman Greenspan yesterday, that is clearly the kind of regulatory regime he envisions, but that is not the regulatory regime that is going to be presented to us as an alternative either today or tomorrow. It is a one-way choice which raises the regulatory authority of the financial regulator that has been the least innovative and that has, in fact, tried to prevent the trading of stock index futures which have been the premier new instrument of the last 15 years.

Mr. President, in sum, we have a bill before us that is a compromise. It is, quite frankly, not my first choice. My first choice is to do what the House did, which is to leave the jurisdiction the way it is, to leave the commodity futures legislation as it now exists, so if something is a future it is regulated by the futures market; if it is a pure security, it is regulated by the SEC.

The problem is that while the proponents of stock index futures never had the votes to be successful, they had the votes that were sufficient to prevent us from reauthorizing a major regulatory agency and to prevent us from strengthening its ability to do its job. So in trying to accommodate the concerns, we have worked out a compromise. It is a compromise that is supported by the Treasury.

I know we have had a half a dozen people come over here and say, you know, the Treasury really would like to have had something else.

I do not know if that was an option they had. They may or may not have wound up with their second or third choice, but they made a decision and said "We do," and society respected it and most people were happy with it and rejoiced.

Whether this was the first choice of the Treasury Department is irrelevant. What is relevant is they have said "We are for this bill. It represents a compromise that we do support. It is a compromise. We did not get every single thing the way we wanted it, but we got enough that we are satisfied with it. We are signed on to it."

They have gotten the futures industry and those involved that have agreed to try to support this provision in conference. The Bond-Wirth amendment has no agreement. In fact, it is probably that no conferee would support that provision since the Agriculture Committee voted unanimously for the compromise.

So what did the Treasury get? They got part of what they wanted. They got an agreement that what they do get here, they are going to have an excellent change of getting in conference. They said a deal is a deal. We accept it. The Secretary of the Treasury is for it. The administration is for it. The administration has taken a position in favor of it. The Office of Management and Budget signed off on this position.

Now, all of a sudden, we have all of these people who are saying this really was not the President's first choice.

Well, Mr. President, all I know is the Treasury Department supports this provision. The Treasury Department opposes the Bond-Wirth amendment.

Finally, Mr. President, let me just say to those who like this idea of shopping the regulator, it is a new idea. It is not an idea that I have completely thought out. It is not an idea that I fully understand.

I would submit that probably there is not another Member, certainly not more than five, who have really had an opportunity to think through this revolutionary process. If we decide to go in that direction, it is something that ought to be studied for a year. We ought to have dozens of hearings, and we need a bill that goes both directions, not one direction.

So I urge my colleagues to end this 3 years of debate, reauthorize the CFTC, give them the strength they need to enforce the law and protect the public interest, accept this compromise which the Federal Reserve Bank says is an improvement on current law. Then, if we want, we could come back and have hearings—bring in expert witnesses, listen to the stock exchanges, look at trading options in Chicago, look at futures on individual stocks, let the New York Stock Exchange see if they really want that, let the Chicago Mercantile Exchange see if they really want that, give them a chance to be heard—and then make that decision.

My guess is we will not make that decision; it will not turn out to be a good idea; they will not be for it. But in any case, if we are going to decide that, we ought not do it here on this bill today.

So I urge my colleagues to support the committee's compromise—hard won, reasonable, practical. Reject the Bond-Wirth amendment. Now is not the time to turn 70 years of regulation on its head. And then, if this has merit, error alone needs the support of government. The truth will stand by itself. This idea will come up. We will debate it. We have 5 years for debate under the current reauthorization. If it has merit, we will end up doing it. My argument will be if it has merit, let us merge the two agencies.

Mr. President, it has been a long speech, but I think with all that has been said, it was important to try to put into the language of everyday people what the dispute is about. I hope my colleagues will reject this amendment when it is offered and let us get on with the business of protecting the integrity of America's financial markets, the best financial markets in the world, the envy of the world, with regulation that has been based on functional regulation.

I yield the floor.

Mr. CONRAD. Mr. President, I rise to strongly support S. 207, the Futures Trading Practices Act of 1991. I might note that I supported this bill when it passed the Senate Agriculture Committee in 1989.

This piece of legislation has been a long time coming. I can say, as a member of Senate Agriculture Committee, this has been scrubbed and washed and reviewed and analyzed so long that I think everyone ought to be ready to accept the reasonable compromise that is embodied in this bill.

Mr. President, very simply, this legislation is designed to strengthen the regulation of futures trading in the United States. The purpose is to assure that U.S. futures markets are most efficient, the most honest, and the most fair in the world. It makes several important changes in the operations of the Commodities Futures Trading Commission and of the futures exchanges.

First, as a consequence of the 1989 hearings—and I might just say to my colleagues who are listening, those and the 1991 hearings were extensive. We have heard some assert that this bill has not had a thorough review, that there have not been extensive hearings. I do not know where they were, but they were not sitting in that hearing room hour after hour when we heard witness after witness testify as to their views on the legislation before us.

First, as a consequence of those 1989 hearings, the futures industry is already well on the way to developing a computerized system of tracking floor trades which will allow closer regulation and supervision of floor traders.

Mr. President, I came to this body as a former State tax commissioner. I have had hundreds of auditors working for me. I know the necessity of having a good audit trail in order to assure ourselves there is not fraud in the markets.

The question before this body is very simple: Are we going to take action once and for all to assure the American public that they are safe, that they are secure, that they can be reasonably assured that they are protected from fraud and abuse in these markets?

Mr. President, this bill also strengthens the conflict of interest rules. I was instrumental in obtaining that strengthening of the conflict of interest provisions which are in this bill. My provision prohibits members of

governing boards from participating in issues before the board in which they have a financial interest.

That sounds like an entirely reasonable thing. One would have expected that was already in the law. Unfortunately, it was not. That is hard to believe. We actually had people making decisions on issues before governing boards in which they had a financial interest.

Third, and particularly important, the CFTC is given additional regulatory powers and resources to more closely monitor the exchanges. One of these additional powers includes the second of my amendments. My provision allows CFTC to suspend from trading those who are caught violating the rules so they can be immediately removed from the fiduciary role of serving customers.

Mr. President, hard as it may be to believe, people who had been indicted for fraud and abuse were actually allowed to continue operating in the marketplace, buying and selling on behalf of clients. It is hard to believe. But that occurred. It could occur again unless we take action.

That is why this legislation is important. The Senate Committee on Agriculture passed this legislation unanimously. Every single member of the Senate Agriculture Committee that sat through weeks of hearings, hours and hours of debate, signed off on this legislation—not one dissenter. Every Republican, every Democrat, is on board with this legislation.

We have worked on a bipartisan basis with a wide variety of groups to develop a fair and effective piece of legislation. Not only have farmers and commodity groups participated in developing this bill, but also the Commodities Futures Trading Commission, the Department of Treasury, the Federal Reserve Board, the futures industry, the securities industry, the swaps industry, the banking industry, and other interested parties as well.

We have listened and we have been willing to make the technical adjustments in the language to assure that the legislation is specific and fair, and within the jurisdiction of the Agriculture Committee.

The futures markets comprise an industry essential for managing risk by sellers and buyers of commodities whether those commodities are wheat, oil, or stocks.

In addition to those hedgers, a small group of professional traders also engage in futures trading. Commodity prices are extremely volatile, moving in response to changes in the weather, international policy, trade policy, technology, interest rates, and currency exchange rates. Trades on futures exchanges are risky because futures trades are essentially bets that the prices of commodities will move in a particular direction.

I can tell you, Mr. President, there is nothing more volatile than commodities prices. However, precisely because of the volatility of commodities prices, futures markets are essential to risk management for a broad spectrum of businesses and individuals, ranging from wheat and cattle producers in North Dakota to managers of retirement fund portfolios with large investments in stocks and bonds. It is critical that this industry be regulated efficiently and fairly. This legislation, in my judgment, does that.

Title III of the Futures Trading Practices Act encompasses compromises on a number of highly controversial issues. First and foremost, the Federal Reserve Board is given authority to determine margins for stock index futures and stock index options traded on futures exchanges. This change was adamantly opposed by many and is a major component of the compromise.

I might say that the CFTC gave up significant ground in this compromise. They previously had jurisdiction in this area and they were willing, as part of a constructive compromise, to give up that margin setting to the Federal Reserve. I think that point should be noted. There are those who suggest the CFTC has been unwilling to compromise. In fact, they have given significant ground in the legislative vehicle before us.

I believe that change is important because it is good policy to coordinate the margins of stocks and stock index futures.

Second, the Commodity Futures Trading Commission is given authority and direction to exempt swaps from regulatory oversight if those swaps meet certain criteria. CFTC is given residual authority to reregulate swaps markets that do not operate in the public interest.

The committee did not believe the Federal Government should allow a major futures-type financial industry to be totally without regulatory oversight of any kind.

We will not allow the circumstances to arise that would see a repeat of the savings and loan debacle on our watch. As long as there are no abuses, the exemption of swaps from day-to-day regulatory oversight will continue.

The committee does not anticipate any of the current participants in the swaps industry are engaging or wish to engage in fraudulent activity. However, we are aware there are people in this world who are not completely honest and, unfortunately, some of them find their way into the futures markets, into the swaps industry, and should have ovesight.

Third, Mr. President, the controversy over trading stock index participations, securitized futures contracts, on stock exchanges is resolved by allowing these instruments to be traded on stock exchanges under a grandfather clause if they were created prior to December 31, 1990.

This seems to be the only way to settle the problem because, while the courts have ruled that stock index participations are futures contracts and should be traded on futures exchanges, a number of the Members of this body continue to demand that stock exchanges be given authority to trade these instruments.

Mr. President, this is a compromise in the best sense. It is a very difficult issue and ultimately we decide it. The fairest way to conclude it was to allow those who have already been trading on there exchanges to continue to do so.

Fourth, title III provides a compromise resolution of the controversy over hybrid instruments which have characteristics of both futures contracts and stocks or bonds.

Fundamentally, hybrids are those instruments that have both an element of futurity to them, but also have an element of security to them. The CFTC is provided with the authority to exempt certain instruments from its jurisdiction even though they are futures type instruments.

In addition, the compromise allows hybrid instruments with futures characteristics whose value is less then 50 percent dependent on the change in commodity prices to trade on stock exchanges.

This is a bright line test. That is what legislating is all about. In very complicated circumstances, we are asked to draw a line, to make a distinction. That is what we have done. Is it a perfect line? No one can honestly stand here and say, absolutely, this is where the line should be drawn.

Mr. President, there is no perfect answer to this question. Unfortunately, the controversy before us demands resolution. If we are going to protect the investing public, we have to make a decision.

The worst thing we could do in my judgment is to draw some fuzzy line, some line that would lead to endless litigation and controversy in the courts. What we have done is to say we are ready to draw that line, to draw it clearly and distinctly so that we do not find ourselves with 10 years of litigation and controversy in the courts.

Mr. President, it should be understood this compromise sharply reduces the authority of the Commodity Futures Trading Commission by eliminating from CFTC jurisdiction many instruments which have futures characteristics.

Just to review where we started this story, in current law CFTC has exclusive jurisdiction over futures instruments.

The CFTC is giving up jurisdiction, just as they did on the question of setting margins. Once again, in a good-faith attempt to compromise, they gave up jurisdiction.

This element essentially guts the 1974 provision that all futures contracts are to be regulated by the CFTC. The purpose of this compromise is to provide a fair and reasonable division between the regulatory authorities of the SEC, Securities and Exchange Commission, and the Commodity Futures Trading Commission, the CFTC.

I personally believe that this compromise is fair and reasonable for both the futures industry and the stock exchanges; but, most importantly, for the investing public.

Mr. President, our bottom line responsibility here is to all parties to the dispute. Clearly, we have concern about the futures industry in those parts of the country that are heavily dependent on agriculture. We also have a concern, in our role as stewards of the public interest about the stock exchanges of this country. But, most importantly, we have an obligation to the investing public.

This legislation advances the interests of the investing public. It continues to provide the investing public, particularly small investors, with a clear distinction between playing the more risky futures markets used by hedgers and professional traders and making less risky investments in publicly traded corporate stocks.

That is a very important point, Mr. President, very important. The futures markets are highly risky, and the investing public ought to understand that there is a distinction between investing in futures instruments and investing in stocks and bonds.

Mr. President, this provision continues to provide the investing public with that very clear distinction. It also provides a reasonable Federal oversight of margins on stock index futures. It provides rational Government policy on swaps, and it achieves a reasonable settlement of the stock index participations issue.

This is an excellent compromise, which protects the public interest while allowing for innovation and competition. The Futures Trading Practices Act, S. 207, should not be controversial. Unfortunately, this reform legislation has been caught in a jurisdictional dispute with the Securities and Exchange Commission. That, in my judgment, is regrettable. The SEC has a long and honored tradition, and has worked with the CFTC in the past to resolve jurisdictional issues arising from the development of hybrids.

Some people would like to deregulate the trade in futures contracts by allowing these highly risky instruments to trade on stock exchanges and to be sold by stockbrokers. Regardless of what they are called, these hybrid futures contracts will be futures contracts whose value depends on changes in commodity prices.

Proponents of this view offer dozens of arguments for deregulating futures contracts. However, the basic underlying reason for advocating the change is that the stock exchanges wish to make money by selling futures contracts retail to small investors.

Mr. President, this would be a very serious mistake for several reasons: First, some argue that futures contracts and stocks should be traded on the same exchanges. This, in my judgment, would harm the investing public. By making a clear separation of futures markets from stock markets, consumers are clearly warned against dabbling in futures contracts, unless they have a sound reason to hedge risk.

Exposing an unsuspecting public to hundreds of new futures type instruments traded on stock exchanges is a prescription for financial disaster for thousands of Americans. How will we explain this sudden change to retired Americans, who thought they were investing in stocks, but lost their life savings on risky futures contracts traded on stock exchanges?

Mr. President, I hope our colleagues will think very carefully of what kind of confused and mixed messages we will send the American public, if we make these radical changes without so much as a hearing focused on the specific elements that are in this new amendment before us.

Second, some argue that limiting futures contract trading to futures exchanges denies retail investors the ability to invest in instruments of their choice. Contrary to this assertion, retail investors may currently purchase futures contracts on futures exchanges. Furthermore, futures contracts are risk management tools. Users of futures who are managing risk are called hedgers. They are hedging risk. Users of futures who are not hedgers are often called speculators.

Do we really want to recruit a whole group of small invetors across America to be speculators? Is that really what we are about here in this Chamber? Is there an unsatisfied group of small speculators who are anxious to put their money at substantial risk? If so, they can already speculate on futures contracts under the careful regulation of the futures exchanges and the CFTC.

Third, some argue that exchanges should be able to trade any kind of instrument they want, whether it is a futures contract or a stock. This is really an argument that the regulation of stocks and futures should be subject to identical rules. It is not a sound argument.

The regulation of futures exchanges differs substantially from the regulation of stock exchanges because of the nature of the instruments. Futures trades are risk management tools. Stocks and bonds are claims on corporate entities. Separation in trading allows for specialization in regulation. Dual regulations would be required to properly regulate futures contracts traded on stock exchanges. One set of regulations would be required for stocks, and another for futures contracts.

Fourth, some argue that a level playing field for the two types of exchanges will be created by allowing creators of new instruments to select the exchange in which they will trade.

Mr. President, that is an open invitation to deregulation, because new instruments will be traded on the exchanges which regulate the least. In the case of futures contracts, the least regulation can be expected from the SEC. That is clear. That will not create a level playing field; it will create another deregulation disaster for the American public.

Fifth, some argue that the United States needs to allow stock exchanges to trade futures contracts, the so-called hybrids, so that we can be competitive in the world. In fact, our futures industry is already highly competitive nationally and internationally. Our futures industry has led the way in creating new risk management instruments for trading internationally.

Sixth, some argue that not allowing futures contracts—again the so-called hybrids—to be traded on stock exchanges damages the ability of U.S. corporations to raise capital. It is important to remember that future contracts are for the purpose of hedging risk, not raising capital.

No one can seriously believe that it will help U.S. industry to get heavily involved in speculative activities by buying and selling futures contracts. To assert that futures-type contracts are needed on stock exchanges to facilitate the raising of capital is to seriously confuse the purpose of capital raising and risk hedging.

Seventh, some argue that the 50-percent test designed to determine whether an instrument is a futures contract or a stock or bond is unfair because it is inherently unworkable and because the CFTC would not apply it equitably.

In fact, the record shows the test is workable, and the CFTC has provided numerous examples of how it will be used for various instruments.

Financial instruments whose value is 50-percent dependent on a play in the commodity prices are risky and should be considered for trading on futures exchanges. The CFTC has not and will not abuse power to regulate futures-type contracts. The CFTC, in fact, is losing jurisdiction under this compromise.

I have no interest in participating in a destructive deregulatory scheme promoted by various parties. Futures contracts are extremely risky by nature. They are also essential to risk management for a large number of industries.

Might I say that other members of the Agriculture Committee have no interest in participating in a destructive

deregulatory scheme either. Futures markets work best when carefully and cautiously regulated. I believe that is verified by the 800-percent increase in trading of futures contracts since the implementation of the 1974 Commodity Exchange Act.

Eighth, some argue that the swaps compromise is destructive of the swaps industry. In truth, the number of technical corrections and compromises have been made in the swaps language, the swaps industry has signed off on the new language and is supporting the bill.

Mr. President, in conclusion, I strongly support this carefully crafted compromise. The Department of Treasury also supports the compromise. We have tried to draw a very careful line between the jurisdictions of the SEC and the CFTC. Many will argue that this line should be shifted a little one way or the other. In truth, this legislation has moved the line between SEC and CFTC jurisdiction in favor of the SEC on hybrid instruments.

My colleagues who oppose this compromise are, I believe, well intentioned. They are, however, advocating a position which is anticonsumer, antismall investor, and which, if implemented, would mislead the American public. Deregulated the sales of futures-types contracts will put at risk the savings of thousands of retirees and other small investors unnecessarily.

Let me conclude by saying again that I strongly support the careful compromise embodied in the Futures Trading Practices Act of 1991 and urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Missouri.

Mr. BOND. Mr. President, a number of things have been said about the proposed amendment that, frankly, have been said very eloquently but are not truthful. They do not reflect the real situation. I think it is important that we take a few moments and point out what the proposed amendment does and what it does not do.

First, let me comment, in reponse, that this destructive deregulatory scheme which we have heard is so vehemently opposed was in fact the basis of the compromise that was worked out last year by five Senators who are very much concerned about the problems with hybrids, the problems in the conflict between the CFTC, and the SEC and the need to establish Federal Reserve authority over stock index futures margins.

The five Senators, I restate one more time, who agreed upon that compromise were the chairman of the Agriculture Committee, the ranking member of the Agriculture Committee, the chairman of the Securities Subcommittee of the Banking Committee, the ranking member of that subcommittee, and me, who happens to have the great pleasure of being the only member who was serving on both committees. To say that it is a destructive deregulatory scheme, I am afraid, is a flight of fancy and hyperbole that we have to call to task.

We are not talking here about allowing futures to trade on stock exchanges or securities to trade on futures exchanges. There is a very clear body of law which says that the things that are clearly futures, 100 percent futures, the "plain vanilla futures," will and must trade on futures exchanges. Similarly, stock equity products are going to continue to trade on stock exchanges. We recognize in the proposed amendment the Johnson-Shad accord which divided jurisdiction between the SEC and CFTC in 1982. Contrary to what some of the opponents to the Bond-Wirth amendment say would be unacceptable, the amendment would allow people to choose whether they want to buy a stock index future or a stock index option. We have competition now between futures exchanges and stock exchanges. If you want to make a hedge or take a position based on where you think the stock index is going to go, you go to the futures exchange or you go to the securities exchange. That is competition that is good. That is what Chairman Greenspan said was good.

My dear friend from Texas said this is simply a battle of egoes. Having watched a litle bit of this battle, I will have to say that some of the regulators do get quite heated, and I guess, in all candor, I ought to confess that some of the Members of this body get quite heated and get themselves deeply involved in the arguments. But let us not say this is a battle of egoes when we already have a clear-cut statement by people who are involved in this regulatory field that the Bond-Wirth amendment, the amendment that I prepared with my colleague from Colorado, is a significant improvement over S. 207 as it applies to title III.

The Federal Reserve Chairman, Alan Greenspan, has said clearly the Wirth-Bond amendment is preferable. So has Bob Glauber, of the Treasury, who said that the Treasury had agreed to accept the language of the hybrid section because they wanted margins, but when pressed by the chairman of the Banking Committee and the ranking member yesterday, he said, yes, Bond-Wirth is better. Yes, clearly as a matter of policy, it is better. The Securities and Exchange Commission has presented its view. Certainly the testimony of Richard Breeden, the Chairman, yesterday was very persuasive. But I hope that my colleagues have had the opportunity also to read the letter from Mary Schapiro, an SEC Commissioner. It was introduced earlier today by Senator GARN. Commissioner Schapiro comes with the unique qualification of having served as counsel of the CFTC and as counsel to the Futures Industry Association. She knows both areas very well, and she said clearly the time has come when we have to do something about the exclusivity clause. I could give you a list of the many organizations. I am going to confine it to organizations and not just individuals, who have written to us saying that the Wirth-Bond amendment is preferable: The New York Stock Exchange, the American Exchange, the Office of the Controller of the Currency, the Federal Deposit Insurance Commission, the American Bankers Association, the Securities Industries Association, the Options Clearing Corporation, the Securities Traders Association, and the International Swap Dealers Association.

Wait a minute. I believe my colleague from North Dakota mentioned the International Swap Dealers Association. We have here a letter of April 15, 1991, from the International Swap Dealers Association, and it lists the members. It says in conclusion the members of ISDA believe it is of the utmost importance that the 102d Congress enact legislation. The CFTC proposal is a significant improvement over S. 207 as it was reported by the Agriculture Committee. The alternative proposal, which is the proposal submitted by my colleague from Colorado and me, would provide market participants with broader and cleaner assurances regarding inapplicability of the CEA to the swap business. Mr. President, I will provide my colleague from North Dakota and submit for the RECORD later on a copy of that letter for their information.

Mr. CONRAD. Will the Senator yield on that point?

Mr. BOND. I am happy to.

Mr. CONRAD. I do not know if the Senator has seen the letter dated April 15.

Mr. BOND. Yes.

Mr. CONRAD. I do not know if the Senator has seen a letter from the International Swap Dealers Association dated April 16. But I have in my hand that letter addressed to the chairman of the Agriculture Committee. At this point, with the Senators forbearance, I would just like to read into the RECORD the very short letter from the International Swap Dealers that says clearly they are supporting S. 207 as amended.

Perhaps I do not need to read the whole letter. I will just put it in the RECORD with the Senators' forbearance so other Members can see for themselves.

They had earlier responded to S. 207 prior to technical amendments. Now when they had a chance to review it with the amendments they are supporting the bill just as I indicated. I can understand the confusion given the fact that there were two bills—the bill as reported from the committee, versus the bill after being amended by the committee amendment.

I ask unanimous consent that the letter be printed in the RECORD.

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

INTERNATIONAL SWAP
DEALERS ASSOCIATION, INC.,
New York, NY, April 16, 1991.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: This letter responds to your request for clarification of our views regarding the provisions affecting swap agreements contained in the proposed substitute for Title III of S. 207 submitted to Senator Leahy on April 9, 1991. Members of International Swap Dealers Association, Inc., including 136 commercial banks, securities firms, insurance companies and others, act as dealers in swaps.

As we have stated before, we believe it is essential that the 102nd Congress adopt legislation that will provide legal certainty for the $2.5 trillion swap business by confirming that the Commodity Exchange Act does not apply to swap transactions. Unfortunately, S. 207, in the form it was reported by the Agriculture Committee, did not provide the needed certainty and was potentially harmful to the competitive position of U.S. firms in the worldwide swap business. We discussed these problems in detail in our April 9, 1991, letter to Senator Dodd.

In light of the problems with the swap provisions of S. 207 as reported by the Agriculture Committee, we appreciate the willingness of the CFTC to participate in detailed discussion of these provisions, and the substantial efforts that have led to the language contained in the substitute for Title III. It represents a significant improvement over the provisions in S. 207 as reported by the Agriculture Committee. In addition, even though this language does not incorporate all of the changes that we would consider important, we nevertheless believe that it represents a significant improvement over current law and if enacted would be both acceptable and beneficial to the industry and other users of swaps.

Respectfully submitted,
MARK C. BRICKELL,
Chairman.

Mr. BOND. I thank my friend from North Dakota. We will be delighted to see what position they take tomorrow. It will be of great interest and I will submit that for the record when we receive a copy of it.

But let me go back to the matter of the importance of changing the exclusivity clause. The reason it is absolutely essential now that the exclusivity clause be changed is that the exclusivity clause has been used to drive offshore markets from the U.S. market, instruments which have been developed for trading on the securities exchange, instruments which are being offered by federally insured banks as a means of either raising capital or providing market opportunities.

The index participation products was offered for trading on the American Stock Exchange and the Philadelphia Stock Exchange. It was approved by the Securities and Exchange Commission. There was a suit filed by the Chicago futures exchanges and the court said, although apparently not convinced of the policy soundness of the argument, the fact that there was some futurity in it meant that the exclusivity clause banned this instrument from trading anywhere but on a CFTC exchange.

The result is that that product has been driven offshore. That product has gone to Toronto to trade, and we understand it will trade in London. Similarly, the Wells Fargo Bank offered a certificate of deposit whose return was tied to a commodity, and the CFTC, despite the fact that the Wells Fargo was subject to bank regulations, exerted the exclusivity clause to prevent trading in or the sale of that CD. This has been used as a sword to stop competitors from the futures industry from offering innovative products.

As I said earlier, we are not talking about what is known as a plain vanilla future or plain vanilla security. I might refer back to the orphanage example, a very colorful example offered by my colleague from Texas. He said that the Securities and Exchange Commission abandoned that ugly orphan, the stock index futures, and they wanted to go back after it became a great success and decided yes, we love you now, we want you back and we want all of it back.

Well, frankly, under the exclusivity clause, not only does the futures exchange which adopted the stock index futures have the exclusive right of that orphan or that financial product, and it and its godfather, the CFTC, have the ability to say to all of the people in the neighborhood you cannot go back and accept any more orphans from that orphanage unless you get our approval or unless you let us take that child. The child cannot be adopted by an institution or a market in the United States. That child, that new financial product, can only be adopted in Tokyo or London or Luxembourg or Toronto. That is where our markets are going.

My colleague from Texas said, has the SEC allowed more innovation than the CFTC or has the CFTC allowed more innovation than the SEC? Good point. Clearly there is tremendous innovation on the CFTC and the CFTC-regulated exchanges. More power to them. I say that is great. Let them go. That is what the amendment proposed by the Senator from Colorado and myself would do.

What it would change is the ability of the CFTC or its regulated exchanges to say to somebody else, oh, you are proposing a new instrument, a hybrid instrument that is part future and part security. You cannot trade it. That is the situation we have now. And that is why our markets are being driven offshore. The U.S. financial position is being greatly eroded as a result.

There are questions raised about dual regulators. Why we could have dual regulators. Well, the assertion that it is unprecedented to allow a regulated entity to choose its regulator is just plain wrong. For years we maintained a dual system of bank regulation. Banks have a choice of a State or Federal charter and thus can be regulated by the Office of Comptroller of the Currency or the appropriate State regulator. In addition State banks can choose to be members of the Federal Reserve system or not, and thus can choose whether their primary regulatory is a Federal Reserve or FDIC.

Conversely, the savings and loan to which my colleague from Texas referred only had one Federal regulator, the Federal Home Loan Bank Board. But it was inept and ineffective.

My point is not to hold up the bank regulatory agencies as models of effectiveness. They are not always. My point is the problem is not whether regulated entities can choose who regulates them, but rather how prudent and tough the statutes that the regulator enforces is.

To continue with the banking metaphor, no one is suggesting the problems in the banking industry would vanish if we merged the regulatory agencies and did nothing else. We are looking at the whole package of changes in the underlying statutes.

Clearly, the proponents of the bill, S. 207, say that it simply applies the so-called functional regulation, and that the Bond-Wirth alternative lets people pick their regulators. The real problem is that banks, insurance companies, and securities already have a regulator and the CFTC has decided that it wants to regulate their products as well. But we do not need to bog down companies with a host of regulators with duplicative and inconsistent rules.

The CFTC believes that it should regulate all financial products that serve a riskhedging function. But as Chairman Greenspan has pointed out, there are a host of products that are already adequately regulated by bank regulators, securities regulators and insurance regulators that perform a risk shifting function.

The alternative that we will propose does not permit banks, securities firms, or insurance companies to issue or trade futures. Congress gave the SEC no authority to approve futures contracts for trading in security markets anymore than it gave the bank regulators authority to permit banks to issue futures contracts. The alternative we propose does not change that result. The problem is, under current law there is no end to what the CFTC considers to be a futures contract. It is not defined in the law.

If we applied the functional regulation to all financial firms, as I said, we might wind up with a single regulator. There is no functional difference between a checking account provided by a bank and a money market mutual fund offered by a securities firm. There

is no difference in many respects between a mutual fund and an annuity contract offered by an insurance company. We might even go further and say that an index participation as it was offered on the securities exchanges was in essence a mutual fund.

The small investor could get into it for $15,000. To get into a futures index on the stock exchange, he would have to have $150,000 to put at risk. Certainly, this is a much more available product for the average family who wants to have a diversified interest in the stock market. As far as regulation and protection, contrary to what my colleague has just said, certainly there is a wide range of regulations and laws in the brokerage business, administered by the SEC and self-regulatory organizations that provide the protections that the small investors need.

With respect to products that are both securities and futures, the alternative that we will propose will let these hybrid products be regulated either by the CFTC or the SEC, based on the market in which they trade. Congress gave the CFTC the function of regulating the futures market. It gave the SEC the function of regulating the securities market. The alternative we intend to propose will provide for real functional regulation by making these agencies perform the functions that Congress gave them.

Finally, as a matter of competition for financial markets, the Bond-Wirth amendment does not change the underlying system of futures regulations or securities regulations. I would point out a couple of interesting comparisons. Let me ask the question. If you were a company with a financial product with elements of both a security and a future, who would decide whether to trade on a futures exchange or a securities exchange? If you are in London, the company can choose it. In Paris, the company can choose it. In Zurich, the company can choose it. In Luxembourg, the company can choose it. In Frankfurt, the company can choose it. In this country, currently, under existing law, it cannot go anyplace but a CFTC-designated market.

Even under S. 207, based on the tests they have provided, the CFTC is the one that devised the test. They would be the ones that prescribe the test. And a judge could make that decision.

Under the proposal we will offer, the company offering that product could make that decision.

Similarly, only in the United States can you be sued by a futures exchange for offering a financial product with elements of a future on a securities exchange. You cannot be sued in London, you cannot be sued in Paris, you cannot be sued in Frankfurt, you cannot be sued in Tokyo, in Amsterdam, or Hong Kong. That is why more and more products are being driven overseas.

The swaps market is, I think, in real danger of being driven overseas, and I believe that the compromise or the alternative that will be proposed will give a much clearer option to the company wishing to provide or sell an instrument, as to how that instrument is structured and where it trades. That is the kind of competitive opportunity that will strengthen our financial markets and not drive them abroad.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. AKAKA). Without objection it is so ordered.

IRAQ

Mr. D'AMATO. Mr. President, I would like to make several observations.

Much has been said recently about the United States action, lack of action, lack of world reaction to what is taking place in Iraq. Let me first say that we should not take exception with the efforts that are being undertaken at this time. Reasonable people may second guess and offer their own conclusions or solutions to a very complex problem. They may say we should have acted sooner, but we are acting and that is what is important, and it is necessary.

I say that I am pleased that the President has undertaken an action that will at least give some temporary refuge to the poor Kurds and to other innocent civilians who have been victimized by this madman, this terrorist, this butcher, Saddam Hussein.

Let me offer this as not a total solution, but at least as a manner by which we can address some of the problems.

Recently we heard that Iraq has petitioned the United Nations to lift the sanctions, to allow it to sell a billion dollars' worth of oil, so that it can buy desperately needed food, medical supplies, and other things for its people. Let me suggest that we do lift the sanctions, but we see to it, because we can control the flow of both oil and revenues, by way of agreement, that those moneys go for the refugees first, for the Kurds, for the Shiites, to pay for this massive effort. And it will be a massive effort, it will be an effort probably bigger than any we have seen in our lifetime in such a short period of time.

So let us use that money and see to it that that money goes to its rightful purpose.

Second, if we are going to say that is the end of this situation because we have nicely washed our hands and we have provided safe haven—and let us hope that we can—that is not going to be an easy job; it is going to be a job that takes time, effort, and money, and I can suggest some of the ways we get some of those moneys and I think it is appropriate that we have to stand up for something.

Let me also suggest that it is hard for me to believe that our European allies in the European Community had the good sense and judgment to finally step up to the plate, not needing us as a prod, to say Saddam Hussein should be tried as a war criminal. I think he should. I think we should tell the Iraqi generals who are still following him that we will not lift the sanctions as it relates to the normal intercourse of business, that they will be treated as the pariahs that they are. Make no mistakes about it, that we will use the world power economically and militarily if necessary to protect innocent civilians. You cannot have it two ways.

So while we commemorated just a week ago and had a great ceremony to the memory of 6 million people who perished because the world stood by indifferently, I do not think that what we are undertaking is sufficient to meet the needs of these people or to really cleanse ourselves of what is an obligation that each and every one of us has, the United States has and the world community.

I hope that we would be in the forefront of this effort.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FUTURES TRADING PRACTICES ACT

The Senate continued with the consideration of the bill.

Mr. FOWLER. Mr. President, I rise to support reauthorization of the CFTC, as unanimously reported from the Senate Agriculture Committee.

I rise in opposition to the amendment proposed by my colleague, the Senator from Missouri, which would fundamentally alter what was agreed to in committee.

This legislation is highly complicated, because it deals with complex subject matter. Unfortunately, it has been severely mischaracterized in some quarters. The controversial parts of the bill have the following consequences:

MARGINS

For the first time, the Federal Government, through the Federal Reserve

Board, has authority over margins on stock index futures.

EXCLUSIVITY

The CFTC's jurisdiction is dramatically reduced by rolling back the exclusivity clause. The bill creates an objective predominant characteristics test. This bright line test allows innovation to proceed by letting the offerer know objectively and up front whether the hybrid instrument will trade under futures regulation or securities regulation.

SWAP DEALERS

Broad exemption authority is required in order to allow the swap market to develop in a competitive and innovative environment. However, the bill ensures there is no regulatory black-hole that would otherwise allow an unregulated futures exchange to develop.

GENERAL EXEMPTIVE AUTHORITY

For the first time in the 70-year history of Federal regulation of futures trading, the Commission would have exemptive authority with sufficient flexibility to address new products quickly. This will allow the development of new products and market systems, but ensure that appropriate regulatory and customer protection safeguards continue.

Proponents of this amendment argue this legislation will restrict competition and inhibit the development of new products. I am not one to stand in the way of progress. Nor am I willing to permit the development of unregulated financial markets that could develop from this "jump ball" approach offered today as an alternative.

This legislation will not restrict competition. It will not prevent the development of new products. Specific provisions have been incorporated into this agreement to insure our financial markets remain competitive world wide.

For instance, this legislation provides an outright exemption to the Commodity Exchange Act for a number of instruments—most hybrid debt instruments, all customized swap agreements, and all otherwise regulated commodity-valued bank deposits.

Furthermore, S. 207 empowers the CFTC to exempt any instrument from the Commodity Exchange Act and the exchange trading requirements "in order to promote fair competition."

If nothing else, the S&L debacle has shown us we cannot affort to allow the development of a regulatory black hole.

Exchange trading is compatible with the development of new, competitive, and innovative financial instruments. These exchanges are some of the most highly competitive in the world. Over their history, they have spawned significant innovation—financial futures, stock index futures, and foreign curency warrants. The spirit of capitalism is alive and well and I am confident that these innovations will continue.

This legislation is extraordinary in its scope. It is a carefully crafted bill that resulted from vigorous debate among market users, both agricultural and financial, futures and securities industries, swap dealers, and four Federal agencies. Nobody gets all they want in this bill. The industry is not entirely happy with it. But it does represent a compromise that does the necessary job of protecting the public interest. I urge my colleagues to join me in opposing this amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, in accordance with prior notice given to Senators, I am about to propound a unanimous-consent agreement for the consideration of amendments to the legislation now pending. This is the product of lengthy discussion among all of the interested participants, each of whom I believe is present or represented on the Senate floor.

Accordingly, Mr. President, I now ask unanimous consent that when Senator BOND offers his amendment relating to bank products today, there be 1 hour for debate equally divided and controlled in the usual form, with a possible relevant Gramm of Texas second-degree amendment to the Bond amendment as the only amendment to the Bond amendment in order; that at the conclusion or yielding back of time, the amendment be laid aside and that Senator BOND be recognized to offer the Bond-Wirth amendment as an alternative to title III of the pending committee substitute, on which there be no limitation on debate during the remainder of this day and on which no amendments to the amendment be in order; that the Senate resume consideration of this bill at 12 noon tomorrow; that there be 30 minutes on a possible Gramm second/degree amendment to the Bond bank products amendment; that upon the conclusion or yielding back of the time on the Gramm second-degree bank products amendment, the Senate proceed to vote on or in relation to the Gramm second-degree amendment, to be followed without any intervening action or debate by a vote on or in relation to the Bond first-degree bank products amendment, as amended, if amended; that following the disposition of the Bond bank products amendment, there be 15 minutes remaining for debate on the Bond-Wirth title III amendment, equally divided and controlled in the usual form, and at the conclusion of that time there be a vote on or in relation to the Bond-Wirth title III amendment.

I further ask unanimous consent that if the Bond-Wirth amendment is defeated, Senator BOND or Senator WIRTH be recognized to offer one further amendment with respect to reporting and regulatory coordination, on which there be 60 minutes equally divided and controlled in the usual form with one possible relevant second-degree amendment to be offered by Senator GRAMM on which there be no limitation on debate and that the Gramm amendment be the only amendment in order to the Bond or Wirth amendment; that following disposition of that amendment, no further amendments or motions to recommit be in order to this bill with the exception of the Agriculture Committee substitute amendment as modified and a Riegle-Leahy amendment if agreed to by the bill's managers; that there be 30 minutes equally divided and controlled in the usual form remaining on the bill including the consideration of the committee substitute and the Riegle amendment if offered, at the conclusion of which or yielding back of which there be a vote on the committee substitute, third reading of the bill and a vote on final passage of the bill, all of which shall occur without any intervening action or debate. But if the Bond-Wirth alternative amendment to title III is agreed to, there be no limitations or restrictions on amendments that may be offered.

Mr. LEAHY. Mr. President, reserving the right to object, I think it sounds like a very simple and straightforward unanimous-consent request; obviously, a very easy to understand item. I would ask only for this clarification, that it also be in order for the managers to move the usual technical unanimous-consent type amendments.

Well, Mr. President, let me state it this way. Nothing would preclude us from bringing up other amendments by unanimous consent, as I understand it.

Mr. MITCHELL. I believe the Senator is correct; that any action may occur with unanimous consent at any time with respect to this bill, notwithstanding the provisions of this agreement.

I inquire of the Chair whether or not my understanding is correct.

The PRESIDING OFFICER. The majority leader's understanding is correct.

Mr. LEAHY. I have no objection to this unanimous-consent request. I think it is an excellent one and I support it.

Mr. GARN. Mr. President, reserving the right to object, and I am not going to object, but I do wish to make an appeal that I made at the end of my rather lengthy remarks earlier today on this issue.

We have gone on now for more than 2 years since I wrote letters to the CFTC and the SEC and told them to solve this. I am a little bit tired of the turf battle that has gone on, but there are some issues that are far more important than turf battles and that is in the area of banking powers and the areas discussed at great length on title III today.

While I agree to bring this to an end, I hope that the parties in disagreement, as I said at the end of my statement, would continue to try and work out an accommodation. I think that would be much preferable to having to go through all of this procedure because certainly we on the Banking Committee do not want to interfere in any way with title I and title II.

We do want S. 207 to pass. We do think the reauthorization is way past due, obviously. But there are some extremely important issues to the competitiveness where every bank regulator except one has testified that title III as now written will cause severe harm. I think the Senate ought to consider that. More importantly, I think those who are in disagreement, I ask, during this evening and in the morning, that we continue in good faith to work out a compromise so that this bill can be passed tomorrow. I do not object.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at 12 noon on Thursday, April 18, 1991, the Senate resume consideration of S. 207, the Community Futures Trading Commission Authorization, with 30 minutes debate on a possible Gramm relevant 2d degree amendment to amendment No. 68, the Bond amendment on bank products.

Ordered further, That upon the conclusion or yielding back of time on the Gramm 2d degree bank products amendment, the Senate proceed to vote on or in relation to the Gramm 2d degree amendment, to be followed without any intervening action by a vote on or in relation to the Bond 1st degree bank products amendment, No. 68.

Ordered further, That following the disposition of the Bond bank products amendment, there be 15 minutes of debate on the Bond-Wirth title III amendment, No. 69, to be equally divided and controlled in the usual form and at the conclusion of that time, there be a vote on or in relation to the Bond-Wirth title III amendment.

Ordered further, That if the Bond-Wirth amendment is defeated, either the Senator from Missouri [Mr. BOND] or the Senator from Colorado [Mr. WIRTH] be recognized to offer one further amendment with respect to reporting and regulatory coordination, on which there shall be 60 minutes debate, to be equally divided and controlled in the usual form: *Provided*, That the only amendment in order to this amendment be a possible relevant second degree amendment to be offered by the Senator from Texas [Mr. GRAMM], on which there shall be no time limitation.

Ordered further, That upon the disposition of that amendment, no motions to recommit and no further amendments be in order to this bill, with the exception of the Agriculture Committee's substitute amendment, as modified, and a Riegle-Leahy amendment, if agreed to by the bill's manager.

Ordered further, That there be 10 minutes remaining on the bill, equally divided and controlled in the usual form, including the consideration of the committee substitute and the Riegle-Leahy amendment, if offered, and that at the conclusion or yielding back of which, there be a vote on the committee substitute, third reading of the bill, and a vote on final passage of the bill, all of which shall occur without any intervening action or debate.

Ordered further, That if the Bond-Wirth alternative amendment to title III is agreed to, there be no limitation or restriction with respect to amendments that may be offered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in permitting us to obtain consent to this agreement. I point out that this does not assure completion of this bill either tomorrow or at any time in the foreseeable future. I hope that is the result, but this agreement does not assure that. But it does enable us to proceed in what I hope will be an orderly and prompt manner as we continue our efforts to act on this important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished majority leader for his help, and I thank those Senators on both sides of the aisle and both sides of the question on title III, for their cooperation and work in bringing this about. Senator LUGAR and I have spent a couple of days already on the floor getting this far. We thank those who might have moved us forward a little bit.

I know the Senator from Missouri is waiting to speak. I would appreciate if he would just indulge me for a moment to take care of a couple of housekeeping matters?

Mr. President, I ask unanimous consent that it be in order to send an amendment to the desk. I refer to an amendment to this bill, the so-called pay cap amendment on S. 207.

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

AMENDMENT NO. 66

(Purpose: To authorize the Commodity Futures Trading Commission to request additional positions in the Senior Executive Service)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 66.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 83, strike line 19 and all that follows through page 85, line 8, and insert the following new section:

SEC. 102. HIRING AUTHORITY OF THE COMMISSION.

Section 12(b) (7 U.S.C. 16(b)) is amended—

(1) by designating the first through third sentences as paragraphs (1) through (3), respectively; and

(2) by adding at the end the following new paragraph:

"(4) The Commission may request (in accordance with the procedures set forth in subchapter II of chapter 31 of title 5, United States Code) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on the date of enactment of this sentence.".

Mr. LEAHY. Mr. President, this amendment eliminates section 102 of the bill on hiring and pay authority and replaces it with a substitute.

Section 202 allows the CFTC to fix the compensation of employees without regard to the Federal pay cap. We adopted this provision in the Agriculture Committee to address concerns that the CFTC, like other financial regulators, had difficulty attracting and keeping top professional staff members. It is no secret that, today, talented young lawyers and financial experts can get top dollar from major private sector firms or from Federal bank regulators who are not limited by the pay cap.

Last year, however, Congress adopted a Federal pay reform bill which gave agencies far more flexibility in setting pay scales for employees to meet competitive pressures. We, like our colleagues in the Governmental Affairs Committee, want to give this new law a chance to work. We understand that the Banking Committee pulled a similar pay cap amendment for the SEC for this same reason.

Instead of addressing the pay cap, the new section 102 increases the number of CFTC senior executive service slots by eight. They currently have 22 SES slots. This will provide the CFTC with the means to hold onto proven top staff members in a competitive environment.

If it turns out, however, that the Banking Committee brings legislation to the Senate floor giving pay cap relief to the SEC, then I will be prepared to offer an amendment to that legislation offering similar relief to the CFTC. I do not want to see the CFTC placed at a competitive disadvantage to the SEC in attracting qualified staff members.

I understand that the House bill does not have a similar provision and there might be concerns on it. This will be an item reviewed in conference.

I urge adoption of my amendment.

Mr. President, I understand this has been cleared.

I yield to the Senator from Indiana.

Mr. LUGAR. Mr. President, I confirm the amendment has our support.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 66) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent, notwithstanding the unanimous-consent agreement just earlier entered into, that I be able to send an amendment to the desk.

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

AMENDMENT NO. 67

(Purpose: To require the publication of Commission opinions)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KERREY, and Mr. HARKIN, proposes an amendment numbered 67.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 137, between lines 12 and 13, insert the following new section:

SEC. 262. PUBLICATION OF COMMISSION OPINIONS.

Section 2(a)(9) (7 U.S.C. 4a(h)) is amended by adding at the end the following new subparagraph:

"(C) Whenever the Commission issues for official publication any opinion, release, rule, order, interpretation, or other determination on a matter, the Commission shall provide that any dissenting, concurring, or separate opinion by any Commissioner on the matter be published in full along with the Commission opinion, release, rule, order, interpretation, or determination.".

On page 137, line 13, strike "262" and insert "263".

On page 144, line 11, strike "263" and insert "264".

On page 145, line 8, strike "264" and insert "265".

On page 147, line 1, strike "265" and insert "266".

On page 148, line 12, strike "266" and insert "267".

On page 151, line 20, strike "267" and insert "268".

On page 153, line 21, strike "268" and insert "269".

On page 154, line 20, strike "269" and insert "270".

On page 155, line 10, strike "270" and insert "271".

On page 156, line 1, strike "271" and insert "272".

On page 156, line 4, strike "272" and insert "273".

On page 157, line 6, strike "273" and insert "274".

On page 157, line 15, strike "274" and insert "275".

Mr. LEAHY. Mr. President, I offer an amendment to require the CFTC, whenever it issues for official publication any opinion, rule, order, or other official release, to include any dissenting, concurring, or separate opinion by any Commissioner on the matter.

Last year, the CFTC issued an important and controversial interpretation on the regulatory treatment of 15-day Brent oil contracts. One CFTC Commissioner—Fowler West—dissented, and prepared a detailed statement of his reasons. But when the CFTC submitted its Brent oil interpretation to the Federal Register for official publication, Commissioner West's dissent was omitted.

This was wrong. Silencing opposing voices on a Federal commission is bad law and bad policy. Congress created the CFTC as a 5-member Commission—not as a single-headed agency—so that the public could benefit from a diversity of viewpoints.

In this case, the results was especially unfair. High-priced lawyers with access to the Commission or to expensive private reporting services had no trouble getting their hands on the West dissent. But members of the public who rely on official outlets like the Federal Register had no access to the document.

Commissioner West's dissent is an important part of the legal history, not only of the Brent oil issue, but on the general issue of CFTC jurisdiction for off-exchange products. It has legal weight similar to that of a dissenting or separate case opinion of a Supreme Court Justice—or of the separate views of a Senator in a committee report on a bill or nomination.

Commissioner West had a right to state his dissent on the Brent oil issue. The public had a right to read his views. My amendment will assure that, in the future, dissenting voices on the CFTC will not be swept under the rug.

Mr. President, I urge adoption of my amendment.

Mr. LUGAR. Mr. President, I support the amendment offered by Senator LEAHY. While this amendment does not have the significance, in monetary terms, as some of the issues debated throughout the course of this bill, it addresses an issue that greatly concerns some Senators.

The purpose of the Leahy amendment is to ensure that the dissenting viewpoints of any Commissioner, be published whenever an opinion, release, rule, order, interpretation or determination is published by the Commission. This amendment merely compels the disclosure of the viewpoints of all of the Commissioners on a given matter, whether they are in the majority or in the minority.

I urge support of this provision.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 67) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the Senator from Missouri for withholding so we could take care of these housekeeping chores. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, once again I thank the distinguished chairman of the Agriculture Committee and the ranking member for their consideration and help in bringing us to this position, where we can make some progress on this bill, and I hope with discussions tonight and laying down of the two amendments we will be able to have a good discussion and a vote on the morrow, or votes on the morrow, which will clear up some of these areas.

I express appreciation to my many colleagues who have been involved in the negotiations and the rather complex unanimous-consent agreement. I hope that will provide a minimum of dislocation and disruption to this body while we accomplish a very important purpose.

The first amendment I wish to offer tonight is on bank products. When CFTC Chairman Gramm testified on S. 207, she stated that loans and other bank products with elements of futurity have never been considered futures contracts by the CFTC or the courts. I agreed with Chairman Gramm that bank deposits and other bank products are not futures and should not be regulated by the CFTC under the Federal commodity laws. That is why I plan to offer on behalf of the Senator from Colorado [Mr. WIRTH] and myself, an amendment to make this clear.

As amply demonstrated by the debate on S. 207 there is really no clear-cut definition of a futures contract in our Federal commodity laws. Therefore, any instrument with an element of a futures contract could be made subject to the exclusive jurisdiction of the CFTC and forced to trade on a futures exchange.

As a consequence, it is important that we in Congress make clear that bank products with elements of futurity are not subject to the commodity laws. There are some who may say this amendment is unnecessary because the current CFTC does not believe that bank products should be regulated as futures contracts. While I certainly trust Chairman Gramm, a new chairman may feel differently, and there is nothing to stop the CFTC from claiming jurisdiction over bank products.

Many of my colleagues familiar with the regulation of the banking industry know that banks are regulated by the Fed, the OCC, the FDIC, OTS, as well as 50 State commissions which review and approve bank products sold to the public.

Because bank products are heavily regulated by Federal and State laws, Congress exempted the products from

the Federal securities laws. The amendment I propose to offer would extend this exemption for bank products to the Federal commodities laws. The amendment would exclude bank deposits and loans offered by insured depository institutions regulated by Federal or State bank regulators. It is a simple amendment that applies to insured depository institutions as defined by the Federal Deposit Insurance Act, an insured credit union as defined by the Federal Credit Union Act, a Federal or State branch agency of a foreign bank as defined in the International Banking Act, and it provides an exclusion, saying that a loan made by a person, required to be registered under the Commodities Exchange Act in connection with transactions regulated under this act, is not covered in that exclusion. So the CFTC could regulate it.

This, I trust, meets some of the concerns that have been expressed on behalf of the futures industry.

Mr. President, for that reason I believe this amendment is a useful and helpful clarifying amendment. If there are other Members wishing to speak on that amendment, I would be happy to yield to them.

We have a call, supposedly coming in very shortly, from the CFTC to see if they have any further revisions on it. I understand the call is supposed to come in momentarily, and I want to find out if they have any further technical changes prior to laying down the amendment. As I understand the unanimous-consent agreement, it does not permit modification of the amendment once it is offered and, therefore, let me take this time to explain another item of confusion that arose this afternoon during the debate on this subject.

Those who were following the debate may recall that I offered to introduce a letter from the International Swap Dealers Association. The letter of April 15, from the International Swap Dealers Association addressed to Senator WIRTH and myself, refers to our proposal as the alternative proposal to the Commodity Futures Trading Commission substitute, the CFTC proposal for title III of S. 207.

In the April 15 letter, a rather lengthy letter, the ISDA went on to explain why they supported the alternative proposal; that is, our proposal. I will read pertinent excerpts from it.

> As explained below, we believe the alternative proposal goes further to provide the needed legal certainty and encourage both innovation and the development of risk reduction techniques. For these reasons we believe the alternative proposal is superior.

In addition, it talks about the desirability of the alternative providing an exclusion, rather than the CFTC proposal, which provides an exemption.

The problem with an exemption is if an exemption can be given, it can be revoked. The swaps dealers realize this trillion dollar market is in danger of being driven overseas if it is subject to the possible whims of a regulatory change of heart.

The letter goes on to discuss many different provisions of the alternative proposal comparing the CFTC proposal and concludes:

> Although the CFTC proposal is a significant improvement over S. 207 as it was reported by the Agriculture Committee, the alternative proposal would provide market participants with broader and clearer assurances regarding the inapplicability of the CEA to the swap business.

After I read just a small portion of that letter, my colleague from North Dakota pointed out there was an April 16 letter from the International Swap Dealers Association. I was not quite clear, because I had not seen the letter, as to what the contents were. I thought perhaps my colleague said the International Swap Dealers were supporting the CFTC proposal over the alternative or the proposal offered by the Senator from Colorado and myself.

I have now had a chance to review that letter. It is a clarification of their earlier position that the CFTC proposal to the title III reported out of the Agriculture Committee represents a significant improvement over the provisions in S. 207 as reported by the Agriculture Committee.

It goes on to state that:

> Even though this language does not incorporate all the changes that we would consider important, we nevertheless believe that it represents a significant improvement over current law.

This is clearly not to say they favor the CFTC provision over the alternative proposal, our proposal. They have stated, and it is apparent from reading these two letters, that for the purposes of the swaps agreements and swaps dealers, the alternative proposal Senator WIRTH and I have crafted is a significant improvement.

Mr. President, I ask unanimous consent that these two letters from the ISDA be printed in the RECORD.

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

INTERNATIONAL SWAP
DEALERS ASSOCIATION, INC,
New York, NY, April 15, 1991.

Hon. CHRISTOPHER S. BOND,
Hon. TIMOTHY E. WIRTH,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR BOND AND SENATOR WIRTH: This letter responds to your request for views of the International Swap Dealers Association, Inc. ("ISDA") on the provisions affecting swap agreements contained in your proposed alternative (the "Alternative Proposal") to the Commodity Futures Trading Commission's substitute (the "CFTC Proposal") for Title III of S. 207, the Futures Trading Practices Act. Members of ISDA, including 136 commercial banks, securities firms, insurance companies and others whose names are listed in Appendix A, act as dealers in swaps.

As a preliminary matter, I would like to emphasize our belief that it is essential that the 102nd Congress adopt legislation that will provide legal certainty for the $2.5 trillion swap business, by confirming that the Commodity Exchange Act (the "CEA") does not apply to swap transactions. As we pointed out in our April 9, 1991 letter to Senator Dodd, uncertainty over the applicability of the CEA, and particularly its rigid exchange trading requirement, has caused significant swap activity and innovation to move offshore. Unfortunately, S. 207, as it was reported by the Agriculture Committee on March 6, 1991, did not provide the needed legal certainty and could, we believe, cause serious harm to the competitive position of U.S. firms in the worldwide swap business. We addressed these problems in detail in our April 9 letter.

The problems with the swap provisions of S. 207 as reported by the Agriculture Committee have been widely recognized. In light of this, we appreciate the substantial efforts of the CFTC that have led to the current CFTC Proposal. It represents a significant improvement over the provisions in S. 207 as reported by the Agriculture Committee. As explained below, we believe that the Alternative Proposal goes further to provide the needed legal certainty and encourage both innovation and the development of risk reduction techniques. For these reasons we believe that the Alternative Proposal is superior.

EXCLUSION VS. EXEMPTION

In the Alternative Proposal, the swap provision is structured as an exclusion from the CEA. In this respect it differs from the CFTC Proposal which directs the CFTC to exempt swaps. We believe that an exclusion is preferable to an exemption because it is consistent with our belief that swaps lack the essential elements of futures contracts. It also avoids any possible negative implication of an exemption that swaps may be futures contracts. The use of an exclusion rather than an exemption would also eliminate any suggestion that S. 207 places on the CFTC a burden to oversee the swap business.

NO PUBLIC INTEREST TEST

The Alternative Proposal eliminates the requirement contained in the CFTC Proposal that the exemption may be granted only if the CFTC makes a determination that the exemption is "consistent with the public interest". It is particularly troubling that this threshold is higher than the "not contrary to the public interest" standard used for bank deposit instruments in the CFTC Proposal. By providing an exclusion based only on objective criteria the Alternative Proposal adds significant legal certainty. It is also consistent with the fundamental objective that swap transactions should not be subject to regulation under the CEA.

PARTICIPANTS

Both the Alternative Proposal and the CFTC Proposal limit the scope of the exclusion or exemption to institutional participants. The categories of persons covered by the two proposals are identical in all respects except one. Under the CFTC Proposal, governmental entities only qualify if they have the requisite corporate or other power and authority to enter into the transaction. This limitation would in effect transform a lack of authority problem (such as in the Hammersmith and Fulham case in England) into a violation of the CEA. We do not understand why the presence or absence of corporate or other authority should, by itself, raise concerns under the CEA. The Alternative Proposal does not include the same

limitation on qualifying governmental entities and is for this reason superior.

CREDITWORTHINESS TEST

Both the Alternative Proposal and the CFTC Proposal require that the creditworthiness of a party be a material consideration when entering into or evaluating the terms of a swap agreement. The Alternative Proposal expressly provides that the "creditworthiness" test is satisfied even where parties enter into arrangements requiring collateral, margin or any other form of bilateral credit enhancement to reduce credit risk or exposure. Although we do not believe that the CFTC Proposal is intended to limit such arrangements, there is no express provision in the CFTC's proposed statutory language and one must look to the explanatory materials for assurance. Given the importance of risk reduction both to participants and regulatory authorities, we believe that the approach of the Alternative Proposal is preferable.

STANDARDIZATION AND TRADING

The Alternative Proposal requires that a swap agreement not be "both standardized and fungible in all material respects with a class of other swap agreements" and, unlike the CFTC Proposal, contains a safe harbor so that a swap agreement will satisfy the standard of this clause if it is subject to individual negotiation between the parties as to material terms. The CFTC Proposal, on the other hand, requires that two separate tests be satisfied:

(i) the swap agreement must not be one of a fungible class of agreements that is standardized as to its material economic terms, and

(ii) the swap agreements must not be entered into and traded on or through a multilateral transaction execution facility.

By requiring a swap agreement to satisfy *both* a "standardization" test and a "trading" test, neither of which has a statutory definition or a generally understood meaning, the CFTC Proposal contains a notably higher level of uncertainty than the Alternative Proposal. Although the CFTC's explanatory materials are helpful in establishing the intent of the provision, such materials are not a substitute for express statutory language. By providing a safe harbor for swaps which are subject to individual negotiation as to material terms, the Alternative Proposal provides straightforward language that gives reasonable assurance that the existing swap business, as well as future innovative swap transactions, will qualify under the test.

MULTILATERAL ARRANGEMENTS

The Alternative Proposal expressly states that a multilateral payment netting facility among parties will not cause a swap agreement to fail either the "standardization" test or the "creditworthiness" test. Although the CFTC Proposal contains a proviso from the standardization and multilateral trade execution facility requirements that is designed to permit a multilateral payment netting arrangement or facility, the "creditworthiness" test must still be satisfied, so that parties are more restricted in their ability to structure these risk reduction arrangements. For this reason, the Alternative Proposal provides broader flexibility for swap participants to develop arrangements to address credit risk, and thereby reduce systemic risks.

The Alternative Proposal expressly permits multilateral arrangements for the processing of collateral or margin, as well as other credit enhancement arrangements. In contrast, the CFTC Proposal does not expressly address such multilateral arrangements. Instead, the explanatory materials state that certain of such arrangements would not be prohibited. The approach of the Alternative Proposal is preferable because it avoids any doubt on this important question.

CONCLUSION

Since July 1989 it has been the stated policy of the CFTC that swaps are not appropriately regulated as futures contracts. Other federal regulatory agencies, including the Board of Governors of the Federal Reserve System, the Department of Treasury, the Federal Deposit Insurance Corporation, the Office of Comptroller of the Currency and the Securities and Exchange Commission, have all supported legislation to make clear that swaps are not subject to the provisions of the CEA. They believe that by adopting such legislation the Congress will enhance the domestic and international competitiveness of U.S. firms, increase financial innovation and allow market participants more flexibility to reduce systemic risk.

The members of ISDA strongly believe that it is of the utmost importance that the 102nd Congress enact such legislation. Although the CFTC Proposal is a significant improvement over S. 207 as it was reported by the Agriculture Committee, the Alternative Proposal would provide market participants with broader and clearer assurances regarding the inapplicability of the CEA to the swap business.

Very truly yours,

MARK C. BRICKELL,
Chairman.

APPENDIX A

PRIMARY MEMBERS, MARCH 20, 1991

AIG Financial Products Corp.
Algemene Bank Nederland N.V.
Allied Irish Banks PLC.
Amsterdam-Rotterdam Bank N.V.
ASLK—CGER Bank.
Australia and New Zealand Banking, Group Limited.
Banca Commerciale Italiana.
Banca CRT-Cassa di Risparmio di Torino.
Banca Del Gottardo.
Banca Nazionale del Lavoro.
Banco di Napoli.
Banco Santander-New York.
Bankers Trust Company.
Bank Mees & Hope NV.
Bank of America NT & SA.
Bank of Boston.
Bank of Ireland.
Bank of Montreal.
The Bank of New York.
The Bank of Nova Scotia.
The Bank of Tokyo, Ltd.
Banque De L'Union Europeenne.
Banque Indosuez.
Banque Nationale de Paris.
Banque Paribas.
Barclays Bank PLC.
Baring Brothers & Co., Limited.
Bayerische Hypotheken und Wechsel Bank AG.
Bayerische Vereinsbank AG.
Bear Stearns Capital Markets Inc.
Berliner Bank Aktiengesellschaft.
BHF Bank.
Bierbaum Martin Group.
Caisse Nationale de Credit Agricole.
Canadian Imperial Bank of Commerce.
Cargill, Inc.
Chase Manhattan Bank.
Chemical Bank.
Christiania Bank.
Citibank, NA.
Confiri Servizi Finanziari SpA.
Commerzbank AG.
Commonwealth Bank of Australia.
Confederation Financial Ltd.
Continental Bank, N.A.
Credit Commerical de France.
Credit Lyonnais.
Credit Suisse Financial Products.
Dai-Ichi Kangyo Bank.
Daiwa Europe Bank plc.
Den Danske Bank.
Deutsche Bank AG.
Deutsche Cenossenshaaftbank—DG Bank.
Dresdner Bank AG.
Elf Trading S.A.
Finacor.
First Interstate Bank Limited.
The First National Bank of Chicago.
The Fuji Bank Limited.
Fuji Capital Markets Corp.
Garvin GuyButler Corporation.
General Re Financial Products Corp.
Girozentrale und Bank der Osterreichischen Sparkassen AG.
Goldman, Sachs & Co.
Greenwich International Ltd.
Hessische Landesbank—Girozentrale.
Hill Samuel Bank Ltd.
Hongkong Bank.
IBJ International.
The Industrial Bank of Japan, Limited.
The Industrial Bank of Japan (Switzerland) Ltd.
Industriekreditbank AG.
Intercapital Brokers Ltd.
Istitudo Bancario San Paolo Di Torino.
Istituto Mobillare Italiano.
J. Henry Schroder Wagg & Co. Ltd.
Kidder, Peabody & Co.
Kleinwort Benson Limited.
Lloyds Bank PLC.
The Long Term Credit Bank of Japan, Limited.
Manufacturers Hanover Trust Company.
Maryland National Bank.
Mellon Bank, NA.
Mercadian Capital.
Merrill Lynch & Co., Inc.
Midland Montagu.
The Mitsubishi Bank, Limited.
The Mitsubishi Trust and Banking Corporation.
The Mitsui Taiyo Kobe Bank, Ltd.
Mitsui Taiyo Kobe Global Capital, Inc.
The Mitsui Trust & Banking Co., Limited.
Morgan Grenfell & Co. Limited.
Morgan Guaranty Trust Company of New York.
Morgan Stanley & Co., Inc.
National Australia Bank Limited.
National Bank of Canada.
NatWest Capital Markets Limited.
Nederlandsche Middenstandsbank NV.
The Nikko Securities Co. International Inc.
The Nippon Credit Bank, Ltd.
Nomura International Limited.
Norddeutsche Landesbank Girozentrale.
The Norinchukin Bank.
Nuova Interfin Capital Market s.r.l.
Phibro Energy, Inc.
Prudential-Bache Capital Markets.
Rabobank Nederland.
Republic National Bank of New York.
N.M. Rothschild & Sons, Limited.
The Royal Bank of Canada.
The Royal Bank of Scotland/Charter House Bank.
The Saitama Bank, Ltd.
Salomon Brothers Inc.
Sanwa Bank.
Sanwa Financial Products.
Saudi International Bank.

Security Pacific Hoare Govett, Inc.
Shearson Lehman Hutton Inc.
Skandinaviska Enskilda Banken Corporation.
Societe Generale.
Sumitomo Bank Capital Markets, Inc.
The Sumitomo Bank, Limited.
The Sumitomo Trust & Banking Co., Ltd.
Svenska Handelsbanken/Svenska International PLC.
Swiss Bank Corp. International Limited.
Swiss Volksbank.
The Tokai Bank, Limited.
The Toronto Dominion Bank.
Tradition-Berisford LP.
Union Bank of Finland Ltd.
Union Bank of Switzerland.
S.G. Warburg & Co. Ltd.
Westdeutsche Landesbank Girozentrale.
Westpac Banking Corporation.
Wood Gundy, Inc.
Yamaichi Securities Co., Limited.
The Yasuda Trust & Banking Co., Ltd.

INTERNATIONAL SWAP DEALERS ASSOCIATION, INC.,
New York, NY, April 16, 1991.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: This letter responds to your request for clarification of our views regarding the provisions affecting swap agreements contained in the proposed substitute for Title III of S. 207 submitted to Senator Leahy on April 9, 1991. Members of International Swap Dealers Association, Inc., including 136 commercial banks, securities firms, insurance companies and others, act as dealers in swaps.

As we have stated before, we believe it is essential that the 102nd Congress adopt legislation that will provide legal certainty for the $2.5 trillion swap business by confirming that the Commodity Exchange Act does not apply to swap transactions. Unfortunately, S. 207, in the form it was reported by the Agriculture Committee, did not provide the needed certainty and was potentially harmful to the competitive position of U.S. firms in the worldwide swap business. We discussed these problems in detail in our April 9, 1991, letter to Senator Dodd.

In light of the problems with the swap provisions of S. 207 as reported by the Agriculture Committee, we appreciate the willingness of the CFTC to participate in detailed discussion of these provisions, and the substantial efforts that have led to the language contained in the substitute for Title III. It represents a significant improvement over the provisions in S. 207 as reported by the Agriculture Committee. In addition, even though this language does not incorporate all of the changes that we would consider important, we nevertheless believe that it represents a significant improvement over current law and if enacted would be both acceptable and beneficial to the industry and other users of swaps.

Respectfully submitted.

MARK C. BRICKELL,
Chairman.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislatiive clerk proceeded to call the roll.

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

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

AMENDMENT NO. 68

Mr. BOND. Mr. President, I send to the desk an amendment on behalf of myself, Mr. WIRTH, and Mr. GARN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. WIRTH, and Mr. GARN, proposes an amendment numbered 68.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

"SEC. . Nothing in this Act shall be considered to be applicable to any deposit (as defined under the Federal Reserve Act and regulations promulgated thereunder in effect on the date of enactment of this amendment) if the deposit is offered by—

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)); or

"(3) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).

"SEC. . (a) Nothing in this Act shall be considered to be applicable to—

"(1) any loan, made by—

"(A) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(B) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(C) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)); or

"(D) a foreign bank (as defined in section 1(b)(7) of the International Banking Act (12 U.S.C. 3101(7)), to a person specified in subsection (i)(3); or

"(2) any loan that is a consumer credit transaction subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(b) The provisions of subsection (a) of this section shall not apply to a loan made by a person required to be registered under this Act in connection with transactions regulated under this Act."

Mr. BOND. Mr. President, very simply, I have already described this measure. Essentially, it codifies the current position of the CFTC that bank products should not be regulated by the CFTC that bank products should not be regulated by the CFTC.

There has been a potential that has been raised, a question has been raised about the extent of the exclusivity clause. We have been advised by bank regulators, particularly the Federal Reserve, that the potential for such regulation has a chilling effect on the ability of banks to develop innovative banking products.

I urge my colleagues to consider this very carefully tonight, and to realize that banks are regulated by the Federal agencies that we mentioned before, by the State regulatory agencies, and this is not an instance in which banks need the additional regulation, or their customers need the protection of CFTC regulation or oversight.

Mr. President, on behalf of myself and the other cosponsors, I urge my colleagues to support the amendment.

I yield the floor, Mr. President.

Mr. LEAHY. Mr. President, this is an amendment that we were prepared to accept. I understand it is going to be voted on tomorrow. It excludes from the CFTC certain bank deposits that are regulated by Federal banking agencies.

I should note that currently S. 207 as drafted requires the CFTC to exempt these instruments. Some bank industry officials and regulators have expressed some concern that the exemptive process might not be direct enough. This amendment will resolve the controversy.

I am not absolutely sure that this amendment is necessary, but in order to move forward and settle one area of controversy on this bill, I will support it tomorrow.

I understand that the proponents want a rollcall vote, which they are entitled to if they seek it. Hopefully, when we see what the schedule looks like tomorrow, such as the many committees meetings, they may want to consider a more expeditious approach, 15-minute rollcall votes take longer than voice votes. But I am not going to prolong the matter here tonight. I intend to vote for it whichever way it goes.

Mr. BOND. Mr. President, I thank my distinguished colleague from Vermont for his kind comments. Mr. President, the only reason we seek a rollcall vote is to provide strength to the position of our conferees when they go to the House so they will be able to convince the House that this is an important amendment if it passes, as I assume it will.

Mr. President, I know of no others on this side who wish to discuss or debate this measure any further. I am prepared to yield the remainder of my time on this amendment so we can proceed to lay down the larger amendment.

Mr. LEAHY. I yield the remainder of the time we have.

The PRESIDING OFFICER. All time is yielded back.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 69

(Purpose: To improve intermarket coordination)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. WIRTH, Mr. GARN, Mr. RIEGLE, Mr. DODD, and Mr. MOYNIHAN, proposes an amendment numbered 69.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 4 of the Committee modification, strike line 1 and all that follows through page 12, line 9, and insert the following new sections:

SEC. 302. EXEMPTIVE AUTHORITY.

Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful"; and

(2) by adding at the end the following new subsections:

"(c)(1) In order to promote responsible economic or financial innovation and vigorous and fair competition, both nationally and internationally, the Commission by rule, regulation, or order, shall (on application of any person) exempt any agreement, contract, or transaction (or classes thereof) otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods, from any of the requirements of subsection (a), or from any other provision of this Act except section 2(a)(1)(B), if the Commission determines that the exemption would be consistent with the public interest and the purposes of this section.

"(2) The Commission, after notice and opportunity for hearing, shall have the authority to revoke any exemption previously granted under paragraph (1) if the Commission determines that any of the minimum requirements prescribed in paragraph (1), any or additional conditions imposed by the Commission, is no longer being satisfied.".

SEC. 303. HYBRID COMMODITY INSTRUMENTS, SWAP AGREEMENTS, DEMAND DEPOSITS, TIME DEPOSITS, AND INSURANCE PRODUCTS.

Section 4c (7 U.S.C. 6c) (as amended by section 203(a) of this Act) is further amended by adding at the end the following new subsections:

"(h)(1) Notwithstanding any other provision of law, nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an instrument, other than an index participation (as defined in subsection (f)), if—

"(A)(i) to the extent that the instrument has the elements of a commodity option, its predominant characteristics are not those of a commodity option, or the instrument derives less than 50 percent of its value at the date of issuance from the value of the commodity option; and

"(ii) to the extent that an instrument has the elements of a contract of sale of a commodity for future delivery, its predominant characteristics are not those of a contract of sale of a commodity for future delivery, or at the date of issuance it is expected that less than 50 percent of the change in the value of the instrument or its performance will be due to movement in the price of the commodity or commodities specified in the instrument or in the terms and conditions of the transaction pursuant to which the instrument was issued;

"(B) the instrument is determined by the Securities and Exchange Commission to have as its predominant characteristics those of securities (as defined under section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) or section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1))) or at least 50 percent of its value derived from the elements of a group of securities; or

"(C) the instrument is a security (as defined under section 3(a)(10) of the Securities Exchange Act of 1934) listed or traded on a national securities exchange or quoted through an automated interdealer quotation system operated by a national securities association registered with the Securities and Exchange Commission.

"(2)(A) To the extent that the designation is consistent with the other provisions of this Act (including section 2(a)(1)(B)), nothing in paragraph (1) shall be considered to prevent the Commission from designating any board of trade as a contract market for any instrument.

"(B) If an instrument may trade other than on a designated contract market pursuant to paragraph (1), and if the Commission designates any board of trade as a contract market for that instrument—

"(i) this Act (including section 2(a)(1)(B)) shall apply only to transactions in that instrument that are conducted on a designated contract market (including transactions between a futures commission merchant and the customer of the futures commission merchant that are incidental to a transaction on a designated contract market); and

"(ii) this Act (including section 2(a)(1)(A)) shall not apply to transactions in that instrument that are conducted pursuant to paragraph (1) other than on a designated contract market.

"(C) To the extent that transactions in any instrument are conducted pursuant to paragraph (1) other than on a designated contract market, the transactions shall not be considered to be transactions involving contracts of sale of a commodity for future delivery.

"(i)(1) Notwithstanding any other provision of law, nothing in this Act shall be considered to govern or in any way be applicable to any swap agreement or class of swap agreements (as defined in section 101 of title 11, United States Code) where—

"(A) each party to the swap agreement is a person included in one of the categories specified in paragraph (3) at the time the party enters into the swap agreement;

"(B) the creditworthiness of any party having an actual or potential future payment obligation under the swap agreement is a material consideration in entering into or evaluating the terms (including credit enhancement terms) of the swap agreement, except that creditworthiness shall not be considered to be immaterial as a result of an agreement for the exchange, payment, or delivery of mark-to-market payments, margin, collateral, or any other form of credit enhancement or replenishment to reduce the credit risk or exposure of any party to the swap agreement; and

"(C) the swap agreement is not both standardized and fungible in all material terms with a class of other swap agreements, except that, for purposes of this subparagraph, a swap agreement shall not be considered to be standardized or fungible in all material terms with a class of other swap agreements if it is subject to individual negotiation between the parties as to material terms.

"(2) A swap agreement shall not fail to satisfy the requirements of the foregoing subparagraphs (B) and (C) of paragraph (1) as a result of a bilateral or multilateral arrangement or facility between or among parties to swap agreements that provides for the netting of payment obligations resulting from the swap agreements or for the netting of obligations to make mark-to-market, margin, or collateral payments or transfers or to provide any other form of credit enhancement or replenishment relating to the swap agreements.

"(3) For purposes of paragraph (1), the term 'person' shall mean the following persons or classes thereof:

"(A) A bank or trust company (acting in an individual or fiduciary capacity).

"(B) A savings and loan institution.

"(C) An insurance company.

"(D) A registered investment company under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(E) A commodity pool subject to regulation under this Act.

"(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K).

"(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-1 et seq.), or a commodity trading advisor registered under this Act.

"(H) Any governmental entity (including the United States, any State, or any foreign government) or political subdivision thereof, any multinational or supranational entity, or any instrumentality, agency or department of any of the foregoing.

"(I) A broker-dealer registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another institutional participant.

"(J) A futures commission merchant, floor broker, or floor trader registered under this Act acting on its own behalf or on behalf of another institutional participant.

"(K) Such other persons that the Commission determines have the financial and other qualifications adequate to fulfill the terms and conditions of the agreement, contract, or transaction.

"(j) Nothing in this Act shall be considered to be applicable to any deposit (as defined under the Federal Reserve Act) if the deposit is offered by—

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)); or

"(3) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).

"(k) Nothing in this Act shall be considered to govern or in any way be applicable to any instrument that is issued by an insurance company that is exempt under paragraph (2) or (8) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 78c(a)).

"(l) Nothing in this Act shall be considered to govern or in any way to be applicable to—

"(1) any loan made by—

"(A) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(B) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(C) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)); or

"(D) a foreign bank (as defined in section 1(b)(7) of the International Banking Act (12 U.S.C. 3101(7)), to person specified in subsection (i)(3);

"(2) any loan that is a consumer credit transaction subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.); or

"(3) any loan made in connection with transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.".

SEC. 304. INDEX PARTICIPATIONS.

Subsection (f) of section 4c (7 U.S.C. 6c(f)) is amended to read as follows:

"(f)(1) Nothing in this Act shall be considered to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.

"(2)(A) Nothing in this Act shall be considered to govern or in any way be applicable to any index participation traded on a national securities exchange or quoted through an automated inter-dealer quotation system operated by a securities self-regulatory organization if the index participation has been approved for trading by the Securities and Exchange Commission.

"(B) The Commission shall have the power, right, and authority to designate any board of trade as a contract market for any index participation, if the Commission determines that the designation is consistent with the requirements of this Act (other than section 2(a)(1)(B)).

"(C) If the Commission designates any board of trade as a contract market for any index participation—

"(i) this Act (other than section 2(a)(1)(B)) shall apply only to transactions in that index participation that are conducted on a designated contract market (including transactions between a futures commission merchant and the customer of the futures commission merchant that are incidental to a transaction on a designated contract market); and

"(ii) this Act (including sections 2(a)(1)(A) and 2(a)(1)(B)) shall not apply to transactions in that index participation, or in any other index participation, that are conducted on a national securities exchange or through the facilities of an automated inter-dealer quotation system operated by a securities self-regulatory organization.

"(D) Notwithstanding any other provision of law, no index participation shall be traded on a national securities exchange or a designated contract market, or quoted through an automated inter-dealer quotation system operated by a securities self-regulatory organization, unless that index participation meets the following minimum requirements:

"(i) Trading in the index participation shall not be readily susceptible to manipulation of the price of the index participation, nor to causing or being used in the manipulation of the price of any underlying security, option on the security or option on a group or index of the securities.

"(ii) The group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to the measure.

"(E) To the extent that such transactions in any index participation are conducted pursuant to subsection (a) on a national securities exchange or through the facilities of an automated inter-dealer quotation system operated by a securities self-regulatory organization, such transactions shall not be considered to be transactions involving contracts of sale of a commodity for future delivery.

"(F) For purposes of this paragraph, the term 'index participation' means an instrument that is an interest of indefinite duration in the current value of a portfolio of securities.".

SEC. 305. DIRECTIVES REGARDING INTERMARKET ISSUES.

(a) IN GENERAL.—Not later than 1 year after the effective date of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, shall each respectively—

(1) adopt such rules and regulations, issue such orders, and, subject to applicable requirements, approve such rules of the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to strengthen the overall stability of domestic equity and equity derivative markets and maintain fair and orderly markets through the adoption and approval of appropriate coordinated "circuit breaker" mechanisms and similar requirements;

(2) establish (for all domestic equity and equity derivative markets) effective prohibitions on intermarket frontrunning, and require the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to establish effective procedures for sharing price, trading, and enforcement data for the detection of intermarket frontrunning, fraud, and other violations;

(3) adopt (for all domestic equity and equity derivative markets) such rules and regulations, issue such orders, and approve, subject to applicable requirements, such rules of the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to facilitate the establishment of linked or coordinated facilities for the clearance and settlement of transactions;

(4) adopt such rules and regulations, issue such orders, and, subject to applicable requirements, approve such rules of the self-regulatory organizations and contract markets and clearing organizations subject to their respective regulatory authority as may be necessary or appropriate to authorize the prompt implementation of systems for the cross-margining of intermarket positions and the use of such intermarket positions as security interest for loans and other extensions of credit and the establishment or maintenance of margin on futures and options contracts; and

(5) establish policies with regard to the negotiation and development of international regulatory agreements and standards involving intermarket issues.

(b) OTHER ISSUES.—The Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System shall identify and address other intermarket issues as the issues arise.

(c) REPORT.—Not later than 15 months after the effective date of this Act, the Securities Exchange Commission and the Commodity Futures Trading Commission shall report to Congress on the actions the Commissions have taken to carry out this section.

Mr. BOND. Mr. President, I am pleased to send this amendment to the desk in behalf of myself, Mr. WIRTH, Mr. GARN, Mr. RIEGLE, Mr. DODD, and Mr. MOYNIHAN.

These are essentially the provisions that we discussed earlier today. As I said at the time, it goes back rather closely to the compromise that was worked out last year. We have had an opportunity to have further refinements on it.

As a result of the discussions yesterday in the Banking Committee, which were very fruitful and involved the principal regulators, the Chairman of the Federal Reserve, the Chairman of the CFTC, the Chairman of the SEC, and Mr. Glauber representing the Secretary of the Treasury, we did have some ideas expressed.

The reason for the delay in presenting this amendment is we wanted to spell out very clearly our basic purpose, and that was to ensure that where there is a hybrid and only where there is a hybrid product, not when there is what we call a plain vanilla future or a plain vanilla security, that either a CFTC-designated contract market could trade it or it could trade under the SEC jurisdiction. We wanted to make sure this was a two-way street, and that someone with a hybrid product in the gray area between the black and white on securities on the one hand and futures on the other, there would be what we call the jumpoff—allow the competing products that people who are offering them and the people who want to purchase them choose which forum they wish to function in. If they are going to go to a futures exchange, obviously they are going to set up the instrument with mutual executory obligations.

There are maintenance margins, and there are variation margins. When the market moves one way, the person on the disfavored side may have to come up with a variation margin. The parties to the futures contract look to the clearinghouse for credit risk. These are the indicia of a futures contract. On the other hand, if they are trading on a securities exchange, then they would have to be in the form of a security.

I mentioned earlier today index participations which under this amendment could be traded on a securities exchange. This would afford the small investor an opportunity for about one-tenth of the risk of a futures contract to take a position in expectation of a rise in the value of the stock index just

as they could through a stock index option.

There are many new products being developed every day to meet the changing and emerging financial needs in the marketplace. And it is our belief that the competitive ability of the American financial markets is best served, the financial needs of those who participate are best served, if they are not subject to the threat of litigation under the exclusivity clause.

I have already pointed out the index participations were driven offshore. Other instruments such as swaps are in danger of being driven offshore as other markets now operate offshore because ours is the only country which gives a sword to the futures regulator to allow them to stop any other exchange of any other entity from dealing in a product that has some element of futurity.

There is one other point that I want to raise about this proposal by Senator WIRTH and myself. That is the impact on agriculture and the impact on farmers. A lot of people have said they have heard from farmers and farm organizations who are concerned about any kind of amendment in this area. As one who has as many farmers in agricultural businesses in my State as about anyone else here, and as one who values very highly his relationship with them, I want to spend just a few minutes discussing how this amendment to title III, much less title III itself, affects farmers.

In my travels around Missouri I spent time asking farmers what they think about what I am doing on this issue. Surprising to me, the first point they make is they do not trust Chicago. They say we ought to keep an eye on them. Then we get into the discussion about whether the CFTC should be given broader authority to regulate new nonagricultural products. They are astounded. Why give them a bigger tent, they tell me, when the CFTC is having trouble keeping the handle on the abuses already existing? They all know about the scandal in soybeans. They question whether it makes more sense to expand the scope of operations and the required attention span of the CFTC.

We have heard recently about the significant trading in the coffee futures market the day before a significant change in the position of Brazilian coffee exporters was announced. One of the Commissioners of the CFTC at that time suggested that there ought to be some ban or some limitation on insider trading.

Mr. President, I point this out just to note for my colleagues that what farmers, at least in my State, and I believe they will find in their States, really want is a tough cop on the beat to watch Chicago, to watch the futures markets, to watch those markets where agricultural commodities are being traded and futures in them are being traded. They do not want a new insurance regulator, a bank regulator, or a security regulator.

Once again, as usual, I think the Missouri farmers have put their finger on the issue. We need title I and title II of S. 207 to give the CFTC some long-needed teeth. I think the job that the Agriculture Committee has done in crafting those provisions is an outstanding one.

I had the pleasure of working on those measures in the last session. I was deeply disappointed that we could not get them to a vote last year because I think that everybody who deals in the futures markets needs and wants and expects good, tough regulation.

Certainly the future of the futures market is best served when people can deal with confidence in the futures market. But as Secretary Brady pointed out, because of the 1987 crash there are other things we need. We need the ability of the Fed to oversee other margins. The CFTC gets new, broader margin authority or has the option of the Federal Reserve to have it delegated to them.

I believe that under the alternative proposed by the Senator from Colorado and myself, there will be much less confusion in the international financial markets and in the United States financial markets with the result that we will have far more innovative, useful products trading in the markets and a much larger volume traded here rather than being driven offshore. I hope my colleagues will, if they have questions, discuss with farmers in their States what they think the CFTC devoting time and energy of chasing down swap products, insurance products, or bank deposits versus CFTC policy of policing the beat the farmers care about, the soybean pit, the grain trade, and those other areas.

For those reasons, Mr. President, I want to make it clear, and I hope my colleagues understand that the proposal of the Senator from Colorado, others and myself, is not designed in any way to take away from the regulation which is so essential to protecting markets in agricultural commodity futures, but is designed to see that our overall financial markets work much better.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Are we operating under a time agreement?

The PRESIDING OFFICER. We are not operating under a time agreement.

Mr. GRAMM. I would like to propound some questions to the distinguished Senator from Missouri about the amendment, and these questions are simply being asked because I am not sure what the ramifications of the amendment are. As we normally think of bank deposits and bank loans, I do not want anything in this bill to expand the CFTC's power over either one of these.

My concern, however, is the difficulty that might exist in distinguishing between what is traditionally thought of as a loan and what is traditionally thought of as a future.

Let me just pose the following question: Is it the Senator's intention in this amendment to deny the CFTC any existing jurisdiction over bank loans and bank deposits as they relate to futures and to futures markets that would be analogous to what the SEC has under current law with regard to bank loans and bank deposits as they relate to securities and security markets?

Mr. BOND. Mr. President, I say, as my colleague probably knows, I have been advised that there are explicit exemptions from the SEC laws for bank activities and bank sales of securities. I ask my colleague, what is the existing CFTC jurisdictional limitation with respect to banks?

Mr. GRAMM. I think the problem we have here is that I am not sure any of us know what jurisdiction the SEC has over deposits or loans or what jurisdictions the CFTC has over deposits or loans. If the purpose of the Senator's amendment is to assure that this bill does not expand the CFTC's jurisdiction, then I do not think I have any problems with it. But if the purpose of his amendment is to deny the CFTC jurisdiction that it currently has and jurisdiction that is parallel to the SEC's jurisdiction, then I think that I have real problems with it.

Let me try to give an example.

Let us say that a bank makes mortgage loans and that the mortgage loans are then bundled and sold as securities on the secondary market. It would be my assumption that in that market the SEC would preserve its traditional jurisdiction, that once the bundled mortgages are traded on the securities market, the SEC would have jurisdiction related to fraud and the protection of the public interest.

What I am wondering is, if a bank made loans, say, denominated in future wheat deliveries, and they were made in thousand-dollar denominations, and then those loans were sold on the secondary market, under the Senator's amendment, would the CFTC have the same jurisdiction over those secondary markets that the SEC would have with regard to the bundled mortgages? That is what I am trying to understand. There is not any sinister motive here. Are we preserving a parallel between

the SEC and the CFTC? I am concerned about stripping away any powers that the CFTC may now have, unless we are doing the same thing to the SEC.

Mr. BOND. Mr. President, as I mentioned a moment ago, there are explicit exemptions in the securities law, 3(a)(2) and 12(i), under the 1934 act, for bank activities. If a bank, however, goes into the securities market, then the bank is subject to the laws and regulations of the securities market. If a bank went into the futures market to sell some kind of future, it is my understanding that they would be subject to the usual regulations on any product traded on a designated contract exchange.

But if my good friend from Texas is saying, if a bank starts selling futures contracts—if that is his question—that bank has all the problems it needs with its Federal and/or State regulators, because that is not what banks do. There are certain things that you get down to when you start making loans. I do not believe any bank examiner is going to allow a federally insured depository institution to try and set up a futures market under the guise of making loans.

That is not the concern that the Federal Reserve raised when it strongly urged that there be a clear-cut statement of policy on loans and demand deposits of banks. Usually everybody knows what bank deposits, bank loans traditionally are. They may develop bells and whistles on them but they have to be basically money lent out or money paid in with the expectation that interest will change hands and not that they will be some kind of futures activity. If there is some kind of futures activity then that clearly falls outside the scope of their authority to act as a bank but the concern is that there might be a suit filed against a normal loan or other activity by the CFTC or a futures contract market.

Mr. GRAMM. Let me try then to understand the Senator's concern, and again all I am trying to do is to be sure that we are not denying an agency the ability to do its job. I have just been handed by the trusty staff of the Ag Committee the copy of the securities laws. In section 78(j) the law makes it very clear that even if a security is not registered, then that does not limit the ability of the Securities and Exchange Commission to regulate in the public interest and to protect investors.

So, as I read this, and I may be wrong, to the degree to which a loan or deposit becomes a security, the SEC still has jurisdiction.

The distinguished Senator from Missouri talks about regulation, but paragraph D of his provision includes foreign banks. Let me just make up a hypothetical example.

Let us say the Bank of Yugoslavia opens a branch bank and they make loans denominated in grain. They make 1,000 loans at $1,000 a loan. The loans are to be paid in grain on a date certain in the future. They go on the secondary market and they sell these loans. It seems to me at that point that they have become futures.

I am wondering if it is the Senator's intention to deny the CFTC the ability at that point to step in and regulate them.

What I am saying is that maybe we could solve this whole thing with very simple language that says the following: To whatever degree existing, law, which is not changed by this provision, preserves jurisdiction for the SEC over bank loans and bank deposits, as they relate to securities, and as they relate to security markets, nothing in this provision would take away corresponding powers of the CFTC over bank deposits and bank loans as they relate to futures and to the futures market.

In other words, if before the adoption of the bill that is before us, the CFTC has fraud powers that relate to loans or deposits being manipulated to be futures, and nothing in the Senator's amendment takes away the powers it already has or the power that would be parallel to the SEC, then I do not know that we have any disagreement.

Mr. BOND. Mr. President, my colleague is talking about a Yugoslavian bank. I point out this amendment only applies to a Federal or State branch or agency of a foreign bank, and as such it is regulated in the United States. So some bank trying to offer grain denominated loans or other contracts, I suspect is totally outside the scope of the banking laws.

The other point I would note is that there is no corresponding power in the SEC to the exclusivity clause in the CFTC. The CFTC has a sword that can be used to strike down trading in financial instruments that goes beyond anything that may be presented on a CFTC exchange. The IP's, for one, is an example where the exclusivity clause was used to take away jurisdiction from another regulated entity, the American and the Philadelphia stock exchanges.

I do not know and I would be happy to be informed by my colleague as to the equivalent power that the SEC may have. It is clear that both agencies may have general antifraud provisions, and there is a whole range of both State common law and mail fraud statutes that would deal with attempt to set up some kind of fraudulent enterprise.

But beyond that I would ask my colleague what specific powers he may be referring to. The main concern of the banking regulators is that the exclusivity clause could be used to regulate or to interfere with a deposit or a loan issued by a bank and that is what we need to clarify. That is the purpose of this amendment.

Mr. GRAMM. If I might respond, I know that the SEC has powers over securities in the security markets with regard to fraud statutes no matter who is in the process of issuing or marketing those securities, be they banks or be they individuals.

My concern here is not whether CFTC is going to have jurisdiction over bank deposits, like checking accounts, or loans, or like commercial credit. My concern is what happens when loans are made. If the loans are traded on a secondary market, you have a bank regulator that is challenged to regulate banks in their banking operation. But what happens if a bank gets into the futures business? Do they escape regulation by the fact that they are a bank? It is my contention that they do not escape regulation of the SEC because they are a bank if they get into the business of dealing in the securities markets.

For example, most banks speculate and engage in transactions related to currency futures. It is an ongoing transaction. To the extent that they engage in currency futures they are regulated by the CFTC and in the regulation of that market.

Now what happens if a bank decides it does not want to be regulated? It makes loans denominated in foreign currencies that become futures and engages in those transactions. Does that exempt them from the CFTC when clearly the loan is simply a vehicle to create a future? That is what I am trying to understand.

Mr. BOND. Mr. President, if there is any possibility that a bank could become a futures trading entity by using loans denominated in some kind of future product, I think that we have a weakness in the basic banking laws because that is not what banks are chartered to do. As I have said before, if a bank were to buy a futures contract, then it would be subject to the futures contract or it sells a futures contract on the market but when it has loans and deposits as a normal banking institution, then I do not see how under the heavily regulated system we have for financial institutions that there is any way in which a bank could become a futures market by denominating loans in grain. That just defies all standards of banking safety and soundness. That is now what banks are permitted to do. If there is a one thing we do it is we regulate our banks rather tightly in the United States.

Mr. GRAMM. Mr. President, all I am saying is, I do not know what is going to happen in the days to come. I think one of the things we know for certain is that we have a great deal of innovation going on.

What I am concerned about here is not that you are simply trying to prevent the CFTC expanding powers over bank loans and bank deposits. I do not have any concern about that at all. What I am concerned about is that, unintentionally, creating a void in the

regulatory process. Bank regulators that, after all, have their own problems related to banking, are now going to be responsible for regulating instruments that may be futures posing under the name of deposits or loans, and that powers that the SEC currently has over securities, related to fraud and the protection of the public interest, are going to be denied to the CFTC.

You are talking about credit unions in the amendment—I am not sure that the credit union regulators are prepared to regulate futures or securities. I do not know what kind of expertise they have. I know they do a great job in regulating credit unions.

So what I am saying is if the SEC exercises power under current law related to deposits or loans to protect the public interest against fraud and to protect the integrity of the securities market, do we want to deny to CFTC those same powers through the Senator's amendment to protect the integrity of the futures markets, and the futures industry?

Mr. BOND. Mr. President, the whole purpose of this amendment is to make clear that the very special tool that CFTC has under the CEA, the exclusivity clause, is not, for example, used by some future CFTC to interfere with any kind of bank products. The adjustable rate mortgages, for example, were subject to a proposed rulemaking to say that ARM's were not to be considered as futures. The Commission said that they anticipated that additions and refinements of these categories may be made.

There is an uncertainty as to how far the CFTC or even the futures industry itself can pursue the normal banking products under the exclusivity clause.

I really think we are getting far afield when you try to think about how a credit union might get into the business of operating a futures market. If the credit union regulators have half the ability I am confident they have, they are going to blow the whistle when they see the first sign that a credit union is trying to run a futures market.

The same problem does not exist, there is not a mirror image, on the SEC side. There are general fraud provisions that both entities have. And I am confident that those fraud provisions will continue to be exercised as will the general criminal fraud, mail fraud statutes, and everything else. What we are attempting to do is to give certainty that loans, demand deposits, deposits, CD's will not be struck down by the exclusivity clause.

Mr. GRAMM. Mr. President, I think there are two issues here, and I think now I am beginning to understand what the Senator is trying to do. It is not the Senator's concern that the bill before us has expanded the CFTC's powers. It is the Senator's concern that the Senator wants banks to be able to say what is a bank product and deny the CFTC the ability to say no, that is a future.

Would the Senator be in favor of saying that, to the degree to which the Securities and Exchange Commission has the ability to say, no, that is not a bank deposit or a bank loan, it is a security, and it comes under our jurisdiction under current law, would the Senator be willing to have an amendment to preserve the same power for the CFTC?

Mr. BOND. Mr. President, as I pointed out before, when banks engage in any of these activities, if they go into a market, then they are regulated by that market. But, basically, the activities within the bank are normal banking activities regulated by bank regulators regardless of what they are and if they are selling securities in the guise of normal banking activities or if they are trying to sell futures in the guise of normal banking activities, that, to me, is something that can be and should be dealt with by the banking regulators, just as the CFTC would have the authority on one of its designated contract markets to say, you know, you are holding yourself out as a taker of deposits, and if somebody, if the CFTC contract market offered and claimed to offer a Federal deposit insurance on a checking account with one of the Commission's merchants, then I would think that the CFTC itself would have the power to and have the responsibility to knock that down.

Mr. GRAMM. Mr. President, I would think that that is obvious. What this amendment says is that anything a bank does, the bank regulators have jurisdiction over and the CFTC does not have jurisdiction. If a bank calls something a deposit and they say it is a deposit, and the CFTC says, it is a future since it calls on the delivery of something in the future and has all the characteristics of a future, such as a loan that is denominated in oil to be delivered in the future, that sells on a secondary market or is traded indirectly, then under this amendment, the bank could say, no, it is a deposit. And the agency that is given responsibility for the regulation of futures would have no recourse whatsoever because the bank or the bank regulator would have the final word.

There are two types of problems here. One is a problem where those activities would undermine the solvency of the bank. And I guess you could argue that if the bank regulators were sufficiently knowledgeable and experienced in those areas, that they would be able to regulate that. Why we would want them to do it, however, rather than the agency that is charged with it, that has the expertise, I do not know.

But what about the case where the regulator says, well, you know, this futures business is a good business. You are earning money doing it. Go ahead and do it and we will regulate you in doing it instead of the CFTC.

So you would have banks issuing futures that are called deposits, that are trading on the open market, and you are saying that if they were securities, the SEC could step in and exercise its oversight responsibility. You are saying that the CFTC cannot do that.

Mr. BOND. Mr. President, maybe I ought to urge my colleague to let loose of that bone of the SEC competition. We are not fighting a battle between the SEC and the CFTC. This is a concern expressed by the banking regulators and the Federal Reserve. The CFTC does not let the banking regulators come in and say the products being sold, transactions on a designated contract market, are actually bank deposits and bank loans so they should examine them; the banking regulators do not send people in or try to go in and regulate the futures exchange. The futures exchanges, the contract markets, have their regulators. To suggest somebody might violate the law is to suggest we pass a law to ban everything.

To carry this to the absurd extreme, perhaps we should give the CFTC jurisdiction over the Maryland Game and Fish Commission because somebody might call something a rockfish but it could be that they develop some kind of futures contract and call it a rockfish and the game and fish commission would go out and sell licenses to go after rockfish but they are really futures.

That is the ludicrous extent to which this can go. By calling something a name that is inappropriate, that does not in any way suggest a sham transaction is going to be approved by the regulators or is appropriate under the law.

I just do not think we can stretch that far, to say that a loan or deposit somehow can be taken away from or can become something different just by labeling a loan or deposit. I believe there is a body of law to indicate these are clearly defined in law and are certainly subject to the normal regulatory oversight.

Mr. GRAMM. Mr. President, it is clear to me when we are talking about rockfish and the game and wildlife commission we are trying to score debating points and not address the issue. The bottom line is, however, under the amendment before us, it would be the bank that would determine what something was. By simply calling it a deposit, it would be a deposit no matter what it was in reality.

This creates two problems. One problem is the lack of ability of the bank regulator to engage in effective futures regulation, a capacity they have not been trained to do and have no expertise in.

The second problem, is do we want banks to be able to engage in the futures business under the regulation of bank regulators who may decide that it is something they want them to do in order to improve their profitability?

All I am saying is this. Under existing law, the SEC has jurisdiction if the SEC finds that something is a security and is trading as a security. It does not matter what banks call it. The SEC has the ability to regulate securities and the marketing of securities. The fact a bank says it is a deposit does not change the reality of it.

What this amendment would do, however, for banks, Federal and State branches, for credit unions, for foreign banks, it would say: If that institution says it is a loan, it does not matter what market it trades in, it does not matter what its characteristics are, it is a loan.

Now that I have listened to the distinguished Senator, the conclusion I have reached is that he basically means to say here, if a bank says something is a loan, nobody else beside the bank regulator can look behind that claim.

That is far afield from what most people believe that this amendment is doing. Most people believe this letter that was sent out, which said the existing bill expanded CFTC power banks and bank deposits. But this amendment is not about that.

This amendment is an attempt to deny a Federal agency that is given the responsibility for regulating futures products and the futures industry the ability to do that job if the marketer of an instrument or the creator of it is a bank. I submit that is fundamentally different from how the amendment has been advertised.

If it were the purpose of the Senator to narrow the scope of this bill and say that nothing in this bill will expand the power of the CFTC over deposits and loans, I cannot see any reason we would want to oppose it.

I urge my colleagues not to laugh this idea off. I think there is a genuine problem here, and it is one we ought to understand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, on the basic Bond-Wirth amendment, if I speak this evening I will speak only for a very few minutes. I know all our colleagues who are unable to be on the floor are probably in their offices following the debate going on about futures, security instruments, IP's, and swaps.

But let me ask my distinguished colleagues—Do they have any particular idea of how much longer the debate might go on?

Mr. GRAMM. Mr. President, I am not going to convince the Senator from Missouri and, if I have lost the attention of the distinguished chairman, then I am wasting his time and mine, and I do not have any further debate.

Mr. LEAHY. Quite the contrary.

Mr. GRAMM. I am through, Mr. President.

Mr. LEAHY. The reason I asked the question, Mr. President, is that I have had inquiries on the matter from Senators through our Cloakroom. I suspect the other Cloakroom has had similar ones.

I will mention I am probably going to speak tonight for just a minute or two with regards to the Bond-Wirth amendment to title III. I spoke at much greater length about it earlier today and yesterday. So that is why I will only be very brief.

I see my good friend from Missouri. I have just heard the response of my good friend from Texas. I might ask if the Senator from Missouri has some idea how much longer we will go on, simply to pass the word on.

Mr. BOND. Mr. President, my distinguished colleague from Vermont and I yielded back all the time on the bank powers amendment and we thought we were finished with that. I was prepared to yield back the time and shut down on the broader Wirth-Bond amendment. I was attempting to answer questions from my colleague from Texas. I had a 7:30 dinner engagement and my desire is to be gone. I have about 30 seconds to cite to my friend from Texas something that has just been called to my attention.

And I am more than happy to see this wonderful discussion come to a close.

Mr. LEAHY. Mr. President, I mentioned earlier today about how cooperative my friend from Missouri is. I meant that very seriously. In the years I have known him, since the Senate benefited from his joining the membership here, I thought it would be nothing but.

So I will yield immediately, of course, to the Senator from Missouri.

Mr. BOND. I thank my colleague. I just will point out that one of the reasons why the Federal Reserve and other bank regulators are anxious to have the exemption is the fact that in the Federal Register for December 11, 1987, the Commission proposed to establish an exemption from compliance with certain CFTC regulations for a class of hybrid institutions that are predominantly debt obligations, bank deposits, or other transactions.

In that proposal, it goes on to say that eligibility for such an exemption would be established through a filing procedure affording the Commission notice of the proposed offering, requiring the issuer or offerer's consent to submit to special calls, and mandating disclosure to participants in the exempted transaction, that the transaction will not be regulated by the CFTC.

I further understand that the current CFTC has no interest or intent in pursuing that. But the fact that the CFTC, on December 11, 1987, proposed a rule which would require a bank to come in and get an exemption from the CFTC before offering a bank deposit has caused the concern, and it was for that purpose that we offered the amendment to make sure that they could not do that.

I believe it was gross overreaching. I want to make sure it does not happen again.

I thank the Chair. I thank my distinguished colleague and I yield the floor.

Mr. LEAHY. Mr. President, I know of no other Senator who wishes to speak on this matter. While the Senator from Missouri is on the floor, I want to speak briefly to his amendment. I want to alert him to that.

I emphasize that the amendment is different from the five-Senator compromise of last year, which I happened to join in. The five-Senator compromise used the so-called jump-ball theory. Certain hybrids, like index participations, which are as much futures as they are securities, could trade either as futures or securities.

The hard part of working out that compromise was separating the traditional, plain vanilla futures—an expression that our late and admired colleague, Senate Heinz, had coined—which remained exclusively under the CFTC, from new hybrid securities. We wanted each side to keep the products it had developed and nurtured. New ones would be up for grabs.

The approach made for good regulation. The CFTC has specialized rules for futures trading to protect customers, prices, and markets. These are equivalent to the SEC's very specialized rules in the securities markets, rules based on years of practice and experience with the markets under its jurisdiction

We drew that line. Traditional futures, those with mutual executory obligations, stayed with the CFTC. Traditional securities stayed with the SEC, and the jump-ball hybrids went either way.

The amendment being presented to us rejects this approach. It allows plain vanilla futures based on securities—exact copycats of those traded today in Chicago and New York—to move over to the Stock Exchange, but there is no road going back. It is a one-way street. Plain vanilla securities cannot move to the CFTC. Thus, the basic fairness and the balance of last year's compromise is gone.

At least 36 existing approved contracts, over half of the futures industry, would switch over. That is not a narrow jump-ball approach.

Mr. President, I ask unanimous consent to print in the RECORD a chart showing the contracts which would

switch over under even the most narrow reading of that proposal.

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

COMMODITY FUTURES CONTRACTS TRADED 1986–90 DIRECTLY AFFECTED BY BOND-WIRTH AMENDMENT*

CHICAGO BOARD OF TRADE

GNMA Mrtges, CDR
Cash Settle GNMA
T-Bonds
T-notes (6½–10 yr)
T-Notes (5-year)
T-Notes (2-year)
Japanese Government Bonds
30-Day Interest Rate
Corporate Bond Index
Mortgage Backed
CBOE 250 Index
TOPIX
Institutional Index
Municipal Bond Index
Major Market Index
MMI Maxi
NASDAQ-100

CHICAGO MERCANTILE EXCHANGE

T-Bills (90-day)
Domestic CD (90-day)
Nikkei 225
S&P 500 Index
S&P 100 Index
S&P OTC 250

COFFEE SUGAR AND COCOA

Int'l Market Index
CPI-W

COMMODITY EXCHANGE

Moody's Index

KANSAS CITY BD. OF TRD.

Value Line Index
Mini Value Line

MIDAMERICA COMMODITY EXCHANGE

T-Bonds
T-Bills
T-Notes

NEW YORK COTTON EXCHANGE

Five Year Treasury Note
Two Year Treasury Note

NEW YORK FUTURES EXCHANGE

NYSE Composite Index
Russell 2000
Russell 3000
T-Bond (30 Year)

Mr. LEAHY. Mr. President, I spoke at some length on this matter when it first came up Tuesday. I spoke again on it today. I suspect that perhaps there are Senators now who find that excitement waning.

So, Mr. President, I am perfectly willing to shut down the debate on the CFTC authorization, which I understand we can do under the unanimous-consent agreement.

Of course, the unanimous-consent agreement would then control the order of votes tomorrow. I ask as a parliamentary inquiry, Mr. President, what is necessary to end the debate on CFTC tonight? Is it necessary for the proponents of the amendment or opponents to yield back any time, or is it just necessary for debate to stop?

The PRESIDING OFFICER. There is no time to yield back. It can simply cease.

Mr. LEAHY. Mr. President, it sounds like a pretty sensible thing to me. I cease.

*Assumes all futures or securities or group of securities are covered. Other major groups of futures, such as those of currencies and precious metals, may also be included as having value based on "elements of" securities.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the Senator from Wisconsin [Mr. KOHL] as chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the 102d Congress.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate 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.)

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION MESSAGE FROM THE PRESIDENT—PM 40

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to send you the annual report of the National Science Foundation for Fiscal Year 1990. This report describes research supported by the Foundation in the mathematical, physical, biological, social, behavioral, and computer sciences; engineering; and education in those fields.

Achievements such as the ones described here are the basis for much of our Nation's strength—its economic growth, national security, and the overall well-being of our people.

As we move into the 1990's, the Foundation will continue its efforts to expand our Nation's research achievements, our productivity, and our ability to remain competitive in world markets through innovation and discoveries.

I commend the Foundation's work to you.

GEORGE BUSH.

THE WHITE HOUSE, *April 17, 1991.*

MESSAGES FROM THE HOUSE

At 1:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 22. A concurrent resolution extending the appreciation of Congress to all American-Indian veterans for their service in the Armed Forces of the United States.

At 10:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 16. Joint resolution designating the Week of April 21–27, 1991, as "National Crime Victims' Rights Week";

S.J. Res. 64. Joint resolution to authorize the President to proclaim the last Friday of April 1991, as "National Arbor Day"; and

S.J. Res. 119. Joint resolution to designate April 22, 1991, as "Earth Day" to promote the preservation of the global environment.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 218. Joint resolution to designate the week beginning April 21, 1991, and the week beginning April 19, 1992, each as "National Organ and Tissue Donor Awareness Week; and

H.J. Res. 222. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads represented by the National Carriers' Conference of the National Railway Labor Conference and certain of their employees.

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–945. A communication from the Secretary of the Army and the Acting Secretary of Education, transmitting, pursuant to law,

notice of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of lands and facilities surrounding Lake Isabella and Pine Flat Lake, California; to the Committee on Agriculture, Nutrition, and Forestry.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

The following-named persons to be members of the National Advisory Council on Educational Research and Improvement, for the terms indicated:

Eunice N. Sato, of California, for a term expiring September 30, 1991;

Dale P. Gold, of Virginia, for a term expiring September 30, 1992;

Jack Raymond Reed, of Mississippi, for a term expiring September 30, 1993;

Sandra Mills, of Wisconsin, for a term expiring September 30, 1993; and

Pedro Roig, of Florida, for a term expiring September 30, 1992.

The following-named persons to be members of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for the terms indicated:

Timothy W. Tong, of Arizona, for the remainder of the term expiring August 11, 1992;

Donald J. Sutherland, of New York, for a term expiring August 11, 1996; and

Hans M. Mark, of Texas, for a term expiring April 17, 1996.

Peter deCourcy Hero, of California, to be a member of the National Council on the Arts for the remainder of the term expiring September 3, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. GORTON (for himself and Mr. BRYAN):

S. 832. A bill to authorize the Secretary of Commerce to develop and expand new national markets for recycled paper and other commodities; and to carry out a program requiring Federal departments to procure and use recycled paper and paper products in carrying out their functions; to the Committee on Governmental Affairs.

By Mr. FOWLER (for himself, Mr. NUNN, Mr. HOLLINGS, Mr. GRAHAM, Mr. SASSER, Mr. SHELBY, Mr. GORE, Mr. SANFORD, and Mr. PRYOR):

S. 833. A bill to amend title XIX of the Social Security Act to allow for State matching payments through voluntary contributions; to the Committee on Finance.

By Mr. STEVENS:

S. 834. A bill to amend title 38, United States Code, to increase the salary of the Governors of the United States Postal Service, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 835. A bill to amend title IV of the Social Security Act to establish AFDC minimum payment standards; to the Committee on Finance.

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

S. 836. A bill to amend the Energy Policy and Conservation Act with respect to the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS (for himself and Mr. DANFORTH):

S. 837. A bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, of student loans of students who agree to perform services in certain professions; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COATS, Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 838. A bill to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN (for himself and Mr. DANFORTH):

S. 839. A bill to amend the Federal Aviation Act of 1958 to ensure that airline computer reservation systems are available to users on a nondiscriminatory basis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER:

S. 840. A bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 841. A bill to amend the Internal Revenue Code of 1986 to allow an additional 50-percent deduction for the costs to employers of providing family leave in certain cases involving a birth, an adoption, or a serious illness of a child, spouse, or dependent of the employee; to the Committee on Finance.

By Mr. BREAUX:

S. 842. A bill to amend the Clayton Act to prohibit certain activities by local governments that operate airports, and for certain other purposes; to the Committee on the Judiciary.

By Mr. BREAUX (for himself, Mr. KASTEN, Mr. PRYOR, Mr. HOLLINGS, Mr. LOTT, and Mr. BIDEN):

S. 843. A bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. ADAMS, Mr. BOND, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. HARKIN, Mr. MCCAIN, and Mr. SYMMS):

S. 844. A bill to provide for the minting and circulation of $1 coins; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG:

S. 845. A bill to direct the Secretary of State to seek an agreement from the Arab countries to end certain passport and visa policies, and for other purposes; to the Committee on Foreign Relations.

By Mr. MITCHELL (for Mr. PRYOR) (for himself, Mr. DASCHLE, Mr. RIEGLE, Mr. DURENBERGER, Mr. BURDICK, Mr. BAUCUS, Mr. ROCKEFELLER, and Mr. MCCAIN):

S. 846. A bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies; to the Committee on Finance.

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

S.J. Res. 124. Joint resolution to designate "National Visiting Nurse Associations Week" for 1992; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. DIXON, Mr. BIDEN, Mr. BURDICK, Mr. CHAFEE, Mr. CONRAD, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GLENN, Mr. KERRY, Mr. LAUTENBERG, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. RIEGLE, Mr. ROTH, and Mr. BROWN):

S.J. Res. 125. Joint resolution to designate October 1991 as "Polish American Heritage Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON (for himself and Mr. BRYAN):

S. 832. A bill to authorize the Secretary of Commerce to develop and expand new national markets for recycled paper and other commodities; and to carry out a program requiring Federal departments to procure and use recycled paper and paper products in carrying out their functions; to the Committee on Governmental Affairs.

RECYCLED PAPER NATIONAL MARKET ENHANCEMENT ACT

Mr. GORTON. Mr. President, today I am introducing a bill designed to decrease landfills, increase the market for recycled goods, and further to encourage the Federal Government to "practice what it preaches."

Currently, recycling is costly and inefficient, due to the lack of sufficient markets for recycled commodities. Though many municipalities have implemented effective recycling programs, a viable market for recycled paper and paper products remains to be created.

The Recycled Paper National Market Enhancement Act of 1991 will help combat our Nation's serious problems with municipal solid waste disposal. It will increase the available markets for recycling and thus decrease recycling's costs. It will increase the amount of municipal solid waste recycled. It will require the Federal Government to purchase recycled paper and encourage private business to do the same.

Specifically, this legislation will require the Secretary of Commerce to: prepare a report determining how recycled paper can be better utilized; conduct a domestic market analysis for recycled paper; and establish a Federal procurement program for recycled paper.

Each year, the Federal Government purchases an estimated 734,000 tons of paper products. In 1988, the United States produced 179.6 million tons of

municipal solid waste; of this, 40 percent (or 71.8 million tons), was paper and paper products.

By purchasing recycled paper, the Federal Government will enhance the market for recycled paper and paper products. Federal procurement will decrease the cost of recycling and increase the amount of municipal solid waste recycled. I hope that once recycled paper becomes more cost-effective, private industry will join the Government's lead in purchasing recycled paper.

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

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

S. 832

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 "Recycled Paper National Market Enhancement Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Secretary of Commerce should undertake a national search for new markets for recycled paper and other commodities, and advise interested States and other entities on how to expand existing markets for recycled matter;

(2) the United States is producing too much solid waste;

(3) solid waste is overflowing municipal landfills, and that this overflow causes environmental degradation, including hazardous and toxic waste sites, polluted land and water, and the need for additional incinerators;

(4) sending valuable material to landfills instead of reusing and recycling that material is a waste of our natural resources;

(5) the amount of land currently used by landfills could be used in other more productive ways;

(6) the handling and transporting of municipal solid waste is a large cost to the taxpayer;

(7) recycling is a proven way to reduce the amount of the solid waste stream;

(8) though many municipalities have implemented effective recycling programs one of the impediments to enhancing successful recycling programs is the lack of markets for recycled goods, and lack of markets increases the costs of recycling, and decreases the amount of solid waste recycled;

(9) according to the Environmental Protection Agency, paper is 40 percent of the total volume, by weight, of existing landfills;

(10) the Federal Government can expand the existing markets for recycled paper and paper products which will result in a reduction of the amount of municipal solid waste;

(11) the Federal Government purchases over 700,000 tons of paper each year at a cost exceeding $600,000,000, and by purchasing recycled paper and paper products, the Federal Government will enhance the market for recycled paper and paper products; and

(12) specific targets for procurement of recycled paper and paper products by the Federal Government are necessary and will increase recycling.

SEC. 3. REPORT BY SECRETARY OF COMMERCE.

(a) RECYCLED PAPER.—Prior to the expiration of the 60-day period following the date of the enactment of this Act, the Secretary of Commerce shall conduct a study for the purpose of—

(1) determining in what manner and to what extent recycled paper can be better utilized by the United States, and the several States, including political submissions of such States;

(2) determining the costs likely to be incurred in recycling and the most effective way of minimizing such costs; and

(3) conducting a domestic market analysis of recycled paper.

(b) REPORT.—The Secretary of Commerce shall report the results of such study conducted pursuant to subsection (a), together with his views and recommendations, in the Federal Register.

SEC. 4. PROCUREMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Commerce shall, by regulation, establish a program for the purpose of requiring each Federal department to purchase and use a certain percentage of recycled paper and paper products in its operations.

(b) PROCUREMENT.—Under the program established pursuant to subsection (a), the Secretary of Commerce shall require each Federal department to take such action as may be necessary to assure that recycled paper and paper products are purchased under each contract, including subcontracts, for the procurement of 10,000 pounds or more of paper or paper products.

(c) EXCEPTIONS.—(1) Under such program, any decision not to use recycled paper and paper products shall be based on a determination that such items are—

(A) are not reasonably available within a reasonable period of time;

(B) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

(C) available only at an unreasonable price.

(2) For purposes of this section, an unreasonable price is one which exceeds by more than 10 percent the price of nonrecycled paper or paper products.

(d) LEVELS.—The program established pursuant to this Act shall establish procurement levels for Federal departments for the acquisition of recycled paper and paper products as follows:

(1) For fiscal years 1993 and 1994, 33 percent of all paper and paper products procured during those fiscal years shall be recycled paper and paper products.

(2) For fiscal years 1995 and 1996, 42 percent of all paper and paper products procured during those fiscal years shall be recycled paper and paper products.

(3) For fiscal year 1997, and each fiscal year thereafter, 50 percent of all paper and paper products procured during such fiscal year shall be recycled paper and paper products.

SEC. 5. PUBLICATION; EFFECTIVE DATE; ENFORCEMENT.

(a) PUBLICATION.—Within 90 days following the establishment of the program required by this Act, the Secretary of Commerce shall publish a copy of such program in the Federal Register, and shall submit a copy thereof to Congress.

(b) EFFECTIVE DATE.—Such program shall take effect upon the expiration of the 60-day period following the date of its publication in the Federal Register.

(c) ENFORCEMENT.—It shall be the responsibility of the Secretary of Commerce to enforce the recycled paper and paper products procurement program established pursuant to this Act.

SEC. 6. DEFINITIONS.

As used in this Act, the term—

(1) "paper and paper products" includes nonpermanent printing and writing paper, corrugated boxes, napkins, tissue paper, and such other paper and paper products as may be considered necessary or appropriate to be included in such term by the Secretary of Commerce;

(2) The term "recycled paper and paper products" means paper and paper products that contain no less than 20% post-consumer materials, as defined by the E.P.A.

(3) "Federal department" means any department, agency, or other instrumentality of the executive, legislative, or judicial branch of the United States Government.

By Mr. FOWLER (for himself, Mr. NUNN, Mr. HOLLINGS, Mr. GRAHAM, Mr. SASSER, Mr. SHELBY, Mr. GORE, Mr. SANFORD, and Mr. PRYOR):

S. 833. A bill to amend title XIX of the Social Security Act to allow for State matching payments through voluntary contributions; to the Committee on Finance.

STATE MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS

• Mr. FOWLER. Mr. President, today I rise before you to introduce important legislation to assist State Medicaid budgets with the financial burden of recent federally mandated expansions and address the hardship which disproportionate share hospitals currently face in providing indigent care. This bill will allow States to use voluntary contributions from hospitals as a portion of the State Medicaid match.

During these tough budget times—when health care costs are skyrocketing and the Federal Government keeps setting new mandates for the Medicaid Program—we must allow the States to use creative methods of financing their Medicaid match. I would much rather see a system of voluntary contributions from hospitals than the tax increases that might otherwise be needed to fund essential health-care services for indigent patients.

For the past few years the Health Care Financing Administration has attempted to limit how the States are able to finance their individual Medicaid programs. Congress has examined this issue for several years, but refused to take definitive action. This is the year to send a message to the States that the Federal Government is willing to work together with them to improve access to proper health care for our indigent citizens.

Under this legislation, not more than 10 percent of the total State Medicaid match may come from voluntary donations. Also, individual hospital donations may not exceed 10 percent of the participating hospital's gross revenues. These caps, along with current law, will ensure that there is no abuse by the States or individual hospitals.

In my home State of Georgia, the State legislature has implemented an Indigent Care Trust Fund to financially assist numerous disproportionate share hospitals. This program receives donations from contributing hospitals and utilizes the funds generated to help pay for indigent care throughout the State. Fifty-seven hospitals are currently participating in this program, which provides valuable assistance to the poor, including much needed perinatal case management and postpartum home visits for women and children. Due to forthcoming regulations by the Health Care Financing Administration, there is a growing uncertainty of the Indigent Care Trust Fund's future. Thus, the Georgia Department of Medical Assistance has been unable to proceed with plans to expand Medicaid coverage for pregnant women and children from 133 percent of the poverty level to 150 percent or higher.

Mr. President, the Congress needs to act now and put this issue to rest by allowing the States to use proven methods of expanding Medicaid benefits to indigent citizens. If we sit back and wait, the administration may, indeed, move to take this important financing tool away from State governments.

Mr. President I urge all my fellow colleagues in the Senate to join me, Mr. NUNN, Mr. HOLLINGS, Mr. GRAHAM of Florida, Mr. SASSER, Mr. SHELBY, Mr. GORE, Mr. SANFORD, and Mr. PRYOR in support of this bill. I also ask unanimous consent that this amendment to title XIX of the Social Security Act be printed in the RECORD immediately following my statement.

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

S. 833

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

SECTION 1. STATE MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS.

(a) VOLUNTARY CONTRIBUTIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 4755(a) of the Omnibus Budget Reconciliation Act of 1990, is amended by adding at the end the following new subsection:

"(z)(1)(A) Subject to subparagraphs (B) and (C), financial participation described in subsection (a)(2) may include the application of private funds donated by hospitals to, and subject to the unrestricted control of, the State.

"(B) Financial participation may not include—

"(i) donations to the extent their aggregate amount exceeds in any Federal fiscal year 10 percent of the non-Federal portion of expenditures under the plan in the year, or

"(ii) donations made by, or on behalf of, or with respect to, any particular hospital, to the extent that their aggregate amount in an annual cost reporting period exceeds 10 percent of the gross revenues of the hospital (not taking into account any Federal revenues under this title or under title V or title XVIII).

"(C) For purposes of this paragraph, the fact that a hospital may receive some benefit from a transfer of funds to a State shall not prevent the transfer from being treated as the donation of funds, unless the amount of benefit to the hospital is directly related, in timing and amount, to the timing and amount of the transfer.".

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to funds donated on or after January 1, 1992.●

By Mr. STEVENS:

S. 834. A bill to amend title 38, United States Code, to increase the salary of the Governors of the U.S. Postal Service, and for other purposes; to the Committee on Governmental Affairs.

POSTAL SERVICE GOVERNORS COMPENSATION ACT OF 1991

Mr. STEVENS. Mr. President, today I am introducing a long-needed change in the Postal Reorganization Act relating to the pay of the Board of Governors of the U.S. Postal Service. In addition, the legislation, if enacted, would enhance their ability to carry out their sworn duties.

The annual salary of the Postal Service Governors was set in 1970 at $10,000. My bill will increase the annual salaries to $30,000, to recover the reduction in compensation caused by 253 percent inflation since the date of enactment. This increase would be in line with the increased compensation granted to fellow postal workers who have seen a 286-percent increase in their wages since 1970.

As recognized from the beginning by the Kappel Commission, which laid the foundation for postal reorganization in 1968, the essential element for the success of the Postal Service is a governing Board with full authority for postal management. The immense size of the Postal Service, together with its $40 billion budget, its geographic scope, and its pervasive impact on every household, business, and community, requires oversight by persons of ability, energy, and experience. It is inconsistent with this requirement that the salary paid to those essential individuals since the enactment of the Postal Reorganization Act, should be reduced, through inflation, by approximately two-thirds of its original value. Moreover, the reduction of the value of the compensation is contrary to trends in the private sector, where the fees paid to outside directors of large corporations are rising. Companies in the private sector have come to depend upon the diligent, objective judgment of outside directors to monitor and evaluate the decisions of operating management, and they are increasingly willing to pay substantial amounts to obtain the time and energy of qualified directors. Similar considerations apply no less in a vast public enterprise such as the Postal Service, an enterprise I might add would be, in effect, the eighth largest private company in the United States, if it were a private company. To ensure that service as a Governor of the Postal Service remains attractive to persons of talent and stature, the salary paid to the Governors should be adjusted to restore some of the value lost through inflation.

It has also become increasingly apparent over the past 20 years that the Board of Governors of the Postal Service, as a group and as individuals, from time to time need to obtain the services of others to help them perform their duties effectively. Such assistance may take the form of clerical help to deal with a surge of correspondence occasioned by a major postal rate proceeding, or the need to utilize expert advice to aid in the evaluation of a major policy initiative or capital expenditure facing the Board. Although it is implicit in the Postal Reorganization Act that the Board of Governors may employ clerical or professional help, consistent with their overall authority to direct the exercise of these responsibilities, it is appropriate to codify that explicit recognition of authority. But more important, it is inherent upon the whole concept of the Board of Governors that they are independent of management and that they have the duty to ensure, on behalf of the American people, that the actions requested by management are in the proper interest of all ratepayers and postal customers. They cannot do that job adequately if their only source, or their primary source, is postal management. The current Board has a capable secretary who does all that can be done. But one person cannot do it all. This legislation simply gives the members, with the approval of the Board, the ability to hire limited supplemental staff either in Washington, or in their own communities, to help them carry out their duties.

I do not perceive a huge bureaucracy being created. I do not perceive even a very large staff, but we must authorize some staff. We cannot hold the Board of Governors accountable for action and deny them the ability to freely probe, question, and assure themselves that the course the postal management wishes to take is the proper course. Those hired will be retained with the approval of the Board of Governors and will be subject to the same basic policies and restrictions which govern all U.S. Postal Service employees. These statutory policies include a 5-year time limit, right of removal applicable to executive employee contracts, prohibition of political job recommendations, and general applicable principles of pay applicability, executive salary limitations, and employment opportunities for the disadvantaged and handicapped. In addition, in order to ensure that the Board and its members should not establish a separate bureaucracy, individuals employed, or contracted to assist the Board or its members, will not

be considered members of the postal career service. Mr. President, I ask unanimous consent to print at the end of my remarks the complete text of the bill.

Incidentally the total amount of money involved in this is very small and because of the circumstances it will not come out of the taxpayers' funds, it will come out of the ratepayers' funds. But those ratepayers deserve better service from the Board of Governors and I believe they will get that service if the compensation is in line with modern conditions; conditions now as compared to 1970, and they have the staff preparation that enables them to do their job in a shorter period of time when they are in session.

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

S. 834

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 "Postal Service Governors Compensation Act of 1991".

SEC. 2. INCREASED SALARY FOR POSTAL SERVICE GOVERNORS.

Section 202(a) of title 39, United States Code, is amended by striking "$10,000" and inserting in lieu thereof "$30,000".

SEC. 3. STAFF ASSISTANCE FOR BOARD OF GOVERNORS.

(a) IN GENERAL.—Section 205(a) of title 39, United States Code, is amended by adding at the end the following: "The Board is authorized, by contract or other employment subject to the policies and restrictions of sections 1001(c), 1002, and 1003 of this title, to obtain such staff to assist the Board or its members as the Board shall determine by resolution to be appropriate.".

(b) CONFORMING AMENDMENT.—Section 1001(b) of title 39, United States Code, is amended by striking "and 1001(c)" and inserting in lieu thereof "205(a), and 1001(c)".

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect on October 1, 1991.

SECTIONAL ANALYSIS

SEC. 1. SHORT TITLE

The Postal Service Governors Compensation Act of 1991.

SEC. 2. INCREASED SALARY FOR POSTAL SERVICE GOVERNORS

This section amends 39 U.S.C. 202(a) to increase the yearly salary of the Governors of the United States Postal Service from $10,000 to $30,000.

SEC. 3. STAFF ASSISTANCE FOR BOARD OF GOVERNORS

Subsection (a) amends 39 U.S.C. 205(a) to make explicit the authority of the Board of Governors of the Postal Service, by employment contracts or other arrangements, to obtain support staff for the Board as a whole, or its individual members. (Any such contracts or arrangements must be approved by a resolution of the Board of Governors.) All such employment arrangements, moreover, will be subject to certain policies and restrictions which govern employment within the Postal Service, including the five-year time limit and right of removal applicable to executive employment contracts (39 U.S.C. 1001(c)), the prohibition of political recommendations (39 U.S.C. 1002), and the policies of pay comparability, executive salary limitation, and opportunity for the disadvantaged and handicapped (39 U.S.C. 1003).

Subsection (b) makes a conforming amendment to 39 U.S.C. 1001(b) to provide that individuals employed under contracts or other arrangements to provide staff assistance to the Board or individual Board members will not be members of the postal career service.

By Mr. MOYNIHAN:

S. 835. A bill to amend title IV of the Social Security Act to establish AFDC minimum payment standards; to the Committee on Finance.

MINIMUM BENEFIT FOR FAMILIES ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that would require that AFDC payments, when combined with food stamp benefits, equal at least 50 percent of the poverty level. Under this proposal, the minimum monthly AFDC-food stamp benefit for a family of three would be $464.

Children now make up the largest proportion of poor persons in the United States. Some 12.6 million, 39.9 percent of the poor. This development is linked to recent changes in the American family. Today, nearly one-quarter of all families are headed by a single mother. That's up from 19.4 percent in 1980, 11.5 percent in 1970.

Single parent families now represent two-thirds of all poor families. And they seem out of the reach of the standard economic prescriptions. The annual poverty status report recently issued by the Bureau of the Census suggests that the economic growth and high employment levels of the last decade made no impact on this group.

In 1988, we enacted legislation, the Family Support Act, to address child poverty and welfare dependency. This proposal introduced a wholly new concept to welfare, a social compact. Society owed single mothers support while they acquired the means of self-sufficiency; mothers owed society the effort to achieve this goal. Absent fathers owed child support to both. But the social calamity that is welfare dependency will not be reversed overnight. What took near a generation to create will take near a generation to remedy.

Meanwhile, we have 12.6 million children who live in pauperdom; who at the very least must be provided with food, clothing, and shelter.

The Federal Government does not set benefit levels. States do. And some States set their's quite low—Alabama: $118 a month for a family of three; Mississippi: $120; Tennessee: $184; Texas: $184; and Louisiana: $190. By contrast, the State of Alaska pays $846. This is over seven times as much as Alabama and Mississippi, a range that greatly exceeds geographical differences in the cost of living.

Since the 1970's, Social Security benefits have been indexed to inflation. As a result, poverty among the elderly has been nearly eliminated—surely one of our most significant achievements. Indeed, by 1989 the proportion of the elderly who were poor had dropped to 11.4 percent, down from 35.2 percent in 1959. Similarly, Supplemental Security Income, a national program of income assistance for the aged, blind and disabled, also provides federally set benefits which are indexed to inflation. By contrast, the value of AFDC benefits has steadily dropped over the past two decades. From 1970 to 1989, the median maximum benefit for a family of three declined in real terms by 37 percent. In Texas the decline was 60 percent.

The welfare benefits required under this bill are extremely modest—some $217 a month in AFDC payments for a family of three. If we took the minimum benefit for a family of three included in President Nixon's family assistance plan and passed by the House back in 1970, and inflated it forward to today, we would have a payment of $364—over two-thirds more than that required by this proposal. Many people would argue that a much higher minimum payment is justified, and I might well agree. But in support of the proposal, I would advance three points. One, the minimum benefit will increase over time. As the poverty level goes up with inflation, the minimum benefit will increase also. Two, in the States that are affected, this bill would increase income going to some of our neediest families. And three, the cost is bearable—$250 million to the Federal Government.

It is time we took this badly needed step to ensure that the poorest children in the Nation receive at least the barest level of support.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 835

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 "Minimum Benefit for Familes Act of 1991."

SECTION 2. AFDC MINIMUM PAYMENT STANDARDS.

(a) STATE PLAN REQUIREMENT.—(1) Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(A) by striking "and" at the end of paragraph (44);

(B) by striking the period at the end of paragraph (45) and inserting "; and"; and

(C) by inserting after paragraph (45) and before the matter following such paragraph the following new paragraph:

"(46) provide for payment standards under the plan that meet the requirements of section 411.".

(2) Part A of title IV of such Act is amended by inserting after section 410 the following new section:

"MINIMUM PAYMENT STANDARDS

"SEC. 411. (a)(1) In order to be approved under section 402, subject to paragraph (2), a State plan shall provide that the payment standard in effect under the plan for a family of a given size is such that the amount of aid payable under the plan to a family of such size with no income other than income under this part (and reducing such income only by the applicable standard deduction as specific in section 5(e) of the Food Stamp Act of 1977), when added to the value of any food stamp allotment to which such family or the household of such family is entitled, equals or exceeds an amount equal to 50 percent of the income official poverty line established by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) For the purposes of paragraph (1)—

"(A) the total value of any food stamp allotment in the case of any family shall be considered to be the total value of the allotment which such family would receive if it were considered a household with no income (except under this part) for purposes of the Food Stamp Act of 1977 (whether it is actually living along or with one or more other persons or families); and

"(B) in the case of a family which includes one or more dependent children but in which there is no adult whose needs are taken into account in determining the amount of aid payable (unless the application of this clause would result in a larger amount of aid for such family than the amount of aid which would be paid to a family of the same size and income which includes one or more such adults), the payment standard established by the State shall be such that the standard (without taking into account the value of any food stamp allotment) will equal an amount that is not less than 50 percent of the difference between the income official poverty line described in paragraph (1) applicable to a family with 3 members and the income official poverty line described in paragraph (1) applicable to a family with 3 members and the income official poverty line applicable to a family with a number of members equal to 3 plus the number of such dependent children.".

(b) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1992.

(2) In the case of a State plan under section 402 of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

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

S. 836. A bill to amend the Energy Policy and Conservation Act with respect to the petroleum reserve; to the Committee on Energy and Natural Resources.

REGIONAL PETROLEUM RESERVES

• Mr. AKAKA. Mr. President, today I am introducing legislation to establish an emergency petroleum reserve in Hawaii. I offer this bill on behalf of myself and Senator INOUYE.

The Islands of Hawaii are rich in many things—especially beauty—but poor in fossil fuels. We rely on oil for 90 percent of our energy needs. All of it arrives by ocean tanker. That is why an emergency oil reserve is of great concern to the people of Hawaii.

Compared to the mainland, Hawaii faces a much greater risk of an oil supply disruption. The reason for this is obvious: We have no overland access to domestic sources of crude. While the lower 48 States and Alaska have access to oil transported by pipeline, rail, or highway, all of Hawaii's crude oil and refined products arrive by ocean tanker.

Our total reliance on tanker deliveries makes Hawaii exceptionally vulnerable to a cutoff of oil supplies should a crisis disrupt imports. A severe disruption of imports would cause our oil supplies to run dry and Hawaii's economy would grind to a halt.

In a crisis, Hawaii's only means of access to the petroleum reserve would be by tanker delivery from the Gulf of Mexico through the Panama Canal. Studies commissioned by the State of Hawaii have determined that the delivery time for strategic petroleum reserve oil to Hawaii from the Gulf of Mexico would be as much as 53 days. This exceeds the State's average commercial working inventory by 23 days.

That's why an oil supply disruption is Hawaii's greatest nightmare. When the Middle East sneezes, the mainland may catch a cold, but Hawaii comes down with double pneumonia. That is why we need an emergency petroleum reserve.

Hawaii tax dollars help fill and maintain the strategic petroleum reserve. But Hawaii doesn't benefit from the energy security the reserve provides. That's not fair. And it's not right.

Hawaii should be able to enjoy the same energy security that the rest of the Nation enjoys. It's a matter of simple equity.•

By Mr. BUMPERS (for himself and Mr. DANFORTH):

S. 837. A bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, or student loans of students who agree to perform services in certain professions; to the Committee on Finance.

TREATMENT OF CERTAIN STUDENT LOANS

• Mr. BUMPERS. Mr. President, I am today introducing legislation that will correct an inequity in the taxation of students whose education loans are canceled. This legislation updates section 108(f) of the Internal Revenue Code to take into account new programs for the cancellation of student loan debts that did not exist when this section was enacted.

Normally, when an idividual's debts are discharged or canceled, the individual is deemed to have received taxable income in the amount of the discharge or cancellation. However, section 108(f) currently provides that when a debt or loan of a student is discharged or canceled by the Federal or a State government, the student is not considered to have received taxable income in the amount of the cancellation. This is similar to provisions of section 108(f) that have the same effect when it is the debt or loan of a farmer is discharged or canceled.

The problem is that section 108(f) does not apply to the many new programs where private universities and colleges are the ones discharging or canceling the student loan debts. This means that in these cases the loan discharge or cancellation generates taxable income for the student in the amount of the discharged or canceled debt.

It is not fair to provide different tax treatment for the discharge or cancellation of debts when it is the Federal Government or a State government is the moving party than when it is a private university or college that is involved. There is no tax policy that would justify or explain this different tax treatment based on who discharges or cancels the debt or loan.

Section 108(f) only applies to cancellation of Federal or State government student loans because these were the only loan cancellation programs in existence in the mid-seventies when this section of the code was enacted. Section 108(f) was enacted to deal with Federal and State loan cancellation programs that sought to encourage doctors to serve in rural areas. Other grounds for cancellation of Federal and State student loans have been adopted since then and they all fit within the language of section 108(f) regarding the discharge of indebtedness/taxable income question.

In the past few years, however, a large number of universities and colleges have established loan cancellation programs where their own loans are the ones being canceled. These newer loan cancellation programs seek to encourage students to serve as low-paid employees of a community service organization and to serve as public interest of legal services lawyers. These new programs are not covered by the existing language of section 108(f).

The growth of these new loan cancellation programs is a response to: First, the increase in the size and importance of university and college loan programs; second, cutbacks in Federal loan programs; third, the rapid increase in the cost of higher education; fourth, the rapid increase in student

loan indebtedness; and fifth, the perception that financial considerations are undermining the commitment of the next generation to public and community service.

The most well developed private loan cancellation programs so far are for law law school graduates who are entering public interest law or legal services work. There are now 32 law schools with loan cancellation programs: American University, Boston College, Brooklyn Law School, Columbia, Cornell, Duke University, Emory University, Franklin Pierce Law Center, Georgetown University, Hamline University, Harvard, Hastings College of the Law, Loyola Law School in Los Angeles, New York University, Northeastern University, Northwestern University, Santa Clara University, Southwestern University, Stanford University, Suffolk University, Tulane University, University of California—Berkeley, University of California—Davis, University of Chicago, University of Iowa, University of Michigan, University of Notre Dame, University of Southern California, University of Virginia, and Yale University.

Other loan cancellation programs have been established by the bar associations of Arizona, Arizona Bar Foundation; the State of Maryland, Maryland State Scholarship Administration; the bar association of North Carolina, North Carolina Legal Education Assistance Foundation; and the bar association of Tennessee, Tennessee Interest on Lawyers' Trust Accounts. There are two local communities that have established programs, New Haven, CT, Real Estate Education Fund, and Columbus, OH, Columbus Bar Association. The ABA house of delegates has passed a resolution calling on law schools to get up these loan cancellation programs.

It is more difficult to obtain lists of other, nonlaw school loan cancellation programs. The Maryland program covers doctors, nurses, and social workers. There is a loan cancellation program at Stanford's Engineering School for grads going into teaching. Consideration has been given to establishing such programs at the Kennedy School of Government, the Harvard and Stanford Business Schools, and the Yale School of Public Management.

Loan cancellation is a new idea that is spreading beyond the law schools. And the legislation I am introducing today would encourage the spread of this loan cancellation for public service idea. Much of the experience so far is with law school graduates, but the same idea could well be extended to graduates of medical schools, schools of social work, schools of architecture, or to undergraduates.

At present the total amount of university/college sponsored student loans is dwarfed by the Federal and State loan programs. And, the Federal and State loan cancellation programs also dwarf the loan cancellation programs that have been established by these schools. At present only a fairly wealthy university or college can afford to set up its own loan program. And, even fewer universities or colleges can afford to set up a loan cancellation program. But, these are both trends that this legislation will encourage.

The National Association for Public Interest Law [NAPIL] has compiled statistics that find that the total amount of the loans canceled in 1989 for law students was $1.1 million and that 361 law school graduates had loans partially cancelled. Harvard University Law School was the largest participant with $537,000 in loans canceled for 129 graduates. Second was Columbia Law School with $208,700 in loans canceled for 41 graduates. A new survey is being conducted by NAPIL regarding the Nation's legal services, legal aid, and public defenders programs and it should be ready in a few months.

These loan cancellation programs at law schools respond to two realities in the marketplace. First, the tuition increase at law schools has increased much faster than the rate of inflation. The median tuition increase at public law schools for in-State students has been 181 percent between 1985 and 1986, at public law schools for out-of-State students has been 205.1 percent, and at private law schools has been 186.8 percent. The inflation during this period has amounted to only 85.8 percent.

Second, salaries in the marketplace for public and community service positions are low, particularly in relation to the student debt load and competing salaries at law firms and elsewhere in the legal community. According to the National Association for Law Placement, the average salary for 1987 law graduates was $35,800 and the average salary for first year associates with large firms was $53,638. By way of contrast the salaries at public interest law firms was around $20,000 for first year associates and less than $30,000 for lawyers with 5 years of experience.

This extreme salary differential is the key reality that has led to the establishment of so many loan cancellation programs at America's law schools. For example, based on a major survey 84 percent of the Nation's public defender programs found difficulties in recruitment and educational debts played an important role in limiting the number of applicants and 81 percent of these programs found this to be true in the recruitment of minority applicants.

The original purpose of section 108(f) is well served if it is modified to cover the new loan cancellation programs of private universities and colleges. These loan cancellation programs have the same basic purpose and goal of the Federal and State government student loan cancellation programs which are already covered by section 108(f).

Extending section 108(f) is also consistent with the current tax policy with respect to university and college scholarship funds, which are not considered to be income to the student receiving the scholarship unless the amount of the scholarship exceeds the costs of tuition and course related expenses. If the university or college had given the student a scholarship rather than a loan, the scholarship would not have constituted taxable income. When the college or university cancels a loan, it is, in effect, converting a loan into a scholarship and this also should not generate taxable income.

The schools that are participating in these loan cancellation programs can leverage their funds if they cancel loans rather than simply expand the amount of scholarships they award in the first place. A scholarship that is awarded to a law student who immediately goes to work for a law firm for a $75,000 salary can easily repay a $5,000 scholarship, but the money is much more effective if the same $5,000 is spent to cancel the loan of a law school graduate who is working in a public defender program for $20,000. In this case the need for the "scholarship" is better determined after a student graduates.

Most of these loan cancellation programs at law schools are ingeniously tailored to carefully limit expenditures. Programs only provide assistance while an individual remains in the public sector and in most programs educational debts are not discharged until the individual's third year in practice and then are forgiven gradually over the next 6 years. If at any point, a graduate accepts employment in the private sector or his or her salary exceeds a maximum amount, no further loan cancellation will take place.

Amending section 108(f) would encourage universities and colleges to establish and expand loan cancellation programs and to solicit charitable contributions to fund loan cancellation programs, encourage more young people to perform public and community service under these programs, and help to relieve the student loan debt problem. This would be much cheaper to the Federal Government than sponsoring its own loan cancellation programs for its own loans.

If the loan cancellation programs are established in the private sector at each university and college, there would be a great deal more innovation and experimentation and promotion of it than if there's a national program. This is a case where a very small investment of the Federal Government's revenue can have a multiplier effect for actions in the private sector.

Amending section 108(f) does not undermine the 1986 tax reform law. Basically it just updates section 108(f) so that it applies to the range of student loan cancellation programs which have

come into existence since section 108(f) was enacted in 1976. This is a technical problem that extends the current tax policy to similarly situated taxpayers. It does not involve adoption of any new policy on the discharge of indebtedness issue.

The Joint Committee on Taxation has found that this bill would result in a negligible revenue loss in each of the five fiscal years contained in the 1992–96 budget period. (March 15, 1991, letter from Stuart A. Brown.) With only $1.1 million in loans canceled for law students, the bill would lose an insignificant amount of revenue. Most of the students whose loans are cancelled are probably in the 15-percent tax bracket. This amendment might be a catalyst to spur the formation of more loan cancellation programs, but the revenue impact of this would be long term and probably would not be reflected in the estimate.

These loan cancellation programs and this legislation is strongly supported by the American Bar Association, the National Senior Citizens Law Center, NAPIL, the Association of American Law Schools, the National Legal Aid and Defenders Association, the National Association for Law Placement, the Project Advisory Group, and the Law School Admissions Council. I am sure that the coalition in favor of the legislation will expand rapidly when we publicize what we are doing with the bill.

I am interested in this issue because I have been the principal advocate in the Congress for amending the Federal student aid programs to provide for loan cancellation for students who perform full-time, low-paid community service upon graduation. Because my proposals concern cancellation of a Federal Government loan by the Federal Government itself, it falls within the current language of section 108(f). But, this work on my other bill brought this issue covered in this bill to my attention.

The bill I am introducing covers three types of loan cancellation programs.

First, it extends the current discharge of indebtedness provision to include discharge of loan debt by institutions of higher education. This provision covers programs where it is the university or college's own loans that are being cancelled.

This provision also covers cases where a private bank is canceling its own loans. Banks might in some cases be persuaded to cancel the loans of some students in exchange for community service in the community in which the bank is located. I know of no programs where banks are now doing this, but given the problems we've had with the limitations of section 108(f), we might as well try to take future developments into account this time.

Second, the bill also includes a provision that provides the same tax treatment if a university or college extends an additional loan—which it then cancels—to the student to help the student repay loans from some other source, including the Federal and State government. This would cover plans where the loan was not extended by the university or college itself but where it helps the student to repay other loans. The college or university must take steps to ensure that the loans given to the student which are then canceled are, in fact, used by the student for the purpose of repaying the student's other loans.

Third, the bill includes a provision that permits the university or college itself to repay the other loan. The second provision is different only in that the student is the one who actually makes the payment, while with the third it is the university or college that cuts the check.

We want to make sure to cover all of the different types of loan cancellation programs. We want to encourage innovation and not constrain the programs in ways that have no bearing on the Federal Government's legitimate tax policy interests.

The bill provides that the loan cancellation cannot be funded by the employer of the student. We need this limitation to avoid any possibility of an employer substituting loan cancellation, which this bill ensures does not generate taxable income, for wages and salary, which is fully taxable.

The employment of the student must be in a field that is related to the education provided by the university or college to the student.

Finally, the bill is prospective in application. It applies only to loan cancellations that occur after the date of enactment of the legislation. It confers no retroactive windfall on any student for a loan cancellation in the past.

This legislation should enjoy bipartisan support. It is basically a technical amendment to bring section 108(f) up to date to cover the new loan cancellation programs that have come into existence since section 108(f) was last amended. We all will benefit from these loan cancellation programs as they encourage more of our young people to serve the community.●

● Mr. DANFORTH. Mr. President, today I, along with Senator BUMPERS, am introducing legislation to amend section 108(f) of the Internal Revenue Code to include new programs for the cancellation of loan debts. Under current law, if the Federal or a State government cancels student loan debts, no income is generated to the student debtor. Today, there are many new programs that use the cancellation of student debt to encourage people to enter public service. These new programs are often instituted by someone other than the Federal or State governments. Because these loan cancellation programs are not covered by section 108(f), the student debtors are taxed on the amount of the canceled loan. For a recent graduate working in a low-paid public interest job, the tax burden created by this is heavy. These new loan cancellation programs are an excellent way to encourage advanced degree students to enter the public service. In order to make them truly effective and more widely used, the Tax Code must be updated.

Section 108(f) of the Internal Revenue Code was enacted in the mid-seventies with the intent of encouraging doctors to practice in rural areas. This part of the Code has been expanded to include other grounds for cancellation of Federal and State student loans. The inclusion of private loan cancellation programs, based on the same basic premise, would be a natural extension of section 108(f). A revenue estimate done by the Joint Committee on Taxation found that the amendments to the Code would result in a negligible revenue loss for the fiscal years 1992–96.

More and more private institutions have begun to offer loan cancellation as an incentive for students considering public interest work. These programs help defray the costs of increasingly expensive graduate studies while making up for the decreasing availability of Government loans. They also offset the salary advantages of entering the private sector instead of public interest work. The programs instituted by universities serve the same purpose as those administered by the Federal and State governments. They should therefore receive the same tax treatment.

Many of the new loan cancellation programs are sponsored by law schools. Each program is structured differently, but most are designed for graduates who perform law related work for the Government, private groups serving the public interest, or nonprofit organizations. The Jaffin Loan Assistance Program at Columbia University School of Law is an example of one such loan cancellation system. The program at Columbia applies to all loans received under institutionally approved and certified loan plans. Columbia offers loan forgiveness for graduates according to their adjusted gross income, based on a scale of decreasing benefits for income over $35,000. Loan forgiveness begins in the 4th year of public interest work, with full forgiveness by the 10th year. The number of graduates who entered the program has risen steadily since 1983, with 31 students entering in 1988. While the structure of each loan cancellation program is different, the results are similar.

Loan cancellation programs are not limited to private institutions, nor are they only present at law schools. Public universities, such as the University

of Maryland, the University of Virginia, the University of Michigan, and many schools in the California system have different types of loan cancellation programs. Organizations such as the Minnesota Bar Foundation and the Florida Bar Foundation are currently studying loan forgiveness programs, and the Arizona Bar Foundation has begun implementing its own statewide program. Other types of graduate programs, such as the Kennedy School of Government at Harvard, and Stanford Business School are considering loan cancellation programs. The Stanford School of Engineering currently has in place a loan cancellation program for its graduates who go into teaching. These are worthwhile programs and should be encouraged.

Private loan cancellation programs, like Government sponsored programs, are an important way to make public interest careers more feasible for debt burdened graduate students. They help meet the needs of the community at large by increasing the number of professionals available to serve. It is natural that they should receive the same tax treatment as Government programs, under section 108(f). By supporting all loan cancellation programs we can help encourage graduate students to enter into public service.•

By Mr. DODD (for himself, Mr. COATS, Mr. KENNEDY, Mr. PELL, and Mr. ADAMS):

S. 838. A bill to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such Act, and for other purposes; to the Committee on Labor and Human Resources.

CHILD ABUSE, DOMESTIC VIOLENCE, ADOPTION AND FAMILY SERVICES ACT

• Mr. DODD. Mr. President, I rise today, to introduce legislation to reauthorize and amend CAPTA—the Child Abuse Prevention and Treatment Act.

Even as we focused on the Persian Gulf in recent months, all of us knew that unresolved problems continue to mount at home. In complexity and importance, our domestic issues present greater national challenges than our conflict overseas. Our national well-being is more vitally dependent upon their resolution. And no single item is more important on our home agenda than the welfare and protection of our children.

The children of America, Mr. President, are under assult. Poverty, illicit drugs, community dysfunction, and family disintegration are destroying young lives. Abuse occurs in all parts of our country and across all socio-economic strata. In some instances, it kills. At the very least, it cripples.

The terms "national emergency" and "crisis" are clearly both apt and valid—though I hesitate to use them. Great problems are hard to convey; we have difficulty appreciating large magnitudes and synthesizing multiple facets. Far easier to identify with a small child trapped in a well than it is to hold the thought that 2.4 million reports of child mistreatment were filed in 1989—more than 900,000 of them officially substantiated.

"National emergency" and "crisis," sadly enough, are terms that have lost their impact from overuse. What we need is new vocabulary to convey the truth that the threats to our children constitute a fundamental, primal, and grave danger to our society. And we must show the widsom, resources, determination, and compassion to confront it, now.

It is estimated that 2.5 percent of American children are abused or neglected each year. In 1989, 360,000 children were under foster care. And behind these startling statistics lie further unpleasant and difficult, but relevant, facts. From trailer parks to inner cities, many families are isolated and devoid of any community support. Median family income has plateaued since the 1970's despite proportionally more two-income families. Half of all marriages now end in divorce—most of them involving children. And the median income of families headed by a single mother in 1987 was $9,838. As Commissioner Horn of the Administration for Children, Youth and Families testified, "the American family is struggling to survive under enormous pressures."

Other factors contribute to abuse and neglect: Teen pregnancy results in children becoming parents, but with neither the skills nor the capacity for parenting. Substance abuse leads to disability and abandonment—there were 2,400 drug-exposed newborns in Los Angeles in 1989, and possibly 375,000 nationwide each year. HIV infection and physical or mental disabilities are other causes for neglect.

The response on behalf of children, meanwhile, has been piecemeal and inadequate. Child protection services are shorthanded and overburdened. The child welfare system itself is but an amalgam of Federal and local programs and agencies lacking coherent strategy and leadership. The U.S. Advisory Board on Child Abuse and Neglect accurately concludes that we spend billions of dollars on programs that belatedly attempt to remedy the consequences of what we've failed to prevent, detect, and treat early on. This, Mr. President, is why CAPTA is important.

CAPTA is a package of programs designed to support families at risk—to identify problems before they become crisis and to intervene before there is abuse. It seeks to interrupt the cycle of abuse in families and across generations.

Recognizing the disturbing increase in child abuse, the majority of States have established children's trust funds to allow States to pay for abuse and neglect prevention efforts. Matching Federal funds are provided for innovative, neighborhood-oriented prevention programs under the community-based prevention grants.

The child abuse treatment improvement grants fund demonstrates to address the effects of abuse and neglect on children placed in out-of-home care. Too often, there are no services for children beyond their removal from the abusive or neglectful environment. There are few services that consider the child in the context of his or her family—that address the needs of the family as a unit. These grants would enable State or local child welfare agencies to vary the approaches to better out-of-home care and reunification.

The Emergency Protective Child Services Grants enable child welare agencies to hire more workers and improve staff training, thereby reducing caseloads and strengthening their care. It was originally enacted in the 1988 drug bill. This provision attempts to reach families affected by substance abuse.

Child protective services are currently overwhelmed by the complexity and volume of their caseloads. Lack of housing, AIDS, substance abuse, and high staff turnover rates are all contributing problems. The General State Grant Program, a new provision, would restructure the formula grant program to States, strengthening their intake, investigation, and disposition of child abuse and neglect reports. It would also improve case management services and enhance general systems for data retrieval, referrals, assessments, and training. The States would specify how the funds are to be used to these ends and provide baseline data.

The legislation introduced today represents a modest starting point—an effort to stem the tide. It must also be a rallying point around which we gather consensus, cohesion, and support. The needs of these families and children are urgent and the consequences of delay, in many cases, will be devastating and lasting. Level funding—the failure to make progress—will mean the deepening of crisis rather than its resolution. We must consider the lives at risk and how their individual predicaments amount to our social peril.

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. 838

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 "Child Abuse, Domestic Violence, Adoption and Family Services Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) each year, hundreds of thousands of American children are victims of abuse and neglect with such numbers having increased dramatically over the past decade;

(2) many of these children and their families fail to receive adequate protection or treatment;

(3) the problem of child abuse and neglect requires a comprehensive approach that—

(A) intergrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

(C) emphasizes the need for abuse and neglect prevention, investigation, and treatment at the neighborhood level;

(D) ensures properly trained and supported staff with specialized knowledge, to carry out their child protection duties; and

(E) is sensitive to ethnic and cultural diversity;

(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of tens of thousands' of children and results in a cost to the Nation of billions of dollars in direct expenditures for health, social, and special educational services and ultimately in the loss of work productivity;

(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;

(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

(7) national policy should strengthen families to remedy the causes of child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;

(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, self-respect, and dignity of the child;

(9) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

(10) the Federal government should ensure that every community in the United States has the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child protection strategy;

(11) the Federal government should assist communities in their child protection efforts by—

(A) promoting coordinated planning among all levels of government;

(B) generating and sharing knowledge relevant to child protection, including the development of models for service delivery;

(C) strengthening the capacity of States to assist communities;

(D) allocating sufficient financial resources to implement community plans;

(E) helping communities to carry out their child protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

(F) providing leadership to end the abuse and neglect of the nation's children and youth.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 101. REFERENCES.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

Subtitle A—General State Program

SEC. 110. GRANT PROGRAM FOR CHILD ABUSE NEGLECT PREVENTION AND TREATMENT.

Section 107 (42 U.S.C. 5106a) is amended—

(1) by striking out subsections (a) and inserting in lieu thereof the following new subsection:

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

"(1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;

"(2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;

"(B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

"(C) improving legal preparation and representation;

"(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

"(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

"(5) developing, strenghtening, and carrying out child abuse and neglect prevention, treatment, and research programs."; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) STATE PROGRAM PLAN.—To be eligible to receive a grant under this section, a State shall annually submit a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

"(1) INTAKE AND SCREENING.—

"(A) STAFFING.—The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

"(B) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

"(C) PUBLIC EDUCATION.—An assessment of the State agency's public education program with respect to—

"(i) what is child abuse and neglect;

"(ii) who is obligated to report and who may choose to report; and

"(iii) how to report.

"(2) INVESTIGATION OF REPORTS.—

"(A) RESPONSE TIME.—The number of reports of child abuse and neglect filed in the State in the previous year, the agency response time to each with respect to initial investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

"(B) STAFFING.—The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(C) INTERAGENCY COORDINATION.—A description of multidisciplinary investigation teams and interagency coordination processes that exist, including the extent to which they are available Statewide, whether protocols or formal policies governing interagency relationships (among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse) and responsibilities for prevention, intervention and treatment exist, the extent to which there is use of special interagency child fatality review panels including a listing of those agencies that are involved and how all teams are trained.

"(D) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

"(E) LEGAL REPRESENTATION.—An assessment of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance.

"(3) CASE MANAGEMENT AND DELIVERY OF ONGOING FAMILY SERVICES.—For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal the State shall and assessment of the following:

"(A) RESPONSE TIME.—The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

"(B) STAFFING.—The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

"(C) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

"(D) INTERAGENCY COORDINATION.—The extent to which treatment services for the

child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

"(4) GENERAL SYSTEM ENHANCEMENT.—

"(A) AUTOMATION.—An assessment of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

"(B) ASSESSMENT TOOLS.—A description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

"(C) INFORMATION AND REFERRAL.—A description and assessment of—

"(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

"(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

"(D) Staff capacity and competence.—An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

"(5) INNOVATIVE APPROACHES.—A description of—

"(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

"(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.".

SEC. 111. GRANT PROGRAM FOR INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES.

Section 109 (42 U.S.C. 5106c) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 109. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND JUDICIAL HANDLING OF CHILD ABUSE AND NEGLECT CASES.";

(2) in subsection (a), by striking out paragraphs (1) and (2), and inserting in lieu thereof the following new paragraphs:

"(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

"(2) the handling of cases of suspected child abuse or neglect related fatalities;

"(3) the investigation and civil and criminal court handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation; and

"(4) the handling of cases that involve a combination of jurisdictional authorities, such as interstate, Federal-State, and State-Tribal.";

(3) in subsection (b)—

(A) by striking out "and 8(e) or receive a waiver under section 8(c)" in paragraph (1);

(B) by striking out "and" at the end of paragraph (3);

(C) by inserting "annually" after "submit" in paragraph (4); and

(D) by striking out the period at the end thereof and inserting the following: "; and

"(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (4) of subsection (a).";

(4) in subsection (c)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting ", and maintain" after "designate"; and

(ii) by striking out "child abuse" and inserting in lieu thereof "child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities";

(B) by striking out "judicial and legal officers", in subparagraph (B) and inserting in lieu thereof "judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect";

(C) by inserting before the semicolon in subparagraph (C), the following: ", including both attorneys for children and, where such programs are in operation, court appointed special advocates";

(D) by striking out subparagraph (E) and inserting in lieu thereof the following new subparagraph:

"(E) representatives from child protective service agencies, including attorneys who legally represent such agencies;";

(F) by striking out "handicaps;" in subparagraph (F), and inserting in lieu thereof "disabilities; and"; and

"(G) by striking out subparagraph (G) and redesignating subparagraph (H) as subparagraph (G);

(5) in subsection (d)—

(A) by striking out "the State task force shall" in the matter preceding paragraph (1), and inserting in lieu thereof "and at three year intervals thereafter, the State task force shall comprehensively";

(B) by striking out "judicial" and all that follows in paragraph (1), and inserting in lieu thereof the following: "both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;";

(C) by inserting "legislative, policy, and trainings" before "recommendations" in paragraph (2); and

(6) in subsection (e)(1)—

(A) by striking out "child abuse" and all that follows through "child victim" in subparagraph (A), and inserting in lieu thereof the following: "child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family";

(B) by striking out "improve the rate" and all that follows through "abuse cases" in subparagraph (B), and inserting in lieu thereof the following: "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children"; and

(C) in subparagraph (C)—

(i) by inserting ", protocals" after "regulations"; and

(ii) by inserting "and exploitation" after "sexual abuse".

Subtitle B—Community-Based Prevention Grants

SEC. 121. TITLE HEADING AND PURPOSE.

(a) TITLE HEADING.—The heading for title II (42 U.S.C. 5116 et seq.) is amended to read as follows:

"TITLE II—COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS".

(b) PURPOSE.—Section 201 (42 U.S.C. 5116) is amended—

(1) in the section heading to read as follows:

"SEC. 201. PURPOSES."; and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"It is the purpose of this title, through the provision of community-based child abuse and neglect prevention grants, to assist States in supporting child abuse and neglect prevention activities.".

SEC. 122. DEFINITIONS.

Section 202 (42 U.S.C. 5116a) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'children's trust fund' means **[To be supplied]**.".

SEC. 123. STATE ELIGIBILITY.

Section 204 (42 U.S.C. 5116c) is amended in the matter preceding paragraph (1), by striking out "or other funding mechanism".

SEC. 124. LIMITATIONS.

Section 205 (42 U.S.C. 5116d) is amended—

(1) by striking out paragraph (1) of subsection (a) and inserting in lieu thereof the following new paragraph:

"(1) ALLOTMENT FORMULA.—

"(A) IN GENERAL.—Amounts appropriated to provide grants under this title shall be allotted among eligible States in each fiscal year so that—

"(i) 50 percent of each such State allotment is based on the number of children in each such State; and

"(ii) the remaining 50 percent of each such allotment shall be an amount equal to 25 percent of the total amount collected by each such State, in the fiscal year prior to the fiscal year for which the allotment is being determined, for the children's trust fund of the State for child abuse and neglect prevention activities.

"(B) USE OF AMOUNTS.—Not less than 50 percent of the amount of a grant made to a State under this title in each fiscal year shall be utilized to support community-based prevention programs as authorized in section 204(a), except that this subparagraph shall not become applicable until amounts appropriated under section 203(b) exceed $10,000,000."; and

(2) in subsection (b)(1)—

(A) by striking out "advisory board" and all that follows through "Treatment Act" in subparagraph (A);

(B) by redesignating subparagraph (B) and (C) as subparagraphs (F) and (G), respectively; and

(C) by inserting after subparagraph (A), the following new subparagraphs:

"(B) demonstrate coordination with other child abuse and neglect prevention activities and agencies at the State and local levels;

"(C) demonstrate the outcome of services and activities funded under this title;

"(D) provide evidence that Federal assistance received under this title has been supplemented with non-Federal public and private assistance (including in-kind contributions) at the local level (Federal assistance expended in support of activities authorized under paragraphs (1), (2), and (3) of section 204 shall be supplemented by State assistance);

"(E) demonstrate the extent to which funds received under this title are used to support community prevention activities in underserved areas, in which case the supplemental support required under subparagraph (D) shall be waived for the first 3 years in which assistance is provided to a grantee described in this subparagraph;".

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

SEC. 131. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

Section 302(b) (42 U.S.C. 5118a(b)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) by redesignating paragraph (4) as paragraph (6); and

(3) by inserting after paragraph (3), the following new paragraphs:

"(4) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such area, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(5) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days; and".

Subtitle D—Child Abuse Treatment Improvements Grants

SEC. 141. ESTABLISHMENT OF PROGRAM.

The Act is amended by adding at the end thereof the following new title:

"TITLE IV—MISCELLANEOUS PROGRAMS

"SEC. 401. CHILD ABUSE TREATMENT IMPROVEMENTS GRANT PROGRAM.

"(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this section as the 'Secretary'), acting through the Administration for Children, Youth and Families, may award grants to eligible entities to improve the treatment of children exposed to abuse or neglect and the families of such children, particularly when such children have been placed in out-of-home care.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

"(1) be a State or local public or nonprofit private entity;

"(2) have the approval of the State agency responsible for administering public child welfare services, to apply for such grant;

"(3) be responsible for administering or providing child welfare services (including out of home services); and

"(4) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require including the information required under subsection (c).

"(c) CONTENTS OF APPLICATION.—An application submitted by an entity under subsection (b)(4) shall contain—

"(1) a description of the proposed program to be established, implemented or improved using amounts received under a grant, including the specific activities to be undertaken, the agencies that will be involved, the process that has been established for evaluating such activities, and the nature of any innovations proposed;

"(2) evidence of the need that the activity or program, to be conducted using amounts received under the grant, will address;

"(3) assurances that amounts received under the grant will be used to supplement, not supplant, existing funds provided by the State for child welfare purposes;

"(4) assurances that the applicant entity will provide not less than 20 percent of the total amounts needed to pay the costs associated with the program funded under such grant;

"(5) assurances that the applicant entity will provide information to the Secretary concerning the progress and outcome of the program to be funded under such grant;

"(6) a description of the procedures to be used to disseminate the findings derived from the program to be funded under such grant within the State;

"(7) a description of the extent to which multiple agencies will be involved in the design, development, operation, and staffing of the program to be funded under such grant; and

"(8) and other information determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity may use amounts provided under a grant awarded under this section to—

"(1)(A) develop models of out-of-home care that are designed to promote the reunification of children with their families, including training and support components for foster parents to enable such parents to assist the birthparents with reunification efforts;

"(B) develop comprehensive service approaches for child out-of-home care and for the families of such children, specifically focused on reunification; and

"(C) establish activities that are designed to promote visitation of parents and children, such as the establishment of neutral settings for structured visits between biological parents and children in care;

"(2) develop activities that are designed to support relatives caring for children who have been abused or neglected or children from families where substance abuse is present;

"(3) enhance the reimbursement and other support provided to foster parents, including relatives, to promote better recruitment and retention of foster parents;

"(4) develop activities and programs designed to—

"(A) promote the healthy physical, social, emotional, and educational development of children in out-of-home care and under child abuse preventive services supervision, including—

"(i) the conduct of comprehensive, multidisciplinary assessments of the physical, social, emotional, and educational development of such children, with particular attention given to the needs and strengths of the families of such children; and

"(ii) the development of services to meet such needs which involve multiple service agencies and alternative support systems within the community;

"(B) provide training for foster parents to address the physical, social, emotional, and educational needs of the children in their care; or

"(C) provide special programs to assist children with academic or developmental problems;

"(5) develop and implement programs that provide mentors, who are adults from the community or who are former foster youths, to use and out-of-home care, in order to address their special needs, increase self esteem, and provide role models;

"(6) provide incentives that may be necessary to establish and recruit foster family homes for special populations, including children who are medically fragile or have other special physical, mental, and emotional disabilities, adolescent mothers and their children who are in care, and children who have been sexually abused;

"(7) hire staff with specialized knowledge in the areas of substance abuse, child development, education, health care, and adolescents, to provide support and act as a resource for caseworkers working with children and families with special needs in these areas; and

"(8) conduct other activities as the Secretary determines appropriate.

"(e) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this section the Secretary shall consider—

"(1) the geographic dispersion of the applicants for such grants;

"(2) the likelihood that the proposed service approach of the applicant would be transferable to other sites; and

"(3) the need for variety in the problems to be addressed be the applicants and in the models used to address similar problems.

"(f) ADMINISTRATION.—In administering the grant program established under this section the Administration for Children, Youth and Families shall—

"(1) require grantees to submit annual reports concerning the projects funded under such grants and a final report assessing the outcome of such projects;

"(2) arrange for the dissemination of project results through such means as the child welfare resource centers and the National Clearinghouse on Child Abuse and Neglect; and

"(3) provide for the evaluation of projects funded under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.".

SEC. 142. TECHNICAL AMENDMENT.

The Act is amended in the table of contents in section 1(b) by adding at the end thereof the following new items:

"TITLE IV—MISCELLANEOUS PROGRAMS

"Sec. 401. Child abuse treatment improvements grant program.".

Subtitle E—Reauthorization of Certain Programs

SEC. 151. EMERGENCY GRANT PROGRAM.

Section 107A(e) (42 U.S.C. 5106a–1(e)) is amended by striking out "and such sums" and all that follows through the end thereof and inserting "such sums as may be necessary for fiscal year 1991, $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 151. GENERAL GRANT PROGRAMS.

Subsection (a) of section 114 (42 U.S.C. 5106h(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title, except for section 107A, $150,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994. Of amounts appropriated under this section in any fiscal year—

"(1) 33⅓ percent of such amounts shall be made available in each such fiscal year for activities under sections 104, 105 and 106; and

"(2) 66⅔ percent of such amounts shall be made available in each such fiscal year for activities under sections 107 and 108.

A State may spend the entire amount provided to such State under this title in a fiscal year for the purposes described in subsection (a)(5) of section 107, except that subsequent to the date on which the amount appropriated and available under paragraph (2) exceeds $40,000,000, such State shall not spend in excess of 15 percent of such amounts for the purposes described in subsection (a)(5) of section 107.".

SEC. 152. COMMUNITY-BASED PREVENTION GRANTS.

Section 203 (42 U.S.C. 5116b) is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (b); and

(3) in subsection (b) (as so redesignated), by striking out "such sums" and all that follows through the period and inserting in lieu thereof "$50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 153. PREVENTIVE SERVICES FOR CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

Section 306(a) (42 U.S.C. 5118e(a)) is amended by inserting ", and such sums as may be necessary in each of the fiscal years 1993 and 1994" before the period.

TITLE II—CHILDREN WITH DISABILITIES TEMPORARY CARE

SEC. 201. SHORT TITLE.

This title may be cited as the "Children With Disabilities Temporary Care Reauthorization Act of 1991".

SEC. 202. REFERENCES TO CHILDREN WITH DISABILITIES.

The Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1) in section 203, in the first sentence, by striking "handicapped children" and inserting "children with disabilities"; and

(2) in section 205—

(A) by striking "working with handicapped" and all that follows through "families" in subsection (a)(2)(C), and inserting the following: "working with children with disabilities, with chronically ill children, and with the families of such children,"; and

(B) by striking "the term" and all that follows through "such term in" in subsection (d)(2), and inserting the following: "the term 'children with disabilities' has the meaning given the term 'handicapped children' in".

SEC. 203. STATE INTERAGENCY COORDINATION.

(a) IN GENERAL.—Section 205(a)(1) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1)(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by inserting after such clause (iv) the following new clause:

"(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203."; and

(2)(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following new subparagraph:

"(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including State agencies responsible for carrying out State programs that—

"(i) receive Federal financial assistance; and

"(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.".

(b) DEFINITION.—Section 205(d) of such Act (42 U.S.C. 5117c(d)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

SEC. 204. REPORTS.

Section 205(c) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended in the second sentence to read as follows: "Such report shall include—

"(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

"(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

"(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

"(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).".

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

Section 206 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1) in the first sentence, by inserting before the period the following: ", and $20,000,000 for each of the fiscal years 1992 through 1994"; and

(2) in the second sentence, by striking "Such sums" and inserting "Amounts appropriated under the preceding sentence".

SEC. 206. REVISION OF SHORT TITLE.

Section 201 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended by striking "This title" and all that follows and inserting the following: "This title may be cited as the 'Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986'.".

SEC. 207. EFFECTIVE DATE.

The amendments made by this title shall take effect October 1, 1991, or on the date of the enactment of this Act, whichever occurs later.

TITLE III—REAUTHORIZATION OF PROGRAMS WITH RESPECT TO ADOPTION AND FAMILY VIOLENCE

SEC. 302. ADOPTION OPPORTUNITIES.

Section 205 of the Child Abuse Prevention and Treatment Act of 1978 (42 U.S.C. 5115) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) There are authorized to be appropriated, $30,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994, to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(8) and 203(c)(1)."; and

(2) in subsection (b), by striking out "and 1991" each place that such occurs and inserting in lieu thereof "1991, 1992, 1993, and 1994".

SEC. 302. FAMILY VIOLENCE PREVENTION.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act, $75,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".●

By Mr. MCCAIN (for himself and Mr. DANFORTH):

S. 839. A bill to amend the Federal Aviation Act of 1958 to ensure that airline computer reservation systems are available to users on a nondiscriminatory basis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE COMPUTER RESERVATION SYSTEM AVAILABILITY ACT

● Mr. MCCAIN. Mr. President, the last several months have seen an acceleration of the trend toward concentration and a lack of competition in the airline

industry. Midway Airlines, formed in 1979 in response to deregulation, is in chapter 11 bankruptcy. Similarly, Pan Am and Continental are also in bankruptcy court. Eastern Airlines is in the process of liquidation. Today, just eight carriers control over 90 percent of the market.

The Secretary of Transportation, in recent testimony before Congress, could be certain only that at least three air carriers will survive. How have we come to this state?

A primary cause is the airline ownership of computer reservation systems or CRS's. There is virtual unanimity that something must be done in this area to restore the competitive balance.

Recent testimony by the General Accounting Office [GAO] illustrates the anticompetitive effect of CRS's. According to GAO, each carrier must, as a practical matter, have its flights listed on each CRS system. The booking fees charged by the CRS systems far exceed the costs of providing the service, hence transferring hundreds of millions of dollars in revenues from carriers that do not own CRS's to those that do.

The GAO has calculated that United and American Airlines, who together control 75 percent of the CRS market, each receive over $300 million per year in monopoly CRS profits, paid for by other carriers. This $300 million is in addition to a reasonable profit for the service provided.

Is there any question why American and United are the two leading candidates to survive the current shakedown in the industry? Is there any doubt why American and United have the resources to buy international routes from troubled carriers? These two carriers are prospering because they are each drawing over $300 million a year in excess profits, at the expense of their competitors.

The excess profits come about in two ways. First, the CRS's charge excessive booking fees, which other carriers must pay to successfully market their product. Second, there is the "halo effect," whereby the airlines owning CRS's are able to achieve from 10 to 15 percent of their bookings as a result of owning a CRS system, not from some competitive factor associated with the airline service.

As one airline analyst has noted:

It is difficult to fully grasp the enormity of the transfer of wealth among airlines caused by CRS monopoly power. * * * At the starting line American is allowed to step forward over half a billion dollars' worth in revenues, over a third of a billion dollars' worth in profits, while all other competitors have to step back behind the starting line equal amounts. Then at the end of the first year of the race everyone is held in place for an instant while American is moved that same distance ahead again and the other competitors are moved back that same distance. This is repeated every year. The cumulative effects of this annual distortion in airline competition have grown to enormous proportions and continue to grow.

During the Easter recess, the Department of Transportation [DOT] issued a Notice of Proposed Rulemaking on CRS systems. I congratulate Secretary Skinner for recognizing the problem and issuing these rules. The rules would require that all CRS's be available from a single terminal, allow CRS users to reconfigure their systems, and cut to 3 years from 5 years the subscription term that CRS vendors can require of travel agents. These proposed rules are a step in the right direction; however, a rulemaking alone will not solve the inherent anticompetitive effects of airline ownership of CRS systems.

The DOT rulemaking does not deal with booking fees, stating that it is impracticable and inefficient to regulate the fees. The Department takes this position despite its own 1988 study on CRS systems which concluded that booking fees by the two largest CRS's appeared to equal 192 percent and 233 percent of their average unit costs for producing reservations during 1986. How does this translate into actual fees paid by airlines: DOT data for 1988 showed that the big two CRS systems received $62 million in fees from USAir, $56 million from Delta, $50 million from Northwest, and the list goes on.

In addition, the nexus is so tight between airline ownership of CRS systems and the same airline's marketing practices, that a rulemaking alone will never completely dispel the halo effect.

What is needed is legislation requiring airlines to divest themselves of CRS systems. The DOT rulemaking does not deal with excessive booking fees nor would it fix the halo effect. Only divestiture can cure the anticompetitive effects of CRS's. Only divestiture can level the playing field for airline competition. Only divestiture can ensure that the promise of airline deregulation is upheld.●

By Mr. DURENBERGER:

S. 840. A bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their home; to the Committee on Finance.

DAY CARE PROVIDER TAX SIMPLIFICATION ACT

● Mr. DURENBERGER. Mr. President, over the past several years, Congress, working with the President, has adopted important legislation to help address the problems of day care availability and affordability. Just last year, we expanded the tax credit for child care and adopted the bipartisan ABC child care bill.

Unfortunately, it appears that every time we take a step toward expanding day care, a new hurdle presents itself. While obstacles can be expected from time to time in grappling with day care issues, it is inexcusable when these obstacles are created by the Federal Government.

But that is just what happened 2 weeks ago, when the Internal Revenue Service issued a technical advice memorandum affecting a home day care provider in Minnesota. If the IRS adopts this ruling nationwide, which I expect they will, it will create a severe and irrational compliance problem for every home day care provider in this country who seeks to legitimately deduct the expenses associated with operating a day care facility in their homes.

According to the IRS, home day care providers are entitled to a tax deduction for the expenses associated with their day care operations only in proportion to the amount of time that a child uses a given room each day. This means, for example, that a home day care provider would be entitled to a deduction for its childrens' playroom only during the time in the day when a child is actually physically present in the room. If a child crawls in the playroom for 10 minutes, crawls out of the room into the living room for 10 minutes, crawls into the kitchen for 10 minutes, and then returns to the playroom—traveling through the living room—the day care provider would have to keep exact records to determine the amount of time the child spends in each room in order to claim an appropriate tax deduction. Mr. President, that is absurd:

Mr. President, to comply with the IRS ruling, day care providers will have to follow children around the house with a clip board, or will have to install video cameras in each room to monitor the comings and goings of children, in order to justify their legitimate day-care expenses. I believe that Congress never intended such an onerous recordkeeping burden to be placed on family day care providers. That is why I am today introducing legislation that would spell out clear and simple tax deduction rules for day care providers.

In 1977, Congress created a special section of the Internal Revenue Code to ease the recordkeeping burdens of providers. This separate treatment reflects the belief that caring for our children, and adults who are not able to care for themselves, is more important than keeping scrupulously detailed daily logs for tax purposes. I believe my legislation will facilitate Congress' intent in this area.

The Day Care Provider Tax Simplification Act, which has been endorsed by a leading Minnesota day care advocacy group, Resources for Child Caring, will permit home day care providers to claim a home expense deduction based simply on the total amount of time that rooms in the house are open and available for providing day care services.

Deductions will be allowed for the areas of the house regularly used by the children at least 1 hour per day. This rule would apply in those cases where the rooms are used for 80 percent of the days that the facility is open for business. Deductible areas will be measured as a portion of the total square footage of the house. Those rooms, such as a family room, kitchen, bathroom, and bedrooms, which are determined to be in regular use, will be considered to be available for use throughout the day and fully deductible for the day.

For example, if a home day care facility is to accept children for 10 hours each day, and the children spent an hour in the kitchen, and 3 hours in the playroom, and 6 hours in the bedroom, the day care provider could fully deduct the square footage of all three rooms for the 10 hour day that it was open. In addition, if the provider spent an hour prior to opening, cooking and preparing the house for the children, the house would be deemed open for the children for 11 hours each day.

Under this bill, utility expense accounting would also be simplified. Utility expenses, including electric, gas and fuel oil, and telephone expenses, could be deducted in proportion to the number of hours out of the year that a home is used as a day care facility.

Mr. President, Minnesota is the first State that has been affected by this IRS ruling. But I can assure every member of the Senate that when this ruling is applied nationwide, all of my colleagues will be hearing from family day care providers in their States. I hope all of you will join me in overturning this onerous and ill-conceived tax compliance burden arbitrarily imposed by the IRS.

Mr. President, I ask unanimous consent that the text of the bill and a copy of the letter of support from Resources for Child Caring be included in the RECORD.

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

S. 840

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 "Day Care Provider Tax Simplification Act".

SEC. 2. SIMPLIFIED METHOD OF COMPUTING DEDUCTIONS OF HOME DAY CARE PROVIDERS.

(a) IN GENERAL.—Subparagraph (C) of section 280A(c)(4) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new clauses:

"(ii) SIMPLIFIED ALLOCATION METHOD.—If a portion of a dwelling unit is used for the purposes described in subparagraph (A) for at least 1 hour on at least 80 percent of the days that such dwelling unit is used for such purposes, then the amount of the expenses attributable to that portion shall be determined under clause (i) as if such portion was used—

"(I) on all days the dwelling unit was used for such purposes, and

"(II) for the total number of hours that any portion of the dwelling unit was used for such purposes on such day (rather than the number of hours actually used).

"(iii) SPECIAL RULE FOR UTILITY EXPENSES.—Notwithstanding clause (i) or (ii), the amount of expenses for utilities which are treated as attributable to the use of a dwelling unit for the purposes described in subparagraph (A) shall be equal to the product of the total amount of such expenses for the taxable year, multiplied by the percentage determined by dividing—

"(I) the total number of hours any portion of the dwelling unit was used for such purposes during the taxable year, by

"(II) the total number of hours in such taxable year.

For purposes of this clause, the term 'utilities' means electrical energy, gas and fuel oil, water and sewer services, and telephone services."

(b) CONFORMING AMENDMENT.—Subparagraph (C) of section 280A(c)(4) is amended by striking "(C) ALLOCATION FORMULA.—If" and inserting:

"(C) ALLOCATION FORMULAS.—

"(i) IN GENERAL.—If".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

RESOURCES FOR CHILD CARING,
St. Paul, MN, April 16, 1991.

Senator DAVE DURENBERGER,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR DURENBERGER: We are very pleased to hear that you are introducing a bill that supports the important work of hundreds of thousands of family child care providers across the country. In doing so you will be reducing the record keeping burden on providers and allowing them to spend more time caring for children. This will also help support parental choice in choosing child care and improve the quality of care that our children receive.

We support a bill that allows family child care providers to allocate their house expenses based on the following Time-Space formula: The Time percent is determined by adding up the hours that a home is used for business purposes, divided by the total number of hours in a year. A home is considered used for business purposes when children being cared for are present, or when the provider is conducting business activities in the home, such as cleaning, cooking activity preparation, record keeping, etc., when children are not present. The Space percent is based on whether or not a room is regularly used for business purposes, rather than how many hours each room is used for business purposes. The square footage of those rooms regularly used for business purposes is divided by the total square footage of the house. Multiplying the Time percent and the Space percent together equals the Time-Space formula.

This interpretation of the Time-Space formula has been used for many years by family child care providers. Because of recent attempts by the IRS to change this interpretation and require providers to keep an unreasonable amount of records for each room used in business, we believe it is vital to change the law to prevent confusion and misunderstanding.

We are grateful for your efforts on behalf of family child care providers and children and we will fully support a bill that meets this description.

Thank you for your concern.

Sincerely,

DAVID ALLEN,
Executive Director.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 841. A bill to amend the Internal Revenue Code of 1986 to allow an additional 50 percent deduction for the costs to employers of providing family leave in certain cases involving a birth, an adoption, or a serious illness of a child, spouse, or dependent of the employee; to the Committee on Finance.

FAMILY LEAVE BENEFITS ASSISTANCE ACT

• Mr. CRAIG. Mr. President, I am today introducing a bill that will give this body a chance.

The Family Leave Benefits Assistance Act of 1991 will give the Senate an alternative to the strong-arm, mandated features of the Family and Medical Leave Act currently being considered.

The choice is this: We can either spend our time productively, placing before the President a bill that will relieve the very real burdens of families and employers—or we can waste our time wrangling over a bill that might give benefits to some people and place an even heavier burden on businesses.

We can pass a voluntary family leave bill that will offer incentives to employers and will likely win favor with the President—or we can end up with a mandatory approach that ignores many small businesses, loads heavy costs on others—and will be voted by the President. The first approach will yield a necessary and beneficial legislative product; the second, only talking points for the next campaign.

The Family Leave Benefits Assistance Act which I am introducing today has, in most instances, the same or better benefits to offer as the veto-bound Family and Medical Leave Act.

It offers leave for the serious illness of a spouse, while the other bill offers nothing in this area. It is available to all businesses, while the mandatory bill ignores small businesses with fewer than 50 employees.

I know my State of Idaho depends on these small businesses for its economic survival and I suspect your States do, too. It is a fact that more than 95 percent of America's employers would be exempt from the mandatory bill.

But the major difference between the bill being introduced today and the legislation it would replace is simply the fact that it is voluntary, with incentives, rather than mandatory, with penalties. It is the carrot, rather than the stick. It is leadership by moral example, rather than by using force.

If the burdens of families facing the birth or adoption of a child, or the serious illness of a spouse or family member, can be alleviated by tax incentives for employers, then such a course is

charitable to both. The mandatory bill will force employers to bear that hardship alone; the bill I am introducing will allow a sharing of the burden.

Mr. President, I do not believe that most of my colleagues in the Congress have, as their first priority, their own reelections. I believe that most of us came here for the same reasons: to do what is best for the country; to find solutions to the real problems that our constituents face. This is our chance to prove why we are really here. This is an opportunity to offer workers the leave time they must have for critical family needs.

This bill will give employers an incentive to grant that leave. This measure will be available to employers of every size. And this bill will most likely be signed by a President who has promised to veto any mandatory approach.

I urge your careful consideration and your support of the Family Leave Benefits Assistance Act of 1991.●

By Mr. BREAUX:

S. 842. A bill to amend the Clayton Act to prohibit certain activities by local governments that operate airports, and for certain other purposes; to the Committee on the Judiciary.

FAIR AIRPORT ACCESS ASSURANCE ACT

● Mr. BREAUX. Mr. President, today I am reintroducing the Fair Airport Access Assurance Act, legislation that will restore competition in the ever growing market for airport services. This legislation is identical with S. 1822, a bill that I introduced in the 101st Congress that would amend the Clayton Act to prohibit federally financed airports from imposing unreasonable and unjustly discriminatory taxes, fees, or conditions on nontenant, nonaeronautical, commercial users of the airport, where the effect of such taxes, fees, or conditions may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

This bill does not interfere with the ability of an airport to restrict competition on its premises. Nor does the bill interfere with the ability of an airport and an on-airport concessionaire to enter into a revenue-enhancing fee agreement. This bill will, however, interfere with any airport scheme to restrict competition by charging gross receipts fees that prevent off-airport service providers from competing with on-airport concessionaires.

On-airport concessionaires such as car rental companies have complained for some time about their off-airport competitors. And, perhaps coincidentally in some cases, we have approximately 80 airports now taxing the gross receipts of off-airport small business men and women who are the competitors of these on-airport concessionaires. In the car rental industry, small off-airport operators compete with giant on-airport counterparts by offering lower prices to the consumer who is often willing to endure the inconvenience of venturing off-airport to rent his or her car. Taxes and fees on off-airport operators at amounts that are near or equal to amounts negotiated by on-airport concessionaires threaten the ability of off-airport operators to offer consumers lower prices; such fees and taxes are, therefore, a serious threat to the survival of these businesses as competitors of on-airport concessionaires.

Last year's bill, S. 1822, was the subject of hearings by the Judiciary Subcommittee on Antitrust, Monopolies and Business Rights. I urge my colleagues to examine the record of those hearings because it amply demonstrates the need for this legislation.

The subcommittee heard, for example, from a small businessman in Louisiana, Ed Chance, who testified that, by taxing off-airport businesses, the airports were simply seeking to remove any price differential between off- and on-airport businesses. "Once the off-airport operator has increased his or her prices, the large on-airport companies have achieved their objective—they have removed the price differential between on- and off-airport rental cars. If the price of renting on- or off-airport is the same, the customer will forego the inconvenience of renting cars from off-airport companies."

Another small businessman who testified was a Dollar Rent-A-Car licensee with a fleet of only five cars. When the Montrose, Colorado Airport assessed an 8-percent fee that was equal to the amount paid by the on-airport operators, he, quite justifiably, complained. The airport responded by more than doubling his fee to 15 percent, over twice the amount negotiated by the on-airport operators.

The effect of gross receipts access fees on the small business men and women that operate off-airport businesses is clear. What is also clear is that if the off-airport car rental market is destroyed, rental care prices will rise and consumer choices will diminish. Indeed, a 1989 Department of Transportation study of gross receipts fees concluded that the mere imposition of such fees will have an adverse affect on consumer prices and choices.

The Consumer Federation of America, which supports this legislation, estimates that these fees could cost consumers approximately $125 million per year. The American Association of Retired Persons is also concerned, and states that "it is in the interest of our members that this legislation succeed if the market is to remain open." The off-airport services market is finding it very difficult to remain open without the legal means to challenge an airport's anticompetitive conduct.

As matters now stand, the airports, when confronted with charges of anticompetitive conduct, claim that they are immunized from the antitrust laws by the State action doctrine. Because State law permits them to set fees and prices, they argue that they are immune from the marketplace discipline imposed by the antitrust laws. I believe, Mr. President, that if that is the case, then the law should be changed.

This legislation, Mr. President, is not anti-airport. It would only affect those federally financed airports that are charging unreasonable and unjustly discriminatory fees on nontenant, nonaeronautical businesses, and then only if the effect of such fees can be shown to substantially lessen competition or tend to create a monopoly.

Moreover, airports can no longer claim that, by restricting their ability to eliminate competition, this legislation will somehow deny then access to needed revenues. Last year, the Congress authorized airports to assess passenger facility charges [PFC's], against air travelers. Estimates of the annual increase in airport revenues run as high as a billion dollars, and press reports estimate that individual large airports will now be able to raise tens of million of dollars annually.

Mr. President, it is rare that we enact legislation that is badly needed by both small business and consumers. Enactment of my legislation provides that opportunity. I hope that my colleagues will join me in supporting legislation to ensure that airport access fees are not anticompetitive.

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. 842

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 Fair Airport Access Assurance Act of 1991".

SEC. 2. ANTITRUST LIABILITY OF LOCAL GOVERNMENTS.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by redesignating section 27, and any reference to such section, as section 28 and inserting after section 26 the following new section:

"SEC. 27. It shall be unlawful for any city, county, parish, town, township, village, or other general or special function governmental unit that owns or operates an airport that receives Federal assistance or issues airport improvement bonds the interest on which is tax exempt under the Internal Revenue Code of 1986 to impose an unreasonable and unjustly discriminatory tax, fee, or condition on non-tenant, non-aeronautical, commercial users of such airport, where the effect of such tax, fee, or condition may be to substantially lessen competition or tend to create a monopoly in any line of commerce, whether or not such tax, fee, or condition is authorized by State law.".

SEC. 3. LIMITATION ON APPLICABILITY TO CIVIL ACTIONS.

This Act and amendments made by this Act shall not apply to any civil action in which a judgment has been entered on or before the date of the enactment of this Act.●

By Mr. BREAUX (for himself, Mr. KASTEN, Mr. PRYOR, Mr. HOLLINGS, Mr. LOTT, and Mr. BIDEN):

S. 843. A bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels; to the Committee on Commerce, Science, and Transportation.

REPEAL OF COAST GUARD RECREATIONAL BOAT TAX

● Mr. BREAUX. Mr. President, 10 years after the administration first asked the Congress to impose a user fee on recreational boat use, the 1990 Budget Reconciliation Act, a primary tool for controlling Federal spending and the expansion of the Federal budget deficit, authorized the collection of recreational boating user fees. Many of us were under the impression that a fee would be charged for specific services to be rendered by the U.S. Coast Guard. It is now clear, Mr. President, that the Federal Government would be under no requirement to render any specific service to boat users in relation to any fees charged to them. The Coast Guard is required to implement the collection of the fees, but as far as I can tell, Mr. President, not one penny of the collection will directly benefit the Coast Guard.

Under the law, the Coast Guard will collect $25 per year from owners of boats that are 16 to 20 feet long, and $35 if the boat is 20 to 27 feet. Those in the 17 to 40 feet category will pay $50, and those longer than 40 feet will pay $100. Boat owners who do not pay up, may be subjected to a fine of $5,000.

These boat user fees, approximately $130 million will be generated, will be consigned, not to the Coast Guard for rendering services to boat users, Mr. President, but, to the General Treasury.

We are not playing it straight with America's boat-owners: These moneys that will be collected as boat user fees, Mr. President, are in fact deficit reduction taxes. A deficit reduction tax will be charged to 6 million recreational boat users—even some canoe and kayak owners—in America; 300,000 recreational boat users are in the State of Louisiana.

Ten thousand registered recreational boat owners often join you, Mr. President, in the pleasures of pleasure-boating, or what was pleasure before this federal intrusion. These boat owners already pay fees to their respective states, and endure Federal excise and fuel taxes to engage in pleasure boating activities.

The 6,000 of them who drop their boats in Coast Guard jurisdictional waters off the Atlantic, Pacific, and Gulf of Mexico, however, are railing against the singling out of their particular activities to shoulder the misery of Federal taxes, not-so-well-disguised as boat user fees, in support of the Federal deficit.

This is clearly a discriminatory tax, Mr. President, and today I am joined by Senators BOB KASTEN of Wisconsin and DAVID PRYOR of Arkansas in introducing in the Senate a bill that would repeal it. I note, Mr. President, that our bill is the companion bill to the House bill and introduced by Representatives DAVIS and BATEMAN in January 1991. The Davis-Bateman bill now has 117 cosponsors.

I urge my colleagues in the Senate to join us in supporting this legislation.

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. 843

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

SECTION 1. COAST GUARD RECREATIONAL BOAT TAX REPEAL.

Section 2110 of title 46, United States Code, is amended—

(1) by repealing subsection (b);

(2) in subsection (c), by striking "subsections (a) and (b)," and inserting "this section,"; and

(3) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.●

● Mr. KASTEN. Mr. President, I am pleased to join my colleague from Louisiana, Mr. BREAUX, in introducing this bill to repeal the fees imposed on recreational boaters which were mandated by last fall's Omnibus Budget Reconciliation Act of 1990. While there were lots of reasons that I voted against the budget bill, this disguised tax as one of them.

Probably the most ironic thing about these fees is that they are sometimes called the Coast Guard user fees. While the Coast Guard will have to expend its resources to be the traffic cop and collect these fees, the fees certainly are not set aside for any of the Coast Guard's important missions.

This is just another Federal tax that only serves to beef up the U.S. Treasury. This is a boating tax, not a fee—and it doesn't benefit the Coast Guard at all. The roughly $130 million collected from boaters across the country—who already pay their fair share of taxes—goes directly to Uncle Sam. Money collected from these fees will not go to the Coast Guard or any other Federal program that will benefit U.S. recreational boaters.

The fees proposed range from $25 for vessels over 16 feet but less than 20 feet, to $100 for vessels over 40 feet in length. These fees will make boating more expensive, and thus be one more threat to the viability of the boat and other manufacturers who have already been impacted by the luxury tax that was enacted in the same Budget Act.

With 81 boat manufacturers, 79 motor, trailer and accessory manufacturers, 20 fishing tackle manufacturers, and 735 marine dealers, the damage this measure could cause is widespread in my State.

This fee is really a wolf in sheep's clothing that will only serve to put Wisconsin's boating industry on the rocks. Coupled with other taxes—such as the new gas tax, luxury taxes, and other user fees—this proposed tax will hit the Great Lakes' boating industry.

The imposition of these fees—or tax—will hit hard the 482,000 recreational boaters in my State of Wisconsin. My State is proud to rank sixth in the Nation in the number of registered boats. Wisconsinites take full advantage of the lovely lakes and rivers that Wisconsin offers our citizens and those who visit our State.

I look forward to working through the Commerce Committee and with my Senate colleagues on this matter. But this fee has to go.●

By Mr. DOMENICI (for himself, Mr. ADAMS, Mr. BOND, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. HARKIN, Mr. MCCAIN, and Mr. SYMMS):

S. 844. A bill to provide for the minting and circulation of $1 coins; to the Committee on Banking, Housing, and Urban Affairs.

UNITED STATES ONE DOLLAR COIN ACT

● Mr. DOMENICI. Mr. President, I am pleased to reintroduce a bill I introduced in the 101st Congress, which was cosponsored by 30 of my distinguished colleagues, to create a $1 coin. This legislation offers two great advantages to every American: Cost savings and convenience.

Creation of a $1 coin can save the Government and consumers millions of dollars spent each year to print $1 bills and to retrofit machines to accept bills. In these times of burdensome deficit numbers, creation of a durable $1 coin is intuitively logical.

My bill authorizes the minting of a golden-colored Christopher Columbus $1 coin, to observe his discovery of the New World. It is appropriate to honor Columbus at this time because the 500th anniversary of his discovery is in 1992. The proposal directs the Department of the Treasury to place the new coin into circulation within 18 months of enactment of the legislation.

We are not the first industrialized nation to update our currency. Due to inflation, the $1 bill now buys about what 25 cents purchased in 1950. Many other countries have experienced this phenomenon and have updated their

coinage to meet the demands of today's commerce. A $1 coin is similarly necessary in the United States.

Japan, England, Norway, Australia, and most recently Canada, are among seven of the nations that have circulated such coins, golden in color, with great success. They have learned from our experience with the Susan B. Anthony coin that a distinctive gold-colored $1 coin is most acceptable to consumers, while a silver-colored one, similar to the quarter, is not.

These countries have replaced the equivalent paper currency with a coin, generally over a 3-year period. My legislation does not require the elimination of the $1 bill. However, replacement of the $1 bill has been suggested to me and I believe it has merit.

Why is coinage reform necessary? The most significant reason to me is the savings to be realized by the Government and consumers. Based on data from the General Accounting Office, over a 30-year period, the Government can save an estimated $318 million each year in costs associated with minting a $1 coin instead of a $1 bill. According to the Government Accounting Office, this could average $1.3 billion annually in cash-flow dollars.

We are literally throwing our money away with a $1 bill. Every year the U.S. Government prints 3.2 billion dollar bills, at a cost per bill of 2.6 cents. These bills have an average life of 17 months. At the end of that period, the bills are returned to the Government, taken to a special facility, shredded, and dumped into a landfill. This is an undesirable and unnecessary abuse to the environment and the taxpayer. By contrast, the $1 coin would cost 6 cents to mint, but would remain in circulation for up to 30 years.

Any environmentalist will tell you that reusable articles are better than disposable ones. The same holds true for money: Twenty-one $1 bills are needed to do the job of a single $1 coin.

One dollar bills also contribute to the increasing cost of vending machine products. It costs $2,400 to purchase a bill changer and $400 to retrofit a vending machine to accept $1 bills. This cost is passed on to the consumer. The $1 coin, however, eliminates the need for these costs, costs that are ultimately paid by the consumer.

Our mass transit systems face expensive retrofitting of fare machines on buses. This expense could be avoided by the circulation of a $1 coin. Such retrofitting cost Cleveland, Washington, and Chicago $5 million, $8.7 million, and $15 million respectively. Additionally, paper counters must be hired to sort and stack $1 bills at the end of each day. This is a tedious, labor-intensive task that significantly increases the cost of mass transit.

I would like to share with you a scenario that has occurred in Chicago that demonstrates the compelling need for a $1 coin. The Chicago Transit Authority [CTA] spends about $2 million each year processing the 285,000 $1 bills it receives every day. To reduce this expense, the CTA tried to encourage people to use tokens by raising the cash fare from 95 cents to $1.25 and giving a deep discount on tokens purchased in bulk: 10 for $9 or 90 cents per ride. The CTA succeeded in reducing the volume of $1 bills from 350,000 to 285,000 daily. The tragedy of this story lies in the fact that economically wise commuters who could afford to purchase bulk fares benefited while those who could only afford to purchase one fare at a time saw an increase per ride of 31 percent.

Clearly, the cost savings to the Government and consumers of a $1 coin is evident.

A second compelling reason for a $1 coin can be said in one word: Convenience. More and more common transactions require handfuls of quarters—coin laundries, parking meters, long-distance phone calls, for those who don't use calling cards, newspaper stands, and even change from a $5 bill in Washington's Metro.

Additionally, with edges easily distinguishable by touch from the quarter, a $1 coin is strongly supported by those among us who are visually handicapped. This $1 coin, therefore, has the potential for improving the ease of purchases for the visually handicapped and provides protection from unscrupulous cashiers.

An efficient and convenient society requires this change.

In conclusion, Mr. President, I am convinced that putting a $1 coin in our pocket will be a great convenience, and it will prove a significant savings to the taxpayer—savings that will add up to over $10 billion over the life of these gold-colored dollars. I urge my colleagues to lend their support to the United States One Dollar Coin Act of 1991.●

By Mr. LAUTENBERG:

S. 845. A bill to direct the Secretary of State to seek an agreement from the Arab countries and end certain passport and visa policies and other purposes; to the Committee on Foreign Relations.

ANTIBOYCOTT PASSPORT ACT OF 1991

● Mr. LAUTENBERG. Mr. President, Secretary Baker is back in the Middle East today searching for ways to get the peace process going again. I just recently returned from the Middle East. Frankly I must say I was surprised and discouraged by attitudes evinced by Arab States in the gulf conflict. What discouraged me is the intransigence toward Israel I encountered with virtually all Arab diplomats and their lack of perspective on the obstacles this poses to peace.

Mr. President, the Arab nations, except for Egypt, continue to isolate and alienate Israel politically. They continue to refuse the reality of Israel's existence. They boycott her and anyone who does business with her. They even boycott any company doing business with a company doing business with Israel. How foolish. They maintain a state of war against her. After 43 years of existence, they refuse to accept Israel as a permanent neighbor. That is not a basis for peace.

To crystallize the point, and to show the depth of Arab rejection of Israel, I want to share with the Senate my experience in trying to get a visa for a recent Senate leadership trip to Saudi Arabia and Kuwait.

Because my diplomatic passport had an Israeli entrance stamp from a previous visit to Israel, the Saudi Arabian Government said it would not give me a visa. Like Saudi Arabia, the Kuwait Government has a longstanding policy of rejecting passports with Israeli entrance stamps. So do a majority of the Arab League countries. Because of these policies, the State Department followed its established guidelines. It issued to me an entirely new diplomatic passport as the only means to secure a visa from the Saudi Arabian and Kuwaiti Governments, and thus enable me to participate in the leadership trip.

An editorial in yesterday's Washington Post correctly characterized this visa rebuff as an offense against the United States. It aptly criticized the American Government for kowtowing to Saudi Arabia by issuing duplicate passports.

Mr. President, it is the height of absurdity that the Governments of Saudi Arabia and Kuwait are prepared to refuse a United States Senator a visa for a congressional delegation visit because his diplomatic passport has an Israeli entrance stamp. It is a slap in the face to all Americans. In maintaining their visa policies, Saudi Arabia and Kuwait are sending a clear but disturbing message to all Americans. American soldiers coming to fight to restore security in the region are welcome. But, Americans who have committed the offense of ever having visited Israel are not. Would the Saudis and Kuwaitis have denied an American soldier entry if he or she had visited Israel?

Mr. President, the U.S. Government condones this policy. It accepts this policy. It accepts the fact that American diplomats and other travelers have to endorse the Arabs' refusal to even recognize Israel's existence in order to travel to a majority of Arab countries. It buys into this hatred and totally unacceptable view.

Rather than condoning and acquiescing to this policy, Mr. President, the U.S. Government should demand that Arab countries eliminate this practice. The State Department should no longer issue two passports for diplomats traveling in the region. It's an

insult to Israel, to our Ambassadors, and to our country that our Ambassadors and other American government personnel, and tourists, should have to have two passports to travel in the Middle East if they want to visit Israel.

Israel is a friend and ally. Her security is essential to American security interests in the region. By providing two passports—especially to diplomats—the U.S. Government is slapping Israel in the face and supporting Arab efforts to isolate and completely alienate Israel. Arab countries—especially our allies in the war—should welcome U.S. diplomats to their country, especially after our role in the gulf war, and should support U.S. foreign policy interests. They should welcome American companies to their shores, and not boycott them.

Mr. President, today I am introducing legislation to require the Secretary of State to instruct our Middle Eastern diplomatic corps to immediately commence negotiations with Arab countries toward a reversal of their policy of not providing entrance visas for citizens and diplomats if their passport contains an Israeli entrance stamp. It would require the Secretary of State to report to Congress within 60 days of enactment on progress and prospects for securing a reversal of this outdated policy. If, within 90 days of enactment, negotiations have not resulted in a commitment from each Arab country to reverse this policy, the State Department will be prohibited from issuing duplicate passports to officials of the U.S. Government traveling in the Middle East. It would also immediately prohibit the issuance of passports designated for travel only to Israel.

Mr. President, the Arab countries' policy of rejecting passports from any citizen that has been to Israel is a stark reminder that despite all the developments of recent months, Arab nations except for Egypt still pursue a far-reaching policy of rejection of Israel. The policy is an impediment to peace and flies in the face of U.S. national security interests in the region. It brings nothing to Arab countries and is an insult to American diplomats, citizens, and soldiers. It should be reversed. I have asked Secretary Baker to lodge a formal complaint about the visa matter with the Governments of Saudi Arabia and Kuwait and to place it on his agenda as the United States continues to search for ways to bring peace to the Middle East.

I also raised this matter personally in Cairo earlier this month, when I had the opportunity to meet with President Hosni Mubarak and Egyptian Foreign Minister Ahmed Esmat Abdel Meguid, who has been nominated by Mubarak to head the Arab League. In my meetings, I called on them to seek a reversal of Arab policy of rejecting anyone who shows evidence of even visiting Israel.

Mr. President, Secretary Baker is in the Middle East now. He will be visiting Saudi Arabia and other Arab countries that continue to cling to this hateful and woefully outdated policy of isolating Israel and anyone who has ever been to Israel. I hope Secretary Baker will raise this issue in his discussions with Arab leaders. Our Arab League coalition partners should discard this visa policy, along with the boycott against Israel and companies doing business with Israel, as relics of the past which pose obstacles to peace.

Mr. President, I ask unanimous consent that the following documents be included in the RECORD: the text of the bill, copies of the April 16 Washington Post and an April 17 Bergen Record editorial, and a letter I sent to Secretary Baker on March 26 on this matter. I urge my colleagues to support this legislation.

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

S. 845

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Anti-Boycott Passport Act of 1991".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The nations of the Arab League except Egypt remain in a state of war with Israel, a friend and ally of the United States, and refuse to recognize Israel and her right to exist.

(2) As part of their effort to isolate Israel and her allies, the majority of Arab countries generally reject the passports of, and deny entrance visas to, private persons and governmental officials whose passport or other documents bear an Israeli entrance stamp or marking or otherwise reflect that the person has visited Israel.

(3) The passport and visa policy of the majority of Arab League nations is an impediment to peace in the Middle East and must be reversed.

(4) The passport and visa policy of the majority of Arab League nations is an affront to the Government of the United States.

(5) The passport and visa policy of Saudi Arabia and Kuwait, both members of the Arab League, demonstrates a business as usual attitude and lack of appreciation for the successful efforts of the United States to reverse the Iraqi occupation of Kuwait and to restore the security of Kuwait and Saudi Arabia.

(6) Officials of the United States Government traveling in the Middle East are, as a general practice, issued two passports so that they can travel to Israel and to Arab countries in compliance with the passport and visa policy of the majority of Arab League nations.

(7) To avoid challenging the passport and visa policy of the majority of Arab League nations the State Department has issued official passports to United States Government officials, designated for travel only to Israel.

(8) The United States Government's policy of issuing two passports for official travel in the Middle East, and its policy of issuing official passports designated for travel only to Israel, constitute acquiesence in, and the appearance of acceptance of, the rejection of Israel by Arab countries.

(9) The United States Government's policy of issuing two passports for official travel in the Middle East, and its policy of issuing official passports designated for travel only to Israel, are at odds both with the recognition of Israel by the United States and with the rejection in United States policy and law of the Arab boycott of Israel.

(10) The reversal of the passport and visa policy described above would be an important confidence-building measure and would contribute to the peace process in the Middle East.

(11) The administration should vigorously encourage the nations of the Arab League which maintain the passport and visa policy described in this section to reverse their policy of rejecting passports of, and denying entrance visas to, persons whose passport or other documents reflect that the person has visited Israel.

SEC. 3. PURPOSES.

It is the purpose of this Act to—

(1) direct the Secretary of State to seek an end to the policy of the majority of Arab League nations of rejecting passports, and denying entrance visas to persons whose passport or other documents reflect that the holder has visited Israel, and to secure the adoption of policies that assure that the travel to such Arab League nations by persons who have visited Israel shall not be unreasonably impeded; and

(2) prohibit United States Government acquiescence in the policy of the majority of Arab League nations of rejecting Israel by rejecting passports of, and denying entrance visas to, persons whose passport or other documents reflect that the holder has visited Israel, especially with respect to travel by officials of the United States.

SEC. 4. NEGOTIATIONS.

The Secretary of State shall immediately instruct the United States Middle Eastern diplomatic corps to seek an end to the policy of the majority of Arab League nations of rejecting passports of, and denying entrance visas to, private persons and officials of all nations whose passport or other documents reflect that the holder thereof has visited Israel.

SEC. 5. REPORT TO CONGRESS.

The Secretary of State shall submit a report to the Foreign Relations Committee and Appropriations Committee of the Senate, and the Foreign Affairs Committee and Appropriations Committee of the House of Representatives within 60 days of the date of enactment of this Act. The report shall describe the status of efforts to secure an end to the passport and visa policy of the majority of Arab League nations as described in section 4, and describe the prospects that such efforts would be successful within 90 days of the date of enactment of this Act.

SEC. 6. PROHIBITION ON THE ISSUANCE OF ISRAEL-ONLY PASSPORTS.

Notwithstanding any other provision of law, the Secretary of State shall not issue any passport that is designated for travel only to Israel. Within 90 days of the date of enactment of this Act, the Secretary of State shall cancel any passport already issued which is designated for travel only to Israel.

SEC. 7. POLICY OF NONACQUIESCENCE.

(a) The Secretary of State shall not issue more than one official or diplomatic passport to any official of the United States Government for the purpose of enabling that official to acquiesce in or comply with, the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passport or

other documents reflect that the person has visited Israel.

(b) The Secretary of State shall promulgate such rules and regulations as are necessary to assure that officials of the United States Government do not comply with, or acquiesce in, the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passport or other documents reflect that the person has visited Israel.

(c) This section shall take effect within 90 days of the date of enactment of this Act, except that, if the Secretary of State fails to conduct negotiations pursuant to section 4 or to submit a report under section 5, this Act shall take effect on the date of such refusal.

[From the Washington Post, Apr. 16, 1991]

KOWTOWING TO SAUDI ARABIA

The Saudis and Kuwaitis were kind enough to receive half a million American troops to save their necks from Saddam Hussein. But they could not then see their way clear to receiving Frank Lautenberg, one among 17 U.S. senators who sought to visit the Gulf. Typhoid? No, it was the fact that Sen. Lautenberg (D-NJ.) had an Israeli stamp in his passport from an earlier trip. Twice the Saudi Embassy in Washington refused to stamp in the requisite visa. The State Department then issued Mr. Lautenberg the second passport that has come to be routinely provided to Americans caught in this bind. The visit went on.

In a letter, Sen. Lautenberg urged the secretary of state to stir a policy review by Saudi Arabia, Kuwait and other Arab nations conducting this secondary boycott of Israel and suggested that the secretary place the matter on the agenda of regional peacemaking.

But the visa rebuff is only tangentially an offense against Israel. It is directly an offense against the United States—the more sordid and insidious for seldom being accurately recognized. The Saudis and others are saying that they and not the U.S. government will determine the validity of an American passport. They are forcing a distinction between two kinds of Americans, those who will submit to Saudi derogation of American sovereignty and those who will not. This is being done, to repeat, by a couple of family-run governments that but for the United States would be provinces of Iraq.

For decades now, this form of humiliation of the United States has been greeted with a shrug or an indulgent chuckle by many traveling Americans, journalists as well as diplomats and businessmen. It even happens that Israelis are sometimes seen as villains of the piece for conforming with the law and dignity of their own visa procedures and inconveniencing Americans as a result. Who can tell to what extent such habits of shabby complicity have nourished in Arab minds the rejection of Israel, which is a root cause of the whole Middle East dispute? Not one day longer should the American government kowtow to Saudi Arabia in this manner.

[From the Bergen (NJ) Record]

ABSURDITY IN ARABIA

Saudi Arabia and Kuwait welcomed half a million American troops willing to risk death to defeat Saddam Hussein. But when Sen. Frank Lautenberg, D-N.J., applied for a visa recently, he ran into a wall.

Mr. Lautenberg's offense? He visited Israel. He has a stamp on his passport to show it.

Mr. Lautenberg is furious. He is, rightly, angry not only at the Kuwaitis and Saudis, but also with the U.S. State Department for tolerating this nonsense. It was mid-March when Mr. Lautenberg applied for his visa. He and 16 other senators planned to visit Saudi Arabia and Kuwait to study post-war conditions. "We were trying to get an assessment of the needs of the area," he says. "I would have thought the delegation would be welcomed."

Instead, congressional aides reported, neither Kuwait nor Saudi Arabia would grant the visa because Mr. Lautenberg's passport showed that he had visited Israel. Mr. Lautenberg said the denial was unacceptable, and told aides to try again.

On the second go-around, the State Department tried to sidestep the issue by issuing Mr. Lautenberg a brand-new passport. This acquiescence made Mr. Lautenberg even angrier. The policy pursued by Saudi Arabia, Kuwait, and many other Arab states—with the honorable exception of Egypt—is first and foremost an insult to Israel. The rejection of Israel by many Arab states is so total and so unreasoning that they refuse to allow tourists, business people, journalists, and even high-ranking foreign officials such as Mr. Lautenberg to visit if their passports show any sign of an Israeli visit. Arab states also impose rigid economic boycotts against companies that do business with Israel.

But the Arab passport policy is also, as Mr. Lautenberg argues, an insult to the United States. Arab governments are refusing to recognize the validity of a U.S. passport unless the passport's owner will kowtow to Arab foreign policy, and Arab hatreds. This humiliation has been shrugged off for years by American visitors to the Middle East because access would otherwise be impossible.

Mr. Lautenberg refuses to wink and look the other way. He has written to Secretary of State James A. Baker III to ask that Mr. Baker raise this issue with Arab heads of state, as he tries to arrange Arab-Israeli peace talks. "The policy is an impediment to peace and must be reversed," Mr. Lautenberg wrote.

Dropping the outmoded passport policy would cost Arab countries nothing. But it would be a sign to Israel, and to the world, that Arab leaders are willing to take a modest step toward recognizing the realities of the late 20th century. Israel exists, and Israel will continue to exist. No real progress on a lasting Middle East peace can be made until the Arab states recognize this.

Using American passports to pretend otherwise is a disgraceful charade, demeaning to Arab leaders who insist on such a policy and to the State Department officials who go along with it.

U.S. SENATE,
Washington, DC, March 26, 1991.

Hon. JAMES A. BAKER III,
Secretary of State, State Department, Washington, DC.

DEAR SECRETARY BAKER: I am writing to ask you to insist that our Arab coalition allies reverse their long-standing policy of denying entry to Americans who have an Israeli visa stamp in their passports.

I was outraged that the governments of Saudi Arabia and Kuwait were prepared to refuse me a visa for a Congressional delegation visit because my diplomatic passport had an Israeli immigration stamp. In maintaining their visa policies, Saudi Arabia and Kuwait are sending a clear but disturbing message to all Americans. American soldiers prepared to fight to restore security in the region are welcome. But, Americans who have ever visited Israel are not.

The policy is a sad reminder that despite all the developments of recent months, Arab nations except for Egypt still pursue a far-reaching policy of rejection of Israel. Indeed, it is a rejectionism that goes so far as rejecting Americans who have visited Israel. The policy is an impediment to peace and must be reversed. As you seek confidence building measures in the region, I encourage you to urge Saudi Arabia, Kuwait and all Arab nations to abandon their outdated policy.

If Arab countries agreed to reverse this policy, it would demonstrate a positive first step toward recognizing Israel's right to exist. It would bring hope to many that Arab nations will one day formally end their state of war with Israel and enter direct negotiations for peace agreements with that country.

I urge you to lodge a complaint with the governments of Saudi Arabia and Kuwait over this matter and place it on your agenda as you continue to search for ways to bring peace and stability to the Middle East.

Sincerely,

FRANK R. LAUTENBERG.●

By Mr. MITCHELL (for Mr. PRYOR, for himself, Mr. DASCHLE, Mr. RIEGLE, Mr. DURENBERGER, Mr. BURDICK, Mr. BAUCUS, Mr. ROCKEFELLER, and Mr. MCCAIN):

S. 846. A bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies; to the Committee on Finance.

LONG-TERM INSURANCE CONSUMER PROTECTION ACT

Mr. MITCHELL. Mr. President, I rise to introduce legislation for Senator PRYOR, who, as we are all aware, has been hospitalized. Our prayers and best wishes are with Senator PRYOR in his recuperation.

The legislation Senator PRYOR had intended to introduce himself today is the Long-Term Care Insurance Consumer Protection Act. This legislation will require States to adopt minimum consumer protection for private long-term care insurance.

I commend Senator PRYOR, as chairman of the Special Committee on Aging, for his commitment to the protection of consumers who purchase private long-term care insurance. I share Senator PRYOR's interest in the quality, availability, and affordability of private long-term care insurance.

During the 100th Congress I introduced legislation to provide a comprehensive Medicare long-term care benefit. My legislation provided for a significant role for private long-term care insurance because I believe that long-term care is an insurable event, and that if affordable, quality long-term care insurance policies could be made more available to persons with the financial ability to purchase them.

Since the introduction of my legislation, more information has become available about the private long-term care insurance market. The news has been mixed. On the one hand, the number of private long-term care policies

being marketed has increased. But, initial cost estimates of such policies may have been underestimated.

If private long-term care insurance is to play a part in protecting elderly and disabled Americans from the financial devastation of chronic illness, policies must be affordable and of good quality. It is important that the private insurance industry develop policies that are balanced in that regard.

I look forward to working with Senator PRYOR as he continues to refine his legislation in an effort to improve consumer protections for private long-term care insurance, and I commend him for his continued efforts in this important area.

Mr. President, I ask unanimous consent that a statement, previously prepared by Senator PRYOR, be submitted for the RECORD.

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

• Mr. PRYOR. Mr. President, I am pleased to be joined by Senators DASCHLE, RIEGLE, DURENBERGER, BAUCUS, ROCKEFELLER, BURDICK and MCCAIN in introducing today the Long-Term Care Insurance Consumer Protection Act of 1991. This legislation will provide basic, Federal consumer protections for long-term care insurance.

I would like to take this opportunity to applaud the ongoing efforts and commitment of my colleagues who are joining me today in introducing this bill. All have played leadership roles on the issue of health insurance for older Americans, and I am glad to be working with them. Today, Representatives WYDEN, COLLINS, and others are introducing a companion measure in the House.

During the Pepper Commission's struggle to find solutions to our long-term care problem, I became interested in the possibilities that private long-term care insurance may hold. Recognizing that, for the foreseeable future, the public sector, will not be able to comprehensively meet every long-term care need of our Nation, the Commission recommended the promotion and regulation of private long-term care insurance.

In recent years, the growth in the sales of these policies has been rapid. The number of policies sold, and the number of companies selling these policies, has doubled in less than 3 years. Long-term care insurance policies have improved over the past few years, they continue to evolve. Despite the gains that have been made, room for improvement remains. Many policies contain overly restrictive limitations on benefits and do not meet basic standards recommended by the NAIC [National Association of Insurance Commissioners].

There is also room for improvement in the regulation of this insurance. The NAIC has made progress in the development of the model standards. However, recent reports from the HHS inspector general and the General Accounting Office [GAO] indicate that many States do not have important consumer protections in place. The GAO found that most policies contain definitions that potentially limit access to beneficiaries. Such definitions can eliminate coverage for policyholders who would otherwise qualify for benefits. Also, the GAO noted that consumers risk unpredictable premium increases that make it difficult for them to retain their policies. The inspector general found that 33 States do not provide minimum consumer protections. The fact that States are adopting these standards in varying degrees and a lack of support from the industry for these standards is troublesome.

Already at risk because of inadequate regulation of this market and the fear associated with long-term care, consumers face difficult choices in the purchase of this type of insurance. It is clear that consumers face even more complexities in understanding long-term care insurance policies than they do in understanding Medigap policies.

As chairman of the Aging Committee, I want to ensure that abuses that have plagued the Medigap market are not repeated in the long-term care market. Unfortunately, we are already hearing about problems that we cannot let go unaddressed. Here are just three examples:

A man in Illinois had been paying $1,000 per year for a so-called guaranteed renewable and level premium nursing home policy he had for 10 years. Just when he was entering a nursing home, he received a notice that the company had been sold to another corporation and his new rates were $11,000 per year. Unable to meet the new premium, he was forced to drop the policy, receiving no benefits or refund.

An insurance company collected annual premiums of almost $2,000 for 3 years for an 80-year-old widow from Philadelphia. When the widow entered a nursing home, the company canceled the policy, claiming she had not fully disclosed her health history. The agent had taken the health history from the widow's daughter over the phone and then sent the widow a blank application to sign.

An 89-year-old widow from Oregon took out two nursing home policies. In selling her the policies, the insurance agent said that, with this insurance, she would never be a burden to her children should she ever have to go into a nursing home. The widow paid more than $5,000 in premiums on the policies, only to find they wouldn't pay any of the $10,000 in nursing home bills she later accumulated. The insurance company said her care didn't meet their definition of "skilled care."

Mr. President, as with any legislation being introduced, this bill is but the first step in the legislative process. We have attempted to craft what we believe represents a fair response to the varying recommendations of consumers and their advocates, the National Association of Insurance Commissioners, the insurance industry and the insurance agents. In this effort, our goal has always been to strike the appropriate balance between the need for consumer protection with the need to assure affordability. With that in mind, each of these interested parties will have the opportunity to analyze and respond to this legislation. I look forward to their comments and suggestions on how we can strengthen this legislation and assure these important consumer protections.

The Long-Term Care Insurance Consumer Protection Act of 1991 is supported by the American Association of Retired Persons, the National Committee to Preserve Social Security and Medicare, Families United for Senior Action, and Consumers Union. I urge my colleagues to join us by cosponsoring this bill.

Mr. President, I ask unanimous consent that the text of the bill as well as a summary of its provisions be printed in the RECORD.

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

S. 846

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 "Long-Term Care Insurance Consumer Protection Act of 1991".

SEC. 2. ESTABLISHMENT OF FEDERAL STANDARDS FOR LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by adding at the end the following new section:

"LONG-TERM CARE INSURANCE STANDARDS

"SEC. 1931. (a) IMPLEMENTATION OF POLICY STANDARDS.—

"(1) IN GENERAL.—

"(A) NEW ISSUES.—No long-term care insurance policy (as defined in subsection (i)) may be issued, sold, or offered for sale in a State on or after the date specified in paragraph (4) unless—

"(i) the Secretary determines that the State has established a regulatory program that—

"(I) provides for the application and enforcement of the standards established under paragraph (3), and

"(II) complies with the requirements of paragraph (5),

by the date specified in paragraph (4), and the policy has been approved by the State commissioner or superintendent of insurance under such program; or

"(ii) if the State has not established such a program, the policy has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the standards established under paragraph (3).

For purposes of this paragraph, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

"(B) REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review regulatory programs described in subparagraph (A)(i) to determine if they continue to provide for the application and enforcement of the standards established under paragraph (3).

"(2) SANCTIONS.—Any person who issues or renews a policy, on or after the date specified in paragraph (4), in violation of paragraph (1), is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(3) PROMULGATION OF STANDARDS.—

"(A) IN GENERAL.—If, within 12 months after the date of the enactment of this section, the National Association of Insurance Commissioners (in this section referred to as the 'NAIC') promulgates model standards that incorporate the requirements of subsections (d) through (h), such standards shall apply under paragraph (1).

"(B) DEFAULT.—If the NAIC does not promulgate the model standards under subparagraph (A) by the deadline established in that paragraph, the Secretary shall promulgate, within 12 months after such deadline, a regulation that provides standards that incorporate the requirements of subsections (d) through (h) and such standards shall be applied under paragraph (1).

"(C) CONSULTATION.—In establishing standards under this paragraph, the NAIC or Secretary shall consult with a working group composed of representatives of issuers of long-term care insurance policies, consumer groups, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(D) LIMITED PREEMPTION.—The standards established under this paragraph preempt provisions of State law which conflict with such standards, but nothing in this section shall be construed as preventing a State from applying standards that provide greater protection to policyholders of long-term care insurance policies.

"(4) DEADLINE FOR APPLICATION OF STANDARDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is—

"(i) the date the State adopts the standards established under paragraph (3), or

"(ii) 1 year after the date such standards are first established,

whichever is earlier.

"(B) STATE REQUIRING LEGISLATION.—In the case of a State which the Secretary identifies, in consultation with the NAIC, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for the standards established under paragraph (3) to be applied, but

"(ii) having a legislature which is not scheduled to meet in 1993 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1993. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) ADDITIONAL REQUIREMENTS FOR APPROVAL OF STATE REGULATORY PROGRAMS.—For purposes of paragraph (1)(A)(i)(II), the requirements of this paragraph for a State regulatory program are as follows:

"(A) CONSUMER ACCESS TO COMPLIANCE INFORMATION.—

"(i) IN GENERAL.—The program must provide for consumer access to complaints filed with the State commissioner or superintendent of insurance with respect to long-term care insurance policies.

"(ii) CONFIDENTIALITY.—The access provided under clause (i) shall be limited to the extent required to protect the confidentiality of the identity of individual policyholders.

"(B) ACCESS TO OTHER INFORMATION.—The program must provide for consumer access to information reported under subsection (c)(4).

"(C) PROCESS FOR APPROVAL OF PREMIUMS.—The program must provide for a process for approving or disapproving proposed premium increases with respect to long-term care insurance policies and must establish a policy for the holding of public hearings prior to approval of such a premium increase. No such premium increase shall be approved (or deemed approved) unless the proposed increase is accompanied by an actuarial memorandum which supports the increase and which contains such information as may be required under the standards under subsection (a)(3).

"(b) REGULATION OF SALES PRACTICES.—

"(1) DUTY OF GOOD FAITH AND FAIR DEALING.—

"(A) IN GENERAL.—Each individual who is selling or offering for sale a long-term care insurance policy has the duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

"(B) PROHIBITED PRACTICES.—An individual is considered to have violated subparagraph (A) if the individual engages in any of the following practices:

"(i) TWISTING.—Knowingly making any misleading representation or incomplete or fraudulent comparison of any health care insurance policy or insurers for the purpose of inducing, or tending to induce, any person to retain or effect a change with respect to a long-term care insurance policy.

"(ii) HIGH PRESSURE TACTICS.—Employing any method of marketing having the effect of, or intending to, induce the purchase of long-term care insurance policy through undue pressure.

"(iii) COLD LEAD ADVERTISING.—Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

"(2) COMPLETION OF MEDICAL HISTORIES PROHIBITED.—A person who is selling or offering for sale a long-term care insurance policy may not complete the medical history portion of an application.

"(3) PROHIBITION OF SALE OR ISSUANCE TO MEDICAID BENEFICIARIES.—A person may not knowingly sell or issue a long-term care insurance policy to an individual who is eligible for medical assistance (other than only as a qualified medicare beneficiary) under this title.

"(4) PROHIBITION OF SALE OR ISSUANCE OF DUPLICATE SERVICE BENEFIT POLICIES.—A person may not sell or issue a service-benefit long-term care insurance policy—

"(A) knowing that the policy provides for coverage that duplicates coverage already provided in another service-benefit long-term care insurance policy (unless the policy is intended to replace such other policy), or

"(B) for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage (i) does not duplicate other coverage in effect under a service-benefit long-term care insurance policy or (ii) will replace another service-benefit long-term care insurance policy.

In this paragraph, the term 'service-benefit long-term care insurance policy' means a long-term care insurance policy which provides for benefits based on the amount and type of services furnished, rather than on the amount of expenses incurred.

"(5) PROVISION OF OUTLINE OF COVERAGE.—No person may sell or offer for sale a long-term care insurance policy without providing to the purchaser or potential purchaser (or representative) an outline of coverage that complies with the standards established under subsection (a)(3).

"(6) CIVIL MONEY PENALTY.—Any person who sells, offers for sale, or issues a long-term care insurance policy in violation of this subsection is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(c) ADDITIONAL RESPONSIBILITIES OF ISSUERS.—

"(1) REFUND OF PREMIUMS.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is denied or an applicant returns a policy or certificate within 30 days of the date of its issuance pursuant to subsection (h), the issuer shall refund to the applicant, not later than 30 days after the date of the denial or return, any premiums paid with respect to such a policy.

"(2) MAILING OF POLICY.—If an application for an long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall transmit to the applicant the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificate holder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(4) REPORTING OF INFORMATION.—The issuer of a long-term care insurance policy shall periodically (not less often than annually) report to the Commissioner or superintendent of insurance of each State in which the policy is sold, and shall make available to the Secretary, upon request, information respecting—

"(A) the long-term care insurance policies of the issuer that are in force,

"(B) the most recent premiums for such policies and the premiums imposed for such policies during the previous 5-year period,

"(C) the lapse rates, replacement rates, and rescission rates for policies (by agent), and

"(D) the claims denied (as a percentage of claims submitted) for such policies.

Information under this paragraph shall be reported in a format specified in the standards established under subsection (a)(3) to carry out this subsection. For purposes of subparagraph (C), there shall not be included as a lapse of policy such a lapse due to the death of the policyholder. For purposes of subparagraph (D), there shall not be included as a denied claim a claim that is denied solely because of the failure to meet a deductible, waiting period, or exclusionary period.

"(5) ACCESS TO INFORMATION.—Each such issuer shall provide the Secretary and the Commissioner or superintendent of insurance of each State in which the policy is sold such information as the Secretary, Commissioner, or superintendent, may request.

"(6) PROVISION OF OUTLINE OF COVERAGE FOR RENEWALS.—Each issuer of a long-term care insurance policy shall provide, at the time of renewal of such a policy, an outline of coverage that meets the applicable standards established pursuant to this section.

"(7) MEDICAL ASSESSMENTS FOR THE ELDERLY.—Before issuing a long-term care insurance policy to an applicant who is 75 years of age or older, if the policy is not guaranteed issue the issuer shall obtain one of the following:

"(A) A report of a physical examination.

"(B) An assessment of functional capacity.

"(C) Copies of medical records.

"(8) CIVIL MONEY PENALTY.—Any issuer of a long-term care insurance policy who—

"(A) fails to make a refund in accordance with paragraph (1),

"(B) fails to transmit a policy in accordance with paragraph (2),

"(C) fails to provide, make available, or report information in accordance with paragraph (3), (4), or (5),

"(D) fails to provide an outline of coverage in violation of paragraph (6), or

"(E) issues a policy without obtaining certain information in violation of paragraph (7),

is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(d) REQUIREMENTS RELATING TO RENEWABILITY.—

"(1) IN GENERAL.—No long-term care insurance policy may be canceled or nonrenewed for any reason other than nonpayment of premium or material misrepresentation.

"(2) CONTINUATION AND CONVERSION RIGHTS FOR GROUP POLICIES.—

"(A) IN GENERAL.—Each group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this paragraph.

"(B) BASIS FOR CONTINUATION.—For purposes of subparagraph (A), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. A group policy which restricts provision of benefits and services to or contains incentives to use certain providers or facility, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

"(C) BASIS FOR CONVERSION.—For purposes of subparagraph (A), a policy provides a basis for conversion of coverage if the policy entitles each individual—

"(i) whose coverage under the group policy would otherwise be terminated for any reason, and

"(ii) who has been continuously insured under the policy (or group policy which was replaced) for at least 6 months before the date of the termination,

to issuance of a policy providing benefits identical to, substantially equivalent to, or in excess of, those of the policy being terminated, without evidence of insurability.

"(D) TREATMENT OF SUBSTANTIAL EQUIVALENCE.—In determining under this paragraph whether benefits are substantially equivalent, there shall be taken into consideration the differences between managed care and non-managed care plans.

"(E) GROUP REPLACEMENT OF POLICIES.—If a group long-term care insurance policy is replaced by another long-term care insurance policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(e) BENEFIT STANDARDS.—

"(1) USE OF STANDARD DEFINITIONS AND TERMINOLOGY AND UNIFORM FORMAT.—

"(A) IN GENERAL.—Each long-term care insurance policy shall, pursuant to standards established under subsection (a)(3)—

"(i) use uniform language and definitions, and

"(ii) use a uniform format for presenting the outline of coverage under such a policy.

"(B) CERTAIN VARIATION IN LANGUAGE PERMITTED.—Such standards may permit the use of non-uniform language, but only to the extent required to take into account differences among States in the licensing of nursing facilities and other providers of long-term care.

"(2) DISCLOSURE.—

"(A) OUTLINE OF COVERAGE.—The outline of coverage for each long-term care insurance policy shall include at least the following:

"(i) A description of the principal benefits and coverage under the policy.

"(ii) A statement of the principal exclusions, reductions, and limitations contained in the policy.

"(iii) A statement of the terms under which the policy (or certificate) may be continued in force or discontinued, the terms for continuation or conversion, and any reservation in the policy of a right to change premiums.

"(iv) A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy (or master policy) contains the contractual provisions that govern.

"(v) A statement of the value of the policy (determined in accordance with standard established to carry out this subparagraph).

"(vii) A description of the terms, specified in subsection (h), under which a policy or certificate may be returned and premium refunded.

"(viii) Information on national average costs for nursing facility and home health care and information (in graphic form) on the relationship of the benefits provided under the policy to such national average costs.

"(ix) A statement of the percentage limit on annual premium increases that is provided under the policy pursuant to paragraph (8).

"(x) Information (in graphic form) on the projected effect of inflation on the value of benefits provided under the policy during a period of at least 20 years.

"(B) CERTIFICATES.—A certificate issued pursuant to a group long-term care insurance policy shall include—

"(i) a description of the principal benefits and coverage provided in the policy;

"(ii) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

"(iii) a statement that the group master policy determines governing contractual provisions.

"(C) LONG-TERM CARE AS PART OF LIFE INSURANCE.—In the case of a long-term care insurance policy issued as a part of or a rider on a life insurance policy, at the time of policy delivery there shall be provided a policy summary that includes—

"(i) an explanation of how the long-term care benefits interact with other components of the policy (including deductions from death benefits);

"(ii) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits (if any) for each covered person; and

"(iii) any exclusions, reductions, and limitations on benefits of long-term care.

"(3) LIMITING CONDITIONS ON BENEFITS; MINIMUM BENEFITS.—

"(A) IN GENERAL.—A long-term care insurance policy may not condition or limit eligibility—

"(i) for benefits for a type of services to the need for or receipt of any other services,

"(ii) for any noninstitutional benefit on the medical necessity for such benefit,

"(iii) for benefits furnished by licensed providers on compliance with conditions which are in addition to those required for licensure under State law, or

"(iv) for custodial care (if covered under the policy) only (I) to care provided in facilities which provide a higher level of care or (II) to care provided in facilities which provide for 24-hour or other nursing care not required in order to be licensed by the State.

"(B) HOME HEALTH CARE SERVICES.—If a long-term care insurance policy provides benefits for home health care services, the policy—

"(i) may not limit such benefits to services provided by registered nurses or licensed practical nurses;

"(ii) may not require benefits for such services to be provided by a nurse or therapist that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of the worker's licensure or certification;

"(iii) may not limit such benefits to services provided by agencies or providers certified under title XVIII; and

"(iv) must provide benefits for personal care services (including home health aide and homemaker services), home health services, and respite care in an individual's home.

"(C) NURSING FACILITY SERVICES.—If a long-term care insurance policy provides benefits for nursing facility services, the policy must provide such benefits with respect to all nursing facilities that are licensed in the State.

"(D) MINIMUM PERIOD OF COVERAGE.—Each long-term care insurance policy shall provide benefits over a period of at least 12 consecutive months.

"(4) PROHIBITION OF DISCRIMINATION.—A long-term care insurance policy may not treat benefits under the policy in the case of

an individual with Alzheimer's disease, with any related progressive degenerative dementia of an organic origin, or with any organic or inorganic mental illness differently from an individual having another medical condition for which benefits may be made available.

"(5) LIMITATION ON USE OF PREEXISTING CONDITION LIMITS.—

"(A) INITIAL ISSUANCE.—

"(i) IN GENERAL.—Subject to clause (ii), a long-term care insurance policy may not exclude or condition benefits based on a medical condition for which the policyholder received treatment or was otherwise diagnosed before the issuance of the policy.

"(ii) 6-MONTH LIMIT.—A long-term care insurance policy may exclude benefits under a policy, during its first 6 months, based on a condition for which the policyholder received treatment or was otherwise diagnosed during the 6 months before the policy became effective.

"(B) REPLACEMENT POLICIES.—If a long-term care insurance policy replaces another long-term care insurance policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the new policy for similar benefits to the extent such time was spent under the original policy.

"(6) USE OF FUNCTIONAL ASSESSMENT.—

"(A) IN GENERAL.—Each long-term care insurance policy—

"(i) shall determine eligibility for, and level of, benefits (other than for nursing facility services) available under the policy based on a professional assessment of the policyholder's functional ability, and

"(ii) shall specify the level (or levels) of functional impairment required under such an assessment to obtain benefits other than for nursing facility services) under the policy.

"(B) APPEALS PROCESS.—Each long-term care insurance policy shall provide for an appeals process, meeting standards established under this subsection, for individuals who dispute the results of an assessment conducted under this paragraph.

"(7) INFLATION PROTECTION.—

"(A) OPTIONAL RIDER AT TIME OF INITIAL ISSUANCE.—Each long-term care insurance policy shall permit the policyholder, at the time of initial sale, an option of providing for inflation protection described in subparagraph (B).

"(B) INFLATION PROTECTION DESCRIBED.—The inflation protection described in this subparagraph provides, at the time of each annual renewal of a policy, for an increase of a specified percentage (but not less than 5 percent) in the dollar payment levels and the maximum payment limit on benefit coverage above the levels or limit in effect during the previous policy year. In applying this subparagraph, the increases shall be compounded annually and the policy may provide for rounding such an increase to the nearest multiple of $1 (in the case of dollar payment levels) or $100 (in the case of the maximum payment limit).

"(8) SPECIFICATION OF LIMITS ON PREMIUM INCREASES.—Each long-term care insurance policy shall specify a limit on the percentage increase in premiums for a policy that may be made in any between one policy year and the subsequent policy year.

"(f) NONFORFEITURE.—

"(1) IN GENERAL.—Each long-term care insurance policy shall provide that if the policy lapses after the policy has been in effect for a minimum period (specified under the standards under subsection (a)(3)), the policy will provide without payment of any additional premiums benefits equal to—

"(A) a percentage (specified under such standards) of the benefits otherwise available at term, or

"(B) such other type of benefits as such standards may provide.

"(2) ESTABLISHMENT OF STANDARDS.—The standards under subsection (a)(3)—

"(A) may not provide more than 2 additional types of benefits under paragraph (1)(B), and

"(B) may provide that the percentage or amount of benefits under paragraph (1) must increase based upon the period of time in which the policy was in effect.

"(g) LIMIT OF PERIOD OF CONTESTABILITY.—The issuer of a long-term care insurance policy may not cancel such a policy or deny a claim under the policy based on fraud or misrepresentation relating to the issuance of the policy unless notice of such fraud or misrepresentation is provided within 6 months after the date of the issuance of the policy.

"(h) RIGHT TO RETURN (FREE LOOK).—Each applicant for a long-term care insurance policy shall have the right to return the policy (or certificate) within 30 days of the date of its delivery (and to have the premium refunded) if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

"(i) LONG-TERM CARE INSURANCE POLICY DEFINED.—

"(1) IN GENERAL.—In this section, except as otherwise provided in this subsection, the term 'long-term care insurance policy' means any insurance policy, certificate, or rider advertised, marketed, offered, or designed to provide coverage for each covered person on an expense incurred, indemnity, prepaid, or other basis, for one or more diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes a group or individual annuity or life insurance policy or rider which provides directly (or which supplements) long-term care insurance.

"(2) POLICIES EXCLUDED.—Except as provided in paragraph (4), the term 'long-term care insurance policy' does not include any medicare supplemental policy (as defined in section 1882(g)) and any insurance which is offered primarily to provide—

"(A) basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, or major medical expense coverage,

"(B) disability income or related asset-protection coverage,

"(C) accident only coverage,

"(D) specified disease or specified accident coverage, or

"(E) limited benefit health coverage.

"(3) TREATMENT OF CERTAIN LIFE INSURANCE POLICIES.—Except as provided in paragraph (4), the term 'long-term care insurance policy' does not include life insurance policies—

"(A) which accelerate the death benefit specifically for—

"(i) one or more of the qualifying events of terminal illness,

"(ii) medical conditions requiring extraordinary medical intervention, or

"(iii) permanent institutional confinement;

"(B) which provide the option of a lumpsum payment for those benefits; and

"(C) in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

"(4) INCLUSION OF POLICIES MARKETED AS LONG-TERM CARE INSURANCE.—The term 'long-term care insurance policy' also means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) REPORT ON ASSESSMENT METHODS FOR FUNCTIONAL ABILITY.—Within 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the different methods that may be used to conduct assessments of functional ability described in section 1931(e)(6)(A) of the Social Security Act and the relative effectiveness of each of such methods.

(c) REPORT ON SOLVENCY PROTECTION.—Within 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on standards that may be applied to assure the solvency of insurers with respect to long-term care insurance policies.

(d) STUDY OF STANDARD MEASURE OF VALUE FOR LONG-TERM CARE INSURANCE POLICIES.—The Secretary of Health and Human Services shall provide for a study to develop a standard measure of value for long-term care insurance policies. Within 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on such study.

SEC. 3. INCREASE IN FUNDING FOR LONG-TERM CARE INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE.

The subsection (f) of section 4360 of the Omnibus Budget Reconciliation Act of 1990 relating to authorization of appropriations for grants is amended by inserting before the period at the end the following: "and an additional $20,000,000 for each of fiscal years 1993, 1994, and 1995, to fund such grant programs for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate long-term care insurance".

LONG-TERM CARE INSURANCE CONSUMER PROTECTION ACT—SUMMARY

1. CONSUMER ACCESS TO INFORMATION

Requires states to make available to consumers information regarding:

Complaints received with respect to long-term care insurance policies;

The number of policies sold by company;

The most recent premiums for each policy sold in the state;

The lapse and replacement rates for policies

The number of policy rescissions; and

The claims denied as a percentage of claims submitted (excluding claims denied because the policyholder has not met deductibles or waiting periods)

Why needed: Most states do not maintain separate files on long-term care insurance complaints, making it virtually impossible for consumers to get good, objective information about the reputation and quality of a particular company or agent. Consumers have the right to know basic information long-term care insurance before they spend their hard-earned dollars.

2. INFLATION PROTECTION

Requires all policies to offer an inflation protection feature that provides for an increase of a specified percentage not less than 5 percent in the policy's dollar payment levels and maximum payment limit. The increases are to be compounded annually.

Why needed: Consumers should have the option to purchase inflation protection and should be informed as to how benefits are

eroded without this type of protection. However, to assure consumer flexibility and affordability, this legislation does not require all policies to have inflation protection. Assuming a conservative inflation estimate of 5 percent per year, without inflation protection a long-term care insurance policy benefit is eroded by 50 percent in just 10 years. Seniors pour thousands of dollars per year into these policies only to find that their benefits have been whittled away, just when they need protection the most.

3. NONFORFEITURE BENEFITS

Requires each policy to contain a nonforfeiture benefit which conforms to one of the 3 nonforfeiture models developed by the National Association of Insurance Commissioners (NAIC). At least one of the models identified by the NAIC must be a reduced paid-up model whereby policyholders would be guaranteed a specified percentage of benefits after a certain vesting period. Similar to a whole life policy or a home mortgage, a nonforfeiture benefit for long-term care insurance would assure that a policyholder did not have to forfeit vested equity in a policy should the policy lapse.

Why needed: Because long-term care policies are typically held for 10 or 20 years before their benefits are used, the possibility of a policy lapsing during this period is significant. For example, assuming a conservative lapse rate of 10 percent per year, only 7 percent of policies purchased at age 65 are still in force at age 85, when they are most likely to need the coverage.

When a long-term care insurance policy lapses, the policyholder forfeits a significant amount of equity which has been built up to pre-fund future needs. Individuals often pay into long-term care insurance policies for 10, 15, 20 years or more only to find that a premium increase suddenly makes the policy unaffordable. When this happens, policyholders surrender years of equity and are left with no long-term care protection whatsoever.

4. MARKETING ABUSES

a. Explicitly prohibits "churning" whereby an individual is pressured into switching policies in order for the agent to capture a new sales commission.

Why Needed: When an individual drops an old policy to buy a new policy, they will be forced to meet new preexisting condition waiting periods, during which time they will not be covered by insurance.

b. Explicitly prohibits high pressure sales tactics.

Why needed: Using threats, or capitalizing on the fear of financial catastrophe associated with going into a nursing home should not be tolerated, particularly with the frail elderly.

c. Prohibits agents from filling in the medical history portion of an application.

Why needed: There is evidence of problems with agents who fill in medical history questions incorrectly. If an agent incorrectly answers these questions on behalf of an applicant, an applicant would likely face the possibility of having claims denied at a later date on the basis that the applicant misrepresented his/her health status at the time of application.

d. Prohibits sale of a long-term care insurance policy to an individual who is eligible for Medicaid. An exception is made for qualified Medicare beneficiaries (QMBs).

Why needed: Medicaid beneficiaries, by definition, already receive comprehensive coverage for long-term care services without cost-sharing requirements.

5. OUTLINE OF COVERAGE

Requires the NAIC to develop insurers to provide a standardized outline of coverage which states:

The principal benefits and exclusions under the policy

Graphic information on national average nursing home and home health care costs and their relationship to benefits provided under the policy

Graphic information on the effects of inflation on benefits provided under the policy over at least a 20 year period

A statement that the premium for the policy will not increase more than a specified percentage during any given calendar year (the percentage specified will be developed by the insurer and may not be exceeded)

Why needed: Currently, many insurance companies have devised their own outline of coverage which is very different in format and content than other companies, making it very difficult for individuals to compare policy provisions. In addition, consumers generally do not receive any information about how the benefits under the policy compare to average costs of such benefits, or how much the policy can be expected to be worth over time. The requirement to disclose maximum annual premium increases under the policy will bring predictability and accountability.

6. GUARANTEED RENEWABILITY

Requires all policies to be guaranteed renewable. Policies could only be cancelled for nonpayment of premuim or material misrepresentation.

Why needed: Some states still allow insurers to cancel long-term care insurance policies because the health of the policyholder has deteriorated. Guaranteed renewability prevents insurers from suddenly dropping coverage for policyholders who are no longer considered "profitable".

7. STANDARD DEFINITIONS AND TERMINOLOGY

Requests the NAIC to develop, within 12 months of enactment, standard definitions and terminology for benefits used in long-term care insurance policies.

Why needed: Today, frivolous variations in policy definitions leave consumers confused and highly susceptible to high pressure sales pitches which try to convince them that their coverage is substandard. Consumers have the right to know that "home health care", for example, means the same thing in every policy so that they can make true comparisons based upon benefit levels and price.

8. PRIOR INSTITUTIONALIZATION

Prohibits the imposition of prior hospitalization requirements on the receipt of benefits. Also prohibits the use of prior institutionalization (i.e., a nursing home stay) requirements on the receipt on non-institutional (i.e., home and community care) benefits.

Why needed: Despite the fact that the NAIC model act contains a prohibition on the use of prior institutionalization, several states have not adopted this provision and several insurers (large and small) still sell policies that restrict eligibility for benefits upon a stay in the hospital (usually 3 days) or a prior stay in a skilled nursing facility. A prior hospitalization requirement effectively excludes two-thirds of the policyholders from receiving nursing home benefits.

9. HOME HEALTH CARE

Prohibits limiting such benefits to services provided to RNs or LPNs or to Medicare-certified agencies and facilities. Prohibits exclusion of personal care services, such as home health aide and respite care. Requires use of functional assessment tool for home care eligibility. Provide policyholders with an explicit right to appeal denials for home care eligibility.

Why needed: Restricting home health care services to specific providers or Medicare-certified facilities severely limits the options of the policyholder. Often, policyholders do not need skilled nursing care; rather, they need assistance with the activities of daily living, things such as bathing, walking, feeding, toileting, and eating. In addition, Medicare-certified facilities are the exception, not the rule, and they often have long waiting lists. Policyholders should have the right to use their benefits at any license nursing or home health facility in the state.

11. TIMELY PROVISION OF INFORMATION

Requires:

a. Insurers to refund premiums to policyholders within 30 days of an application denial or return under the fee look period.

b. Insurers to transmit the policyholder, within 30 days of a policy application approval, a copy of the actual policy or certificate.

c. Insurers to give written notice, within 60 days of a claim denial, the reasons for such denial. Insurers must also make available to policyholders all information directly relating to such denial.

d. Insurers to obtain, prior to the issuance of a policy, a physical exam report, a functional capacity assessment, or medical records for all applicants age 75 or older.

Why needed: Policyholders have the right to know why their claims were denied in a timely manner and to have timely refund of premiums when appropriate. There have been documented instances where insurers delay timely information or refunds in order to buy time or discourage the policyholders from getting payment. Many policyholders are frail elderly individuals who cannot afford to fight the insurance company, or wait months for payment. Because nursing home stays are very expensive, delay in receiving claims payments can quickly result in bankruptcy for the individual and increased government costs through Medicaid.

12. COUNSELING

Provides a $20 million authorization for states to establish long-term care insurance counseling programs.

Why needed: Counseling programs now exist in several states and have proven to be a valuable and cost effective resource for consumers seeking to get objective information about policies.●

● Mr. DASCHLE. Mr. President, I rise today with Senators PRYOR, RIEGLE, DURENBERGER, BAUCUS, and BURDICK to introduce the Long-Term Care Insurance Consumer Protection Act of 1991, a measure that establishes basic consumer protection standards for the rapidly expanding long-term care insurance [LTCI] market. The ultimate goal of this legislation is to ensure that individuals who purchase LTCI have the peace of mind that, when and if they need it, their policy will afford them the long-term care protection that they expect and deserve.

As we look to the next decade, one of the foremost health challenges we face as a nation is how to ensure that our senior citizens and disabled individuals

have access to high quality long-term care services. There is much debate in Washington about if and how a public long-term care program should be established. Even if enacted, given the Federal budget deficit and the costs of such a program, the benefits may be rather limited. Good private long-term care insurance therefore, is becoming increasingly important to protect against what can be astronomical expenses for nursing home stays and home health care.

Though LTCI will never be able to cover the majority of our society's long-term care needs, this is a growing market that will, undoubtedly, continue to expand over the years. While just 10 years ago there was essentially no long-term care insurance market, recently the field has burgeoned with over 100 companies having sold nearly 2 million policies.

With this dramatic proliferation of business has come not only beneficial innovations in coverage, but also, unfortunately, numerous instances of abuse by some unscrupulous companies. While the majority of insurance companies and their agents strive to provide high value insurance policies to their customers, a growing body of evidence suggests that thousands of individuals every year are victimized by marketing and sales abuses from a minority of companies and agents who exploit the fears of the elderly and use the complexity of insurance to confuse policy holders.

For example, Jake and Martina Holzer, an elderly couple from Trail City, SD, lost their farm and their life savings after an insurance company refused to reimburse Martina for nursing home expenses she incurred after she had a stroke and required institutionalization. Martina had been paying premiums to this company for a long-term care policy she purchased in 1985. The company engaged in post-claim underwriting to avoid paying the bill, even though there was no indication when Martina originally applied for the insurance that she had any medical condition that would preclude her from coverage. Though the couple won a $13.5 million settlement on this case, the insurance company committing the fraud is still operating in a number of States across the country.

Unfortunately, this example is not unique. Congressional investigations have uncovered numerous examples of fraud and abuse in this market. Policies are sold to unsuspecting individuals that duplicate benefits they already possess, or agents persuade people to buy inappropriate and more expensive replacement policies rather than renew their existing coverage. A few companies engage in predatory pricing, enticing consumers to purchase insurance with extremely low premiums, only later to boost them so high they are unaffordable. As a result, policies lapse, investments are lost, and benefits disappear.

Perhaps most frightening of all is when insurers refuse to pay claims because of inaccuracies on the insurance application, even when the agent bears responsibility for the incomplete information. In addition to post-claim underwriting, many policies promise more than they deliver by disguising limitations in technical legalese or in the fine print of a policy. Thinking they are protected, policyholders discover they have no coverage at all just as they enter a nursing home. Often alone, frail, and without additional resources, they have no recourse for challenging the company's action.

Even policies sold by the reputable companies and responsible agents that represent most of the market may confuse consumers and provide benefits that are more illusory than real. First, companies employ widely varying terms and practices, making it difficult to compare policies and choose the one most suited to individual needs. Second, individuals typically forfeit all of their benefits if they let their policies lapse for whatever reason. Despite years of faithful payment of premiums, investing tens of thousands of dollars, most lapsed long-term care policies, unlike whole life insurance, return nothing to the policyholder. As few as 2 out of every 10 people who initially buy long-term care insurance and eventually enter a nursing home will actually receive long-term care benefits.

The insurance industry has tried to tell us that the combination of industry self-policing, market pressures, and State adoption and enforcement of vigorous standards developed by the National Association of Insurance Commissioners is cleaning up this market. Unfortunately, a recently released GAO study paints a very different picture. That study reports that many States do not meet NAIC standards. For example, 24 States still have not developed standards requiring insurers to guarantee policy renewal, and 18 States have not adopted standards disallowing Alzheimer's disease exclusions. Though insurers have adopted NAIC standards more quicky than States have, most policies GAO reviewed still did not meet all of NAIC's standards. In recent testimony before the House Ways and Means Committee, GAO concluded that, while NAIC standards provide the foundation for consumer protection, many problems remain in this market.

Before more individuals invest their hard-earned money in insurance coverage that may prove nonexistent or deficient, it is imperative that we adopt minimum Federal standards that all long-term care insurance products must meet. These standards must provide consumers with reasonable protections while also preserving the flexibility needed by the insurance industry to innovate in response to new information and changing consumer demands. We need to continue to encourage and stimulate private sector responses to our long-term care needs.

The bill Senators PRYOR, RIEGLE, DURENBERGER, BURDICK, and I are introducing today attempts to strike that balance by carefully defining a set of basic mandates that leave room for alternative approaches. The Federal standards prohibit agent and marketing abuses ensure that policies are understandable and comparable, grant consumers greater access to information about insurance companies and their practices, and provides protection against inflation, forfeited investments, and inadequate benefits.

In sum, this legislation is our first attempt to set out guidelines we believe will offer important consumer protections in this market. We look forward to working with insurers, consumers, and other interested parties to improve the bill as it makes its way through the legislative process.

Our legislation is not a substitute for the well-designed public program this country needs to finance long-term care. But it will offer consumers of private insurance the peace of mind that their policies meet minimum standards and are likely to furnish the promised benefits when expected and needed.

I hope that the Senate will give timely consideration to this legislation.•

• Mr. RIEGLE. Mr. President, today I am introducing with Senators PRYOR and DASCHLE and others, S. 846, the Long-term Care Insurance Consumer Protection Act. This bill provides for minimum standards for private, long-term care to protect individuals who want to purchase policies consistent with their individual needs and resources.

The long-term care insurance market today, in Michigan and across the country, is confusing and the potential for abuse is high, particularly because information that consumers need to purchase policies is not readily available. It's not easy to make comparisons in benefits and price among different policies and materials explaining benefits use different terminology and formats that add to confusion. People must sort through a maze of limitations, waivers and charges. Under these circumstances, it is no wonder some buy policies that don't meet their needs or adequately protect them against the high costs of long-term care. People can often make decisions out of fear and spend large sums but get little or no return.

Many policies are also limited in their coverage or very expensive. Problems include cancellation of policies or limitations of benefits such as requirements of prior institutionalization to even receive benefits, or very restrictive definitions limiting the type of

care one can receive. In some cases, policies appear to be designed so an individual is not likely to receive benefits. We have even heard stories where, one of most vulnerable groups, low-income seniors, have been pressured to buy policies, even though they are eligible for comprehensive benefits under Medicaid. These are problems similar to those prevalent in the Medigap market in which Congress recently enacted changes to address the problems. We must act here as well.

Several studies by the U.S. General Accounting Office and Inspector General underscore the need for action and, among other things, outline abuses in sales practices such as pressuring people to switch policies that require them to meet new requirements before receiving benefits. In some cases, people have little or no information about policies. Objective information about the quality and coverage of a particular policy is needed in a timely fashion.

Mr. President, I was recently contacted in Michigan about a case that is a particularly good example of what can happen if changes are not enacted.

A Detroit area couple was approached in their home by an insurance agent who implied that he was from the Social Security Administration [SSA]. Since they thought he was with the government, they let him in their home. The agent told them they would receive great benefits—all levels of care, no prior hospitalization, guaranteed renewable—and only have to pay premiums for two years. Since the coverage sounded good, the couple wrote out a check for $1,085. The only information the agent provided was a reprinted copy of the Health Care Financing Administration guide to Medicare supplemental coverage. He left no outline of benefits. After three weeks, the couple hadn't received any more information and started to get suspicious. They called the SSA who told them they had nothing to do with these policies. They were unable to get in contact with the agent. They never received a copy of the policy contract. After repeated attempts to get their money refunded, they contacted someone at the Area Agency on Aging to advocate on their behalf. The couple eventually received a refund about three months later.

This couple is certainly not the only one being approached is such a way and they were fortunate to get their refund. This is just one example of why reform is needed. This is a new and growing market, making it even more important that we act now. This legislation we introduce today will begin the debate on this very important issue. People who can afford long-term care policies need basic protections so that policies are appropriate and affordable.

Mr. President, this bill uses a model similar to that used to enact important reforms to the Medigap supplemental insurance market. Specifically, the legislation provides a mechanism for developing a national standards for long-term care policies. The model standards will be developed through the State Insurance Commissioners with input from consumer groups, Medicare beneficiaries, insurers and others. These national standards include protections regarding sales practices, access to information, and policy coverage issues. The bill also expands current enforcement capacity and authority as well as provided grants to States for counseling.

In the past, I have been concerned about unnecessarily imposing financial penalties on insurers selling nonapproved policies in States that do not adopt the model simplification regulation. But in this case, recent studies show that States have not adopted the Model regulation on a voluntary basis. The voluntary, State-by-State approach to regulation is resulting in drastic differences in consumer protection and minimum standards in many States. While my home state of Michigan has been active in passing State laws intended to protect citizens in this area, all States have not. Some uniformity is need so citizens are informed about their choices and afforded basic protections.

In introducing the Long-Term Care Consumer Protection Act of 1991 today, we want the reaction of interested parties about this bill and their input. The model developed by the National Association of Insurance Commissioners was used in designing the legislation. But there are other issues to be considered such as how to ensure enforcement, other simplification methods, and the need for more information on long-term care.

The bill is supported by Consumers Union, Families U.S.A., American Association of Retired Persons, and the National Committee to Preserve Social Security and Medicare. As I have in the past, I also intend to work closely with the National Association of Insurance Commissioners as well as the Michigan Insurance Bureau. I know insurers are concerned that this is a new market where products are constantly changing and improving. But we need some minimum standards. And in fact, this bill would still allow such innovation in the current market to occur. We will continue to work closely with these groups and all other interested groups as we refine and improve the bill.

Choosing a long-term care policy is one of the most important decisions a person can make and it can also be one of the most complicated. I believe this proposal puts into place a mechanism for significantly reducing the potential for abusive sales practices in the long-term care market and ensuring that reasonably priced and quality insurance products are sold.

Older Americans are a growing percentage of the population, 12 percent this year and rising. Together with this, is a growth in the number of people needing long-term care. These demographics should be a force for change. Future increases in the number of patients requiring these services underscore the need for a sound and efficient system. This is the start in this Congress of our continuing efforts to address this country's long-term health care needs. I will continue to work in Congress to ensure access to high quality long-term care for all Americans.

I hope that my colleagues in the Senate will join me in cosponsoring this important piece of legislation to ensure affordable high quality long term health care for Americans.•

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

S.J. Res. 124. Joint resolution to designate "National Visiting Nurse Associations Week" for 1992; to the Committee on the Judiciary.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

• Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Utah, Mr. HATCH, to introduce a resolution proclaiming the week of February 16 through February 22, 1992, as National Visiting Nurse Associations Week.

Mr. President, the contributions that the Visiting Nurses Associations have made in caring for and improving the lives of thousands of Americans for more than a century are deserving of our recognition and support. The best way I can think of to highlight their special place in our country's health care system is to simply look at one of many people they provide needed care for every day.

Bobby, not his real name, is a 2-year-old boy in Springville, NY, who is suffering from a very rare disease called severe combined immune deficiency [SCID], a disease in which victims are sometimes referred to as "bubble babies." There are only 15 known SCID patients in the United States. Until recently, the future for these children was bleak—most died at an early age or faced a life of isolation in a plastic environment. A new drug called Adagen has recently been approved to treat the disease, making it possible for patients like Bobby to live independently outside of their plastic bubbles. The Visiting Nurse Association of Western New York in Amherst is helping Bobby to achieve his independence. The agency administers the weekly injections, monitors his condition, and provides the education his family needs to keep him at home with his parents and six brothers and sisters.

Bobby is one of the more than 2 million patients each year who benefit from the home health care service provided by the 422 Visiting Nurse Associations [VNA's] in the United States. VNA's are located in both rural and urban areas and provide a wide range of services that enable patients of all ages to live independently in their homes. More importantly, VNA's provide care to all who need it, regardless of their

ability to pay. The role VNA's play in our health care system is indisputable. The availability of VNA services brings relief and support to the Americans who truly want to convalesce, recover, or spend their remaining days in the comfort of their own homes.

We are asking you to support this unique concept of health care by cosponsoring our resolution to designate February 16 through 22, 1992, as Visiting Nurse Associations Week. Last year, 51 Senators joined us in this effort to ensure that Visiting Nurse Associations obtain the recognition they deserve.

Mr. President, I would ask that the text of the resolution be printed in the RECORD.

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

S.J. RES. 124

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 422 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support, regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community serviced by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That February 16 through February 22, 1992, is designated as "National Visiting Nurse Associations Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.●

By Mr. SIMON (for himself, Mr. DIXON, Mr. BIDEN, Mr. BURDICK, Mr. CHAFEE, Mr. CONRAD, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GLENN, Mr. KERRY, Mr. LAUTENBERG, Mr. MOYNIHAN, Ms. MIKULSKI, Mr. RIEGLE, Mr. ROTH, and Mr. BROWN):

S.J. Res. 125. Joint resolution to designate October 1991 as "Polish American Heritage Month"; to the Committee on the Judiciary.

POLISH AMERICAN HERITAGE MONTH

Mr. SIMON. Mr. President, as in previous years, I am today introducing a joint resolution to designate October 1991 as "Polish-American Heritage Month." I am always honored to sponsor this measure, but this year the privilege is even greater given the courageous steps taken by Poland to create an open market economy which has not been seen in Eastern Europe in 45 years.

On May 3, 1791, Poland ratified the first liberal constitution in Europe. It was patterned after our constitution and it established three independent branches of government—executive, legislative and judicial. Their constitution threatened the domination of the monarchies in Europe, and Poland was subsequently partitioned by foreign powers in 1795 and would not become an independent state again until 1918. After two world wars and decades of imposed Communist rule, Poland was the first Warsaw Pact country to hold free democratic elections.

However, freedom has not come without cost to the Polish people. The opening of their economy to market forces, while cutting inflation and drastically reducing shortages of food and other goods, has also brought severe recession, unemployment and a lower standard of living to the people of Poland. We have been able to show its support for this fledgling democracy by forgiving 70 percent of the $3 billion in foreign debt owed to our government. This action will be of tremendous help to Poland in her difficult transition to an open economy.

Poles all over the world are proud of such compatriots as His Holiness Pope John Paul II, who has been a strong advocate of human rights, and the Nobel Peace Prize winner and now President of Poland, Lech Walesa. In the United States, Polish-Americans have added incalculably to American life. Whether in arts and letters, entertainment, sports, the military, politics, science or education all our lives are enriched by the achievements of Polish-Americans.

By designating October as Polish-American Heritage Month, we can assure the people of Poland of our continued support for them in this exciting but difficult time. We share the Polish people's love of freedom, and we commend them for their brave steps toward a free and prosperous society.

Mr. President, I ask unanimous consent that the resolution marking Polish-American Heritage Month be printed in the RECORD in full.

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

S.J. RES. 125

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia, in the seventeenth century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contribution to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas, the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor in the greatest son of Poland, his Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader and now President Lech Walesa in fighting for freedom, human rights, and economic reform in Poland;

Whereas the Polish American Congress is observing its forty-seventh anniversary this year and is celebrating October 1991 as "Polish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated "Polish-American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.

Mr. DIXON. Mr. President, I am proud to join with my distinguished colleague, PAUL SIMON, to introduce Polish-American Heritage Month. This resolution would designate October 1991, as a time of celebration for Americans of Polish descent.

The last year has brought exciting times to Poland, as well as to the Polish community in Illinois and the Nation. Poles in this country have shared the exhilaration and frustration felt by their countrymen overseas, as they work to eliminate the vestiges of Communism.

Polish-Americans have contributed greatly to the richness of American life. From the contributions of Gen. Thaddeus Kosciuszko and Gen. Casimir Pulaski in the Revolutionary War, to Nobel Prize winner Marie Sklodowski Curie, and diplomat, statesman and

concert pianist Ignace Paderewski, Polish-Americans have been leaders in a great many fields.

Illinois is a place of special importance to the Polish-American community. Chicago is home to the largest Polish community outside of Warsaw. Two of its Congressmen, my distinguished colleagues DAN ROSTENKOWSKI, and BILL LIPINSKI, are prime examples of the talent within the community.

Mr. President, should one drive along Milwaukee Avenue, on the northwest side of Chicago, one would see numerous businesses whose storefronts have Polish signs out front. It is a bit of Warsaw in Chicago.

The resiliency of the Polish people throughout the centuries, in the face of adversity, motivates the community today. It is therefore most appropriate that we in Congress dedicate October of this year as "Polish-American Heritage Month."

I urge my colleagues to join Senator SIMON and me in this effort.

I thank my colleagues.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 50

At the request of Mr. SYMMS, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 50, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 150

At the request of Mr. MOYNIHAN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 150, a bill to amend the Internal Revenue Code of 1986 to generally treat bonds issued for section 501(c)(3) organizations in a manner similar to Government bonds.

S. 250

At the request of Mr. FORD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 313

At the request of Mr. SPECTER, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 313, a bill to carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture or extrajudicial killing.

S. 377

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 377, a bill to amend the International Air Transportation Competition Act of 1979.

S. 396

At the request of Mr. WIRTH, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 396, a bill to amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes.

S. 397

At the request of Mr. WIRTH, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 397, a bill to amend the Solid Waste Disposal Act to require producers and importers of newsprint to recycle a certain percentage of newsprint each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such newsprint, and for other purposes.

S. 398

At the request of Mr. WIRTH, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 398, a bill to amend the Solid Waste Disposal Act to provide management standards and recycling requirements for spent lead-acid batteries.

S. 399

At the request of Mr. WIRTH, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 399, a bill to amend the Solid Waste Disposal Act to prohibit the Administrator of the Environmental Protection Agency from listing used oil and affiliated materials as a hazardous waste under that act, to require producers and importers of lubricating oil to recycle a certain percentage of used oil each year, to require the Administrator to establish a recycling credit system for carrying out such recycling requirement, and for other purposes.

S. 400

At the request of Mr. SYMMS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 400, a bill to set aside tax revenues collected on recreational fuels not used on highways for the purposes of improving and maintaining recreational trails.

S. 416

At the request of Mr. DANFORTH, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 465

At the request of Mr. GLENN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 465, a bill to require the Secretary of Agriculture to conduct a pilot program to permit two States to enter into a reciprocal agreement for the interstate shipment and marketing of State inspected meat and poultry products and to establish a task force to advise the Secretary with respect to such pilot program, and for other purposes.

S. 493

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 554

At the request of Mr. GLENN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 554, a bill to establish an interagency Committee on Degradable Plastics Standards for the development of uniform definitions, standards, and testing procedures for plastic products made from certain commodities, to encourage the development, production, and use of environmentally safe degradable plastic products, and for other purposes.

S. 555

At the request of Mr. BRADLEY, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Arizona [Mr. DECONCINI] were added as a cosponsor of S. 555, a bill to amend the Drug Free Schools and Communities Act of 1986 to provide education on the problems associated with the use of tobacco.

S. 603

At the request of Mr. GLENN, the names of the Senator from South Dakota [Mr. PRESSLER], and the Senator from North Dakota [Mr. CONRAD] were added as a cosponsor of S. 603, a bill to require the Administrator of General Services to establish procurement criteria for plastic products containing recycled material; to establish an interagency task force on plastic container coding to coordinate the expertise, responsibilities, and initiatives of Federal agencies to facilitate use of degradable plastics, without adversely affecting recycling of nondegradable plastic products, to require coding of plastic containers to facilitate separation of degradable plastic containers

from nondegradable plastic containers and sorting of nondegradable plastic containers by resin type to promote recycling containers, and for other purposes.

S. 642

At the request of Mr. COATS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 642, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependents of a taxpayer.

S. 643

At the request of Mr. COATS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 643, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependent children of a taxpayer who are 6 years old or younger.

S. 701

At the request of Mr. COATS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes.

S. 716

At the request of Mr. JEFFORDS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 716, a bill to establish a replacement fuels and alternative fuels program, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 752

At the request of Mr. CHAFEE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 752, a bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent.

S. 786

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 786, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Kurdish peoples to alleviate suffering.

S. 816

At the request of Mr. MOYNIHAN, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 816, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Baltic peoples to alleviate suffering.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the names of the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. HELMS], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 12

At the request of Mr. DECONCINI, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 12, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 82

At the request of Mr. SPECTER, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from New Jersey [Mr. BRADLEY] were added as consponsors of Senate Joint Resolution 82, a joint resolution to designate the week beginning May 19, 1991, as "National Police Athletic League Week."

SENATE JOINT RESOLUTION 97

At the request of Mr. DOMENICI, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Nevada [Mr. BRYAN], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to recognize and honor members of the reserve components of the Armed Forces of the United States for their contributions to victory in the Persian Gulf.

SENATE JOINT RESOLUTION 107

At the request of Mr. MOYNIHAN, the names of the Senator from Indiana [Mr. COATS], the Senator from New York [Mr. D'AMATO], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from Utah [Mr. GARN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 107, a joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

SENATE JOINT RESOLUTION 110

At the request of Mr. MOYNIHAN, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 110, a joint resolution expressing the sense of the Congress that the United States and the Soviet Union should lead an effort to promptly repeal United Nations General Assembly Resolution 3379 (XXX).

SENATE JOINT RESOLUTION 111

At the request of Mr. BRADLEY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Oklahoma [Mr. BOREN], the Senator from Louisiana [Mr. BREAUX], the Senator from Arkansas [Mr. BUMPERS], the Senator from Arkansas [Mr. PRYOR], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. LEVIN], the Senator from Michigan [Mr. RIEGLE], the Senator from Georgia [Mr. NUNN], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Carolina [Mr. SANFORD], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 111, a joint resolution marking the seventy-fifth anniversary of chartering by Act of Congress of the Boy Scouts of America.

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. KERRY, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Concurrent Resolution 26, a concurrent resolution calling

for the United States to support a new agreement among the Antarctic Treaty Consultative Parties which would provide comprehensive environmental protection of Antarctica and would prohibit indefinitely commercial mineral development and related activities in Antarctica.

SENATE RESOLUTION 61

At the request of Mr. GRASSLEY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Resolution 61, a resolution relating to the role of the Corps of Engineers in the management of the Missouri River System.

SENATE RESOLUTION 103

At the request of Mr. DIXON, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Resolution 103, a resolution relating to the contributions to Operation Desert Storm made by the defense-related industries of the United States.

AMENDMENTS SUBMITTED

DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PERSONNEL ACT

CRANSTON AMENDMENT NO. 65

Mr. LEAHY (for Mr. CRANSTON) proposed an amendment to the bill (S. 675) to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities and to authorize collective bargaining over conditions of employment of health-care employees of the Department of Veterans Affairs, and for other purposes, as follows:

On page 55, line 14, strike out "(d)" and insert in lieu thereof "(c)".

On page 55, line 17, strike out "(e)" and insert in lieu thereof "(d)".

On page 55, line 20, strike out "(f)" and insert in lieu thereof "(e)".

On page 88, line 11, insert ", respectively" before the period.

On page 95, line 2, strike out "Expanded-duty" and insert in lieu thereof "Expanded-function".

On page 110, line 10, strike out "201" and insert in lieu thereof "202".

On page 134, line 6, strike out "and".

On page 134, line 8, strike out "respectively." and insert in lieu thereof "respectively; and"

On page 134, between lines 8 and 9, insert the following new subclause:

(E) by redesignating section 5096 as section 8241.

On page 137, line 5, strike out "8270(f)" and insert in lieu thereof "8201(f)".

On page 137, line 9, strike out "8296" and insert in lieu thereof "8241".

On page 138, in the matter between line 22 and line 23, strike out "7001" and insert in lieu thereof "7101".

FUTURES TRADING PRACTICES ACT

LEAHY AMENDMENT NO. 66

Mr. LEAHY proposed an amendment to the bill (S. 207) to amend the Commodity Exchange Act to authorize appropriations for and enhance the effectiveness of the Commodity Futures Trading Commission, to curb abuses in the making of trades and the execution of orders at designated contract markets, to provide greater representation of the public interest in the governance of such contract markets, to enhance the integrity of the U. S. financial markets by providing for Federal oversight of margins on stock index futures, clarifying jurisdiction over innovative financial products and providing mechanisms for addressing inter-market issues, and for other purposes, as follows:

Begininng on page 83, strike line 19 and all that follows through page 85, line 8, and insert the following new section:

SEC. 102. HIRING AUTHORITY OF THE COMMISSION.

Section 12(b) (7 U.S.C. 16(b)) is amended—

(1) by designating the first through third sentences as paragraphs (1) through (3), respectively; and

(2) by adding at the end the following new paragraph:

"(4) The Commission may request (in accordance with the procedures set forth insubchapter II of chapter 31 of title 5, United States Code) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on the date of enactment of this sentence.".

LEAHY (AND OTHERS) AMENDMENT NO. 67

Mr. LEAHY (for himself, Mr. KERREY, and Mr. HARKIN) Proposed an amendment to the bill S. 207, supra, as follows:

On page 137, between lines 12 and 13, insert the following new section:

SEC. 262. PUBLICATION OF COMMISSION OPTIONS.

Section 2(a)(9) (7 U.S.C. 4a(h)) is amended by adding at the end the following new subparagraph:

"(C) Whenever the Commission issues for official publication any option, release, rule, order, interpretation, or other determination on a matter, the Commission shall provide that any dissenting, concurring, or separate opinion by any Commissioner on the matter be published in full along with the Commission opinion, release, rule, order, interpretation, or determination.".

On page 137, line 13, strike "262" and insert "263".

On page 144, line 11, strike "263" and insert "264".

On page 145, line 8, strike "264" and insert "265".

On page 147, line 1, strike "265" and insert "266".

On page 148, line 12, strike "266" and insert "267".

On page 151, line 20, strike "267" and insert "268".

On page 153, line 21, strike "268" and insert "269".

On page 154, line 20, strike "269" and insert "270".

On page 155, line 10, strike "270" and insert "271".

On page 156, line 1, strike "271" and insert "272".

On page 156, line 4, strike "272" and insert "273".

On page 157, line 6, strike "273" and insert "274".

On page 157, line 15, strike "274" and insert "275".

BOND (AND OTHERS) AMENDMENT NO. 68

Mr. BOND (for himself, Mr. WIRTH, and Mr. GARN) proposed an amendment to the bill S. 207, supra, as follows:

1. At the end of the bill add the following:

"SEC. . Nothing in this Act shall be considered to be applicable to any deposit (as defined under the Federal Reserve Act and regulations promulgated thereunder in effect on the date of enactment of this amendment) if the deposit is offered by—

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)); or

"(3) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).

"SEC. . (a) Nothing in this Act shall be considered to be applicable to—

"(1) any loan, made by—

"(A) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(b) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(C) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)); or

"(D) a foreign bank (as defined in section 1(b)(7) of the International Banking Act (12 USC 3101(7)), to a person specified in subsection (i)(3); or

"(2) any loan that is a consumer credit transaction subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.).

"(b) The provisions of subsection (a) of this section shall not apply to a loan made by a person required to be registered under this Act in connection with transactions regulated under this Act."

BOND (AND OTHERS) AMENDMENT NO. 69

Mr. BOND (for himself, Mr. WIRTH, Mr. RIEGLE, Mr. DODD, Mr. GARN, and Mr. MOYNIHAN.) proposed an amendment to the bill S. 207, supra; as follows:

Beginning on page 4 of the Committee modification, strike line 1 and all that follows through page 12, line 9, and insert the following new sections:

SEC. 302. EXEMPTIVE AUTHORITY.

Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful"; and

(2) by adding at the end the following new subsections:

"(c)(1) In order to promote responsible economic or financial innovation and vigorous and fair competition, both nationally and internationally, the Commission by rule, regulation, or order, shall (on application of any person) exempt any agreement, contract, or transaction (or classes thereof) otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods, from any of the requirements of subsection (a), or from any other provision of this Act except section 2(a)(1)(B), if the Commission determines that the exemption would be consistent with the public interest and the purposes of this section.

"(2) The Commission, after notice and opportunity for hearing, shall have the authority to revoke any exemption previously granted under paragraph (1) if the Commission determines that any of the minimum requirements prescribed in paragraph (1), any or additional conditions imposed by the Commission, is no longer being satisfied.".

SEC. 303. HYBRID COMMODITY INSTRUMENTS, SWAP AGREEMENTS, DEMAND DEPOSITS, TIME DEPOSITS, AND INSURANCE PRODUCTS.

Section 4c (7 U.S.C. 6c) (as amended by section 203(a) of this Act) is further amended by adding at the end the following new subsections:

"(h)(1) Notwithstanding any other provision of law, nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an instrument, other than an index participation (as defined in subsection (f)), if—

"(A)(i) to the extent that the instrument has the elements of a commodity option, its predominant characteristics are not those of a commodity option, or the instrument derives less than 50 percent of its value at the date of issuance from the value of the commodity option; and

"(ii) to the extent that an instrument has the elements of a contract of sale of a commodity for future delivery, its predominant characteristics are not those of a contract of sale of a commodity for future delivery, or at the date of issuance it is expected that less than 50 percent of the change in the value of the instrument or its performance will be due to movement in the price of the commodity or commodities specified in the instrument or in the terms and conditions of the transaction pursuant to which the instrument was issued;

"(B) the instrument is determined by the Securities and Exchange Commission to have as its predominant characteristics those of securities (as defined under section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) or section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1))) or at least 50 percent of its value derived from the elements of a group of securities; or

"(C) the instrument is a security (as defined under section 3(a)(10) of the Securities Exchange Act of 1934) listed or traded on a national securities exchange or quoted through an automated interdealer quotation system operated by a national securities association registered with the Securities and Exchange Commission.

"(2)(A) To the extent that the designation is consistent with the other provisions of this Act (including section 2(a)(1)(B)), nothing in paragraph (1) shall be considered to prevent the Commission from designating any board of trade as a contract market for any instrument.

"(B) If an instrument may trade other than on a designated contract market pursuant to paragraph (1), and if the Commission designates any board of trade as a contract market for that instrument—

"(i) this Act (including section 2(a)(1)(B)) shall apply only to transactions in that instrument that are conducted on a designated contract market (including transactions between a futures commission merchant and the customer of the futures commission merchant that are incidental to a transaction on a designated contract market); and

"(ii) this Act (including section 2(a)(1)(A)) shall not apply to transactions in that instrument that are conducted pursuant to paragraph (1) other than on a designated contract market.

"(C) To the extent that transactions in any instrument are conducted pursuant to paragraph (1) other than on a designated contract market, the transactions shall not be considered to be transactions involving contracts of sale of a commodity for future delivery.

"(i)(1) Notwithstanding any other provision of law, nothing in this Act shall be considered to govern or in any way be applicable to any swap agreement or class of swap agreements (as defined in section 101 of title 11, United States Code) where—

"(A) each party to the swap agreement is a person included in one of the categories specified in paragraph (3) at the time the party enters into the swap agreement;

"(B) the creditworthiness of any party having an actual or potential future payment obligation under the swap agreement is a material consideration in entering into or evaluating the terms (including credit enhancement terms) of the swap agreement, except that creditworthiness shall not be considered to be immaterial as a result of an agreement for the exchange, payment, or delivery of mark-to-market payments, margin, collateral, or any other form of credit enhancement or replenishment to reduce the credit risk or exposure of any party to the swap agreement; and

"(C) the swap agreement is not both standardized and fungible in all material terms with a class of other swap agreements, except that, for purposes of this subparagraph, a swap agreement shall not be considered to be standardized or fungible in all material terms with a class of other swap agreements if it is subject to individual negotiation between the parties as to material terms.

"(2) A swap agreement shall not fail to satisfy the requirements of the foregoing subparagraphs (B) and (C) of paragraph (1) as a result of a bilateral or multilateral arrangement or facility between or among parties to swap agreements that provides for the netting of payment obligations resulting from the swap agreements or for the netting of obligations to make mark-to-market, margin, or collateral payments or transfers or to provide any other form of credit enhancement or replenishment relating to the swap agreements.

"(3) For purposes of paragraph (1), the term 'person' shall mean the following persons or classes thereof:

"(A) A bank or trust company (acting in an individual or fiduciary capacity).

"(B) A savings and loan institution.

"(C) An insurance company.

"(D) A registered investment company under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

"(E) A commodity pool subject to regulation under this Act.

"(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K).

"(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-1 et seq.), or a commodity trading advisor registered under this Act.

"(H) Any governmental entity (including the United States, any State, or any foreign government) or political subdivision thereof, any multinational or supranational entity, or any instrumentality, agency or department of any of the foregoing.

"(I) A broker-dealer registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another institutional participant.

"(J) A futures commission merchant, floor broker, or floor trader registered under this Act acting on its own behalf or on behalf of another institutional participant.

"(K) Such other persons that the Commission determines have the financial and other qualifications adequate to fulfill the terms and conditions of the agreement, contract, or transaction.

"(j) Nothing in this Act shall be considered to be applicable to any deposit (as defined under the Federal Reserve Act) if the deposit is offered by—

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(2) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)); or

"(3) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).

"(k) Nothing in this Act shall be considered to govern or in any way be applicable to any instrument that is issued by an insurance company that is exempt under paragraph (2) or (8) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 78c(a)).

"(l) Nothing in this Act shall be considered to govern or in any way to be applicable to—

"(1) any loan made by—

"(A) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

"(B) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(C) a Federal or State branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)); or

"(D) a foreign bank (as defined in section 1(b)(7) of the International Banking Act (12 U.S.C. 3101(7)), to person specified in subsection (i)(3);

"(2) any loan that is a consumer credit transaction subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.); or

"(3) any loan made in connection with transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.".

SEC. 304. INDEX PARTICIPATIONS.

Subsection (f) of section 4c (7 U.S.C. 6c(f)) is amended to read as follows:

"(f)(1) Nothing in this Act shall be considered to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.

"(2)(A) Nothing in this Act shall be considered to govern or in any way be applicable to any index participation traded on a national securities exchange or quoted through an automated inter-dealer quotation system operated by a securities self-regulatory organization if the index participation has been approved for trading by the Securities and Exchange Commission.

"(B) The Commission shall have the power, right, and authority to designate any board of trade as a contract market for any index participation, if the Commission determines that the designation is consistent with the requirements of this Act (other than section 2(a)(1)(B)).

"(C) If the Commission designates any board of trade as a contract market for any index participation—

"(i) this Act (other than section 2(a)(1)(B)) shall apply only to transactions in that index participation that are conducted on a designated contract market (including transactions between a futures commission merchant and the customer of the futures commission merchant that are incidental to a transaction on a designated contract market); and

"(ii) this Act (including sections 2(a)(1)(A) and 2(a)(1)(B)) shall not apply to transactions in that index participation, or in any other index participation, that are conducted on a national securities exchange or through the facilities of an automated inter-dealer quotation system operated by a securities self-regulatory organization.

"(D) Notwithstanding any other provision of law, no index participation shall be traded on a national securities exchange or a designated contract market, or quoted through an automated inter-dealer quotation system operated by a securities self-regulatory organization, unless that index participation meets the following minimum requirements:

"(i) Trading in the index participation shall not be readily susceptible to manipulation of the price of the index participation, nor to causing or being used in the manipulation of the price of any underlying security, option on the security or option on a group or index of the securities.

"(ii) The group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to the measure.

"(E) To the extent that such transactions in any index participation are conducted pursuant to subsection (a) on a national securities exchange or through the facilities of an automated inter-dealer quotation system operated by a securities self-regulatory organization, such transactions shall not be considered to be transactions involving contracts of sale of a commodity for future delivery.

"(F) For purposes of this paragraph, the term 'index participation' means an instrument that is an interest of indefinite duration in the current value of a portfolio of securities.".

SEC. 305. DIRECTIVES REGARDING INTERMARKET ISSUES.

(a) IN GENERAL.—Not later than 1 year after the effective date of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System, shall each respectively—

(1) adopt such rules and regulations, issue such orders, and, subject to applicable requirements, approve such rules of the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to strengthen the overall stability of domestic equity and equity derivative markets and maintain fair and orderly markets through the adoption and approval of appropriate coordinated "circuit breaker" mechanisms and similar requirements;

(2) establish (for all domestic equity and equity derivative markets) effective prohibitions on intermarket frontrunning, and require the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to establish effective procedures for sharing price, trading, and enforcement data for the detection of intermarket frontrunning, fraud, and other violations;

(3) adopt (for all domestic equity and equity derivative markets) such rules and regulations, issue such orders, and approve, subject to applicable requirements, such rules of the self-regulatory organizations and contract markets subject to their respective regulatory authority as may be necessary to facilitate the establishment of linked or coordinated facilities for the clearance and settlement of transactions;

(4) adopt such rules and regulations, issue such orders, and, subject to applicable requirements, approve such rules of the self-regulatory organizations and contract markets and clearing organizations subject to their respective regulatory authority as may be necessary or appropriate to authorize the prompt implementation of systems for the cross-margining of intermarket positions and the use of such intermarket positions as security interest for loans and other extensions of credit and the establishment or maintenance of margin on futures and options contracts; and

(5) establish policies with regard to the negotiation and development of international regulatory agreements and standards involving intermarket issues.

(b) OTHER ISSUES.— The Securities and Exchange Commission and the Commodity Futures Trading Commission, in consultation with the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System shall identify and address other intermarket issues as the issues arise.

(c) REPORT.—Not later than 15 months after the effective date of this Act, the Securities Exchange Commission and the Commodity Futures Trading Commission shall report to Congress on the actions the Commissions have taken to carry out this section.

NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

PELL (AND KASSEBAUM) AMENDMENT NO. 70

Mr. LEAHY (for Mr. PELL, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, as follows:

Beginning on page 29, line 14, strike Title IV, and all that follows through and including page 31, line 13.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on Tax Fairness: Ensuring Corporate Compliance.

This hearing will take place on Wednesday, April 17, 1991, at 9 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the Subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs, be allowed to meet during the session of the Senate Wednesday, April 17, 1991, at 10 a.m. to conduct a hearing on issues in the UMTA reauthorization legislation.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 17, 1991, to consider S. 341.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 17, 1991, at 9:30 a.m., to receive testimony on S. 250, the National Voter Registration Act of 1991. Witnesses include the following: Mr. R.H. Brennenman, chairman of the Board of Commissioners and Board of Elections, Lancaster County, Pennsylvania; Mr. Tony Bernhard, associate chairman, Legislative Committee, California County Clerks Association; Ms. Elaine R. Jones, deputy director-counsel, NAACP Legal Defense and Educational Fund; Mr. Edward A. Hailes, Jr., counsel, Washington Bureau of the NAACP; Ms. Birgit Seifert, public policy analyst, Mexican American Legal Defense and Educational Fund; Mr. Steve Barr, political director, Rock the Vote, Beverly

Hills, California; and Mr. Robert G. Krause, director of address information systems, Marketing and Customer Service Group, U.S. Postal Service.

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

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH, AND DEVELOPMENT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, April 17, beginning at 2 p.m., to conduct a markup on the Lead Exposure Act of 1991.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesay, April 17, at 2:30 p.m. to hold a hearing entitled "Cyprus: International Law and the Prospects for Settlement."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, April 17, at 10 a.m. to hold a hearing on "START: Present Status and Prospects."

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

Mr. LEAHY. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, April 17, at 2 p.m. to hold a nomination hearing on Raymond Seitz to be Ambassador to the United Kingdom and Northern Ireland.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. LEAHY. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an Oversight Hearing on April 17, 1991, beginning at 2 p.m., in 216 Hart Senate Office Building on "The Status of Tribal Jurisdictional Authority in Indian Country: An Assessment of Emerging Issues."

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 17, 1991 at 2 p.m., to hold a closed hearing on intelligence matters.

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

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 17, 1991 at 10 a.m., to hold a hearing on the Uruguay round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade [GATT].

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

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel, of the Committee on Armed Services be authorized to meet in open session on Wednesday, April 17, 1991 at 9:30 a.m., to receive testimony on manpower programs in the defense authorization request for fiscal years 1992 and 1993.

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

SUBCOMMITTEE ON PERMANENT INVESTIGATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Governmental Affairs Subcommittee on Permanent Investigations be authorized to meet on Wednesday, April 17, at 9 a.m., for a hearing on IRS collection of corporate tax.

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

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support, of the Committee on Armed Services be authorized to meet in open/closed session on Wednesday, April 17, 1991 at 2 p.m., to receive testimony on logistics programs in the fiscal year 1992–93 defense authorization request.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, the Committee on Veterans' Affairs hereby requests unanimous consent to conduct a hearing on April 17, 1991, to receive testimony regarding the legislative agenda of veterans' organizations, AMVETS, Ex-POW's, Jewish War Veterans, and Veterans of World War I.

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

ADDITIONAL STATEMENTS

HUNGARIAN HUMAN RIGHTS STATEMENT

• Mr. LIEBERMAN. Mr. President, 1989 was truly a marvelous year. To quote the distinguished British historian, Michael Howard, now of Yale University: "In 1989, while the nations of Western Europe celebrated the bicentenary of the French Revolution, the nations of Eastern Europe reenacted it." Like the Parisians who stormed the Bastille, the peoples of Eastern Europe tore down the barbed wire and the walls that separated them from the West. Eastern Europe has begun to return to the heart of Western civilization.

Like the French Revolution, however, this new burst of freedom has had its darker side. Political passions have led to increased appeals to nationalism. In some cases, these appeals have exacerbated the persecution of minority groups.

This has been particularly true for Europe's largest minority, the Hungarians. It is not widely known that there are two and a half million Hungarians living in Rumania, mainly in Transylvania, and smaller numbers in Slovakia, Yugoslavia, and the U.S.S.R. This diaspora is a legacy of the dismemberment of the Austro-Hungarian Empire; as a result of the Triainon Peace Treaty of 1919, Hungary lost two-thirds of its territory and three-fifths of its population. These Hungarians, who had lived for centuries in their homeland, suddenly found themselves dispossessed.

Given their large numbers, the status of the Hungarians in Rumania is of particular concern. Not surprisingly, they were extremely poorly treated under the cruel reign of Nicolai Ceausescu. Ceausescu forbade the teaching of the Hungarian language and closed the Hungarian Bolyai University in 1959. It was no accident, therefore, that the revolt against Ceausescu was led by the heroic Hungarian pastor, Rev. Laszlo Tokes.

Because of my concerns about the status of the Hungarian minority in Rumania, and the country's democratic prospects in general, I participated in a United States delegation that observed the national elections in May 1990. During my stay in Bucharest, I met with some of the leading figures of the Hungarian community there, including Geza Domokos. We discussed the past problems of the Hungarian community and their prospects for improvements. I left more committed than ever to supporting the Hungarians in their struggle for freedom and dignity inside Rumania.

Unfortunately, the fall of the Ceausescu regime has not meant the end of discrimination against Hungarians. The most egregious example was a violent incident involving the well-known writer, Andras Suto. Suto's left eye burst apart when he was beaten in March 1990 by pitchfork-wielding nationalists in his hometown of Tirgu Mures, Rumania. Suto had been attending a meeting with approximately 70 other members of the Democratic

Alliance of Hungarians in Rumania at the organization's local office.

The next day, ethnic Rumanians armed with farm tools again attacked a peaceful crowd of 10,000 ethnic Hungarians who had gathered in the city's main square to protest the previous day's anti-Hungarian riot. Tragically, at least 6 people were killed and more than 300 injured.

Discrimination has also taken more subtle forms. In the field of education, the Rumanian authorities have revived the Ceausescu-era law that required a minimum of 15 ethnic minority students for any native-language class. The authorities have also rejected the idea of reopening the Bolyai University in Kolozsvar.

Rumanian authorities have restricted access to the mass media. Just last February, the Hungarian-language TV program was reduced to 180 hours per week. And half of this broadcast time has been relegated to a channel which is inaccessible in Transylvania, the areas where most Hungarians live. The draft of the new Rumanian Constitution bans political parties along ethnic, religious, or linguistic lines, thereby preventing Hungarians from organizing themselves.

Mr. President, the breakdown of the totalitarian order in Eastern Europe must not be replaced by the vitriolic hatreds of the pre-war era. If the new governments of Eastern Europe want to be fully accepted by the West, they must adhere to standards of tolerance and minority rights. These countries must create democratic institutions and promote tolerance of minorities, including their large Hungarian populations. Hungarians have now rediscovered their freedom in their homeland. But they will not be fully free until they have these same rights in other countries. Until then, we must support their struggle with the same tenacity that we demonstrated in the fight against Communist tyranny.●

RESOLUTION OF LANCASTER, NH

● Mr. SMITH. Mr. President, the town of Lancaster, NH, has expressed support for a resolution which requests that Congress propose an amendment to the Constitution to prohibit desecration of the American flag.

I agree that the "law as interpreted by the United States Supreme Court no longer accords to the flag the reverence, respect, and dignity to which * * * (the flag) is entitled." Therefore, I join with the town of Lancaster and urge Congress to pass a constitutional amendment to protect the American flag. Interestingly, those who seek protection for the provocative act of flag-burning under the first amendment are often the same who aspire to limit other provisions of the Bill of Rights, such as the right to bear arms which is explicitly guaranteed under the second amendment.

Mr. President, I ask that the town of Lancaster's resolution be entered into the RECORD immediately following my remarks:

The resolution follows:

RESOLUTION

Whereas, Although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

Whereas, There are symbols of our nation such as the Washington Monument, the United States Capitol Building, memorials to our greatest leaders, and our flag, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

Whereas, The law as interpreted by the United States Supreme Court no longer accords to the flag the reverence, respect, and dignity to which it is entitled; and

Whereas, It is only fitting that people everywhere should join in a forceful call for the restoration of the flag to its proper station under law and decency: Now, therefore, be it

Resolved, That the voters of the Town of Lancaster, New Hampshire respectfully request the Congress of the United States to propose an amendment of the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the flag of the United States.●

A NEW TRADITIONALISM FOR DEMOCRATS

● Mr. SIMON. Mr. President, one of the most stimulating people in America today is John Silber, the president of Boston University. Sometimes I disagree with him strongly, and then at other times, he comes up with things that are absolutely on target.

His call for a program that pays people for being productive rather than nonproductive is absolutely on target.

I do not agree with everything he says in a recent item in the Wall Street Journal, but his call for a revival of a WPA-type program is precisely what the Nation needs. In addition, we ought to screen people as they come in so that if they have no ability to read and write, or have no marketable skills, we may get them into programs providing these things.

To do that would be the real anti-drug program. It would start diminishing rather than increasing the underclass in our society.

The bill that I have introduced to guarantee a job opportunity for all Americans out of work 5 weeks or longer moves us to exactly that position. It would pay people at the minimum wage for 32 hours a week on projects selected by people in their community.

I ask to insert the John Silber article into the RECORD at this point.

The article follows:

[From the Wall Street Journal, Apr. 5, 1991]

A NEW TRADITIONALISM FOR DEMOCRATS

(By John Silber)

The Democrats can win the White House in 1992. But to do so, we must assess our party's situation with painful honesty.

Having lost five of the past six presidential elections, the Democrats can count on only the District of Columbia, claiming at best that as the District goes, so goes either Massachusetts or Minnesota. The Democratic hold on Congress is little consolation, for the direction of the nation is charted in the White House.

Nineteen months from now a Democrat can win—but only if, first, the party recalls and reaffirms its guiding principle that government can make a positive difference for the working men and women of America. Republican presidents are fond of invoking the name of John F. Kennedy, but nearly 11 years of Reagan-Bush have revealed this as a ploy. Republicans do not share President Kennedy's central conviction that government cannot sit on the sidelines but can and must confront the domestic problems of this nation.

Second, our party must recognize the failures in its nominating process that have distanced it from its constituents. Democrats must once again become the party of inclusion—not just in caucuses and conventions, but at the polls as well.

Once the party of farmers, working men and women (union and nonunion alike), teachers and other professionals, racial and ethnic minorities, Protestants, Catholics and Jews, Democrats appealed—victoriously—to Americans as Americans. But in 1972 the party abandoned FDR's grand alliance and began to appeal to voters as members of special interest groups. As these groups became increasingly important in the nominating process, the party became increasingly ideological and hostile to compromise.

Now traditional Democrats have come to feel abandoned or ignored, and they have wondered what has happened to their party. In great numbers they voted for Ronald Reagan and George Bush—not because they had become Republicans but because they saw traditional Democratic values best represented in these candidates.

THE REPUBLICAN EXAMPLE

Third, Democrats must re-establish bipartisanship on national security and foreign policy. In 1947, Sen. Arthur S. Vandenberg of Michigan, who with many Republican leaders had been a firm isolationist before the war, reversed his position to support Harry S. Truman on the Marshall Plan and NATO. By turning his party away from its discredited isolationist past, he gave it new life. We should profit by the Republican example. It is folly to disagree with the opposing party when it is right. If Republicans say two plus two is four, Democrats are not obligated to argue that it is five.

Democrats need to reassert their belief in a positive role for government. They do not believe that the best government is almost no government at all, nor that deregulation is the remedy for all problems. Americans have seen the havoc wrought by hands-off government: ineffective regulation of the S&Ls, deterioration of the banking system, conversion of the stock market into a computer-driven casino, the loss of competitiveness in American business with the consequent loss of jobs, the failure of the war on drugs, increased crime and violence, the decline in personal security, in our basic infrastructure, and in the quality of our schools.

Democrats need to develop the knowledge, common sense, vision and courage to address our greatest responsibility—our children. The Department of Education should serve as a National Bureau of Educational Standards to provide tests to measure student competence and the competence of teachers; persuade states to deny certification to high schools in which less than 80% of the graduating class passes the 12th-grade test, and colleges to deny academic credit to students until they pass that exam; encourage choice by urging school boards to contract with private companies to achieve schools of higher quality; and offer day-care programs for all children from three to six years of age every working day of the year so that working and single teen-age mothers who need to work or go to school can escape permanent entrapment in welfare.

In this way we can ensure for the first time in our nation's history that all children have the ability to enter the first grade prepared to succeed, to experience school as a place of fulfillment and delight, prepared to stay in school and to avoid the use of drugs, alcohol, and the practice of irresponsible sex. And if we succeed in this, we can begin to reduce the destruction and loss wrought by random crime and violence, drug and alcohol addiction, and adolescent pregnancy.

If we do not give all children a vision of themselves as competent, responsible individuals able to support themselves and their families, and a vision of the consequences of moral irresponsibility, we will never restore civil order or reduce the need for jails, welfare and increased police protection. Unless young people can earn an honest living and look ahead to a good life without crime or drugs, they will make a dishonest living and take their pleasures, however short-lived and destructive, where they find them.

Democrats should acknowledge that the War on Poverty, despite good intentions and some successes, has increased poverty and dependency. Incentives are needed to help those on welfare regain control of their lives and liberate themselves from entrapment in an underclass. Americans are disgusted with filthy cities and decaying infrastructure, while able-bodied, mentally sound people are unemployed. They are ready for a revival of the WPA and programs that require work for remuneration: programs that rebuild our infrastructure, provide thousands of jobs, and rehabilitate those addicted to drugs or alcohol.

Americans want an end to welfare fraud by the rich who use Medicaid trusts to defraud taxpayers. They want common sense used in the allocation of health dollars where major savings can be made through preventive medicine, including inoculations for children. It has been estimated that 40% of our children lack one or more essential inoculations. The lack of these ounces of prevention will inflict great human suffering and millions of dollars in expenses for avoidable cures. They want an end to mandated heroic treatment of patients for whom it is futile, cruel and expensive. They want an end to the ambulance-chasing that has driven malpractice insurance costs so high that many communities are without obstetricians or adequate medical care.

As crime and violence increasingly dominate our streets Democrats can offer more than the "hands off" Republican prescription. They can stand up to the gun lobby on automatic weapons. They can state the plain truth that these guns have one purpose, to kill people, and that they are no more sporting weapons than the Patriot missile. They can convince Americans that in the long run the use of abandoned military bases as sites for prison-schools to transform ill-educated young offenders into responsible citizens will be far less costly than endlessly building more prison warehouses, or putting hardened criminals back on the streets.

THE MOST IMPORTANT RESOURCE

Democrats, while supporting free trade, should, unlike the Republicans, act to protect sound companies from corporate raiders and encourage basic research and its translation into products made by American workers to be sold competitively on world markets. Under the Republicans we lost immense parts of the microchip industry and run the risk of losing high-definition television to Japan. The Democrats can ensure that American industry will have the level playing field that will prevent more such disasters.

America is still a young, powerful nation rich in natural resources, including the most important—the intelligence and imagination of its people. When we develop our human capital and restore the banks and stock markets to provide financial capital, we will again have an America where life is good, where families and children flourish, where all are safe not only in their homes but on the streets, an America in which working men and women can enjoy in peace and security the fruits of their labor and anticipate a future unclouded by random violence.

The great years of America lie not behind us but before us. We are too young and strong to step back or step down. We are ready for leadership that will use government positively to harness the strengths, the talents and the virtues of our people. If the Democrats offer new hope and hard work, they can win.●

TRIBUTE TO AL GORE OF TENNESSEE FOR HIS LEADERSHIP OF THE ENVIRONMENTAL AND ENERGY STUDY CONFERENCE

● Mr. MCCAIN. Mr. President, as Senate Vice Chairman of the Environmental and Energy Study Conference, I rise today to express the conference's gratitude to our colleague from Tennessee, AL GORE. AL is concluding 4 years of service as the study conference's Senate chairman. He was first elected to serve for the 100th Congress and was reelected for the 101th Congress.

It is, of course, the purpose of the study conference to provide those 90 of us in the Senate and the 290 Members of the House who receive its services with balanced information that will enable us make the best informed policy decisions. AL has made an exceptional contribution to that effort.

We all are aware of AL'S great concern about these issues. He has studied them deeply. His foresight in calling attention to problems, often years before they become a public concern, is well known.

AL's guidance has been invaluable in making sure the conference has provided us with the opportunity to debate current and emerging issues and keep well ahead of the headlines. This has been especially true on issues such as climate change and the international environment.

AL has been extremely generous with his time, chairing innumerable discussions for Senators and House Members with administration officials, outside experts and others. He has made sure we have been aware of the latest scientific findings and the full array of policy options on the issues.

I am very pleased that AL is continuing to serve on the study conference's executive committee, and it is my expectation that he will continue to make an invaluable contribution to the conference.

On behalf of House Chairman BOB WISE, House Vice Chair JAN MEYERS, the executive committee and the Senators and House Members who rely on the study conference, many thanks to AL for his outstanding service.●

UNITED STATES ONE DOLLAR COIN ACT OF 1991

● Mr. D'AMATO. Mr. President, today I rise to speak in support of legislation, introduced by my distinguished colleague from New Mexico, to mint and circulate a gold-colored Christopher Columbus $1 coin. I am pleased to be a cosponsor of Senator DOMENICI's bill, the United States One Dollar Coin Act of 1991.

I also cosponsored this legislation in the 101st session of Congress because the $1 coin will provide savings to the Government in addition to providing many consumer benefits.

According to the General Accounting Office, the $1 coin could save the Government over $100 million each year for the next 30 years. The $1 coin's durability—20 years, compared to dollar bills that last for approximately 18 months, will contribute greatly to this overall savings. A decrease in the cost of transporting currency to the Federal Reserve banks and not having to shred old bills also contributes to the savings.

The $1 coin would make using vending machines easier and less expensive. Individuals would not have to be weighed down by pockets full of coins in order to use coin laundries, and other vending machines, pay telephones, and parking meters.

The mass transit industry would save between $50 and $100 million in costs associated with straightening and counting dollar bills. Costs incurred with the retrofitting of fare machines on buses could also be avoided by the use of a dollar coin.

The visually handicapped would benefit from the $1 coin because they could safely identify it by its distinctive design.

Although the Susan B. Anthony coin makes many of us shudder when considering the likelihood of the success of a $1 coin. The $1 coin contemplated by

my esteemed colleague from New Mexico is easily distinguished from the quarter. The bill provides for a gold-colored coin with smooth edges.

Moreover, the bill provides for the commemoration of the 500-year anniversary of Christopher Columbus' discovery of the New World. It seems fitting to acknowledge and honor Christopher Columbus' discovery of this country in connection with an integral part of the success of this country—our economy.

I urge my colleagues to support this coin reform legislation.•

ARMS TO ENEMIES

• Mr. SIMON. Mr. President, Anthony Sampson had an article in Newsweek magazine titled "A Last Chance To Call a Halt."

It is an appeal to the arms producing nations of the world to slow down the arms bazaar. Our long-term interest compels us to move in that direction. Unfortunately, short-term gain and political pressures militate against that rational, long-term answer.

I hope we will pay more attention to this eloquent appeal.

I ask to enter the article into the RECORD at this point, and I urge my colleagues who have not read it to do so.

The article follows:

[From Newsweek, Apr. 8, 1991]

A LAST CHANCE TO CALL A HALT

(By Anthony Sampson)

It didn't take long. At the Singapore arms fair two weeks ago European arms manufacturers were boasting that their system had been "combat-tested" in the gulf war. But this was a war that provided a caricature of the danger of the international arms trade: it was the Soviets and the West who sold Saddam Hussein the weapons which enabled him to build up the world's fourth biggest fighting force. Will the West ever stop selling weapons to potential foreign enemies?

Arms-control experts insist that we now have a unique chance—perhaps a last chance—to stop the reckless selling of weapons. There is a lesson in the history of the last 20 years in the Middle East. Ever since oil prices quadrupled in 1973, arms sellers have been turning oil into arms, with little sign of any consistent diplomatic objective on the part of the buyers. In the 1970s they equipped the Shah of Iran with the most sophisticated tanks and planes, supposedly to defend him against the Russians; but the shah's arsenal was then taken over by the Ayatollah Khomeini, who used it against Iraq. Saddam was armed to defend Iraq against Khomeini, and then turned his weapons against Kuwait and Saudi Arabia. In the meantime the Saudis and Kuwaitis were spending billions of dollars on planes, tanks and high-tech systems which proved almost useless when they faced a real danger. In the words of Adnan Khashoggi, the arms middleman for the Saudis in the '70s: "The Arabs have learned that it's no good buying arms if you can't use them."

The gulf war has certainly produced some agonized rethinking among arms buyers. The Kuwaitis were humiliated by their defenselessness against the Iraqis. The Saudis made little effective use of their own costly weaponry. Soviet exports also suffered; the Scud missile was a clumsy instrument compared with the pinpoint-accurate Patriot and Tomahawk systems.

It is the effectiveness of computerized missiles that provides both a new danger and a new opportunity for arms control. Nearly every country in the Middle East now wants Patriots or their successors, and the United States is for the time being the only supplier. The French and the British are lagging behind the Americans in most sophisticated weaponry, and the Soviets are still more backward. The old excuse for selling weaponry—that if we don't, the Russians will—is now less persuasive.

The Americans thus have a clear opportunity, and responsibility, to take a new initiative to control arms sales. There are some hopeful signs. The Missile Technology Control Regime (MTCR), set up by seven nations in 1987, has already had some effect, particularly in stopping the Condor 2 missile which Iraq was developing with Argentina and Egypt. There is also a new opportunity to restrain competition among manufacturers in NATO countries. If Europe had a more integrated arms industry, there would be less pressure to find markets abroad.

OLD JUSTIFICATION

The most effective way to cut back on arms buying is to stop the flow of money financing it. The most startling fact about the arming of Iraq was the willingness of the West to provide not only the finances but also the subterranean channels, including the Italian Banca nazionale del Lavoro, currently under investigation in Washington. And the most worrying development since the gulf war has been the decision of President George Bush to revive export credits for Americans arms companies, to enable them to compete more effectively with European arms exporters. The president's motive is clear: "Maintenance of a viable U.S. defense is critical," as presidential spokesman Marlin Fitzwater explained it. It is an old justification. But in the past the providers of aid to the developing world, including the World Bank, have been far to little concerned with the linkage with arms. Now at last the World Bank and the IMF are insisting on restrictions on military spending—strongly backed by the former president of the World Bank, Robert McNamara. And donor countries, particularly Japan, are watching their clients' military aspirations more carefully.

Controlling arms sales today is mainly a question of political will. The five permanent members of the U.N. Security Council—the Russians, Americans, French, Chinese and British—between them sold 87 percent of the weapons bought by developing countries in the late 1980s. Having acted in unison over the gulf war, they should be able to confront the mistakes which helped to cause the war. The United Nations, with its enhanced prestige, should be able to monitor sales more effectively, perhaps with the help of a register of arms sales, as advocated by Norway's former prime minister Gro Brundtland. The United States' missile superiority gives it the power to extend and enforce missile-technology control. And the Japanese, who do not export weapons but who supply critical components, could become important participants in new plans for the control and monitoring of arms sales. It will not be easy to withstand national pressure to sell weapons for short-term economic advantage. But if we cannot face up to the danger and the opportunity this time, we may not have another chance.•

HONORING GRAHAM MANUFACTURING CORP.

• Mr. KASTEN. Mr. President, I rise today to honor the achievement of a truly distinguished corporate constituent—the Graham Manufacturing Corp. of Marshfield, WI.

Last month, the Marshfield Area Chamber of Commerce and Industry awarded Graham the distinction of "Firm of the Year." Founded by Thomas and Ruth Graham in 1968, the company has been producing wood doors for over two decades.

Graham Manufacturing has built a lasting tradition of excellence—and deserves the attention and praise of all who are concerned with the health of our business sector. I ask my colleagues to join me in congratulating the Grahams and President Mike Clem on this important occasion.•

HOLOCAUST MEMORIAL DAY

• Mr. SIMON. Mr. President, I would like to spend a few moments talking about Holocaust Memorial Day, which was commemorated April 12, 1991. Holocaust Memorial Day serves as a reminder of the atrocities committed against humanity. And we need to remind ourselves that the scourge of inhumanity still plagues us as we approach the 21st century.

The millions of humans that suffered and died under the Nazi regime must never be forgotten. Their memory must live in our hearts and souls as a reminder of the evils of racism. All of Europe was caught in the horrible conflagration of World War II, and many people suffered because of their religion and nationality—but none more than the Jewish people. European Jewry was singled out for extermination, and, as we know all too well, Hitler succeeded in murdering 6 million Jews.

The day we have chosen to remember the Holocaust has come at a time when we are witnessing another brutal attack on humanity in the form of Saddam Hussein's vicious assault on the Kurdish people. The scale and scope are clearly different than the Nazi Holocaust, but the horrors are starkly reminiscent. In Cambodia in the mid-1970's, Pol Pot decimated his own people in a wild killing spree that boggles the mind. International condemnation followed the disclosure of this genocide, with vows that the world cannot and will not stand by and allow such crimes to occur, or to go unpunished.

We are now in a situation in Iraq where Saddam seems to be exacting vengeance for those opposed to his rule—Shiites in the south, Kurds in the

north, Sunnis who joined the insurrection. Just as it is important to understand what happened 45 years ago, we must recognize what is happening now—and act before it is too late. Saddam's military attacks against the Kurds have resulted in a huge exodus, with tragic results. The United States ought to take the lead worldwide in ensuring that humanitarian aid on an adequate scale reaches the Kurds as quickly as possible.

I join with my colleagues here in the Senate, and with all Americans, in hope and prayer that the world shall never witness such atrocities again. While great strides have been made, anti-Semitism has not been eradicated from the world scene. Holocaust Remembrance Day is an important occasion to remember the horrors of anti-Semitism, genocide, racism, and aggressive war, because it is our collective memory of the Holocaust that will prevent future holocausts. We can never forget.●

HONORING EAU CLAIRE SMALL BUSINESS DEVELOPMENT CENTER AND BADGER WINDOW SYSTEMS

● Mr. KASTEN. Mr. President, the small businesses of Wisconsin are the powerhouse of our State's economic growth. Over 62 percent of the new jobs created are directly attributable to these small businesses—ventures on the cutting edge of society, creating the products and services sought by the American people.

I recently had the privilege of touring a number of successful small businesses in Wisconsin that have been assisted by small business development centers [SBDC's]. These SBDC's are excellent incubators of small business growth—and I'd like to draw my colleagues' attention to the achievement of one of these centers today.

On April 2, I visited Badger Window Systems, Inc., of Eau Claire, WI—a firm that specializes in producing vinyl commercial and residential windows. Begun in June 1986, it has expanded from 3 to 30 employees—and is still growing.

Badger Windows has taken a master business plan and turned it into a reality through unflinching dedication to quality.

The Badger Windows success story is due in large part to the hard work of president Art Syth. But it would not have been possible without the assistance and counsel of assistant dean for business outreach, Fred Waedt, and the local SBDC.

At a time when some are proposing drastic cuts in the Federal budget for SBDC's, it is important to note successes like that of Badger Windows.

Let us keep this system of small business incubators alive—by supporting full funding for SBDC's.●

THE 2506 BRIGADE

● Mr. GRAHAM. Mr. President, I rise today to pay tribute to the heroic efforts of the 2506 Brigade on the 30th anniversary of their valiant effort to liberate Cuba from one of the most oppressive dictatorships the Western World has known. It was 30 years ago today, on April 17, 1961, that a military brigade made up of brave Cuban patriots of all ages landed on the beaches of Giron. Their hearts were filled with passion and courage as they fought in the early hours of dawn to liberate their beloved homeland, to realize the promise that Fidel Castro had cynically betrayed. Their vision of a new Cuba was palpable, just a few hours away. That vision never materialized. These brave men never received the expected military support to successfully complete their mission. Yet, their victory was one of courage and one that earned them worldwide respect and admiration.

On this day, let us reaffirm the plight of the Cuban diaspora, but most importantly, let us remember that the brigade's mission has not been accomplished: the total and unconditional liberation of Cuba. The tyrant Castro must not in any way hinder Cubans from fulfilling their dream of a free and independent Cuba. "Cuba libre" means democracy, an open economy, a man's right to express freely and without fear to his neighbor his thoughts, where there is no longer need for Radio Marti or TV Marti because communication is free and open and dynamic. It means a vibrant Cuban culture in the best tradition of Marti, which will flourish and stand out once again among the Latin American community of nations when liberty is restored. It means a Cuba that is at the center of world attention not due to its militarism at home and adventurism abroad, but because it is the Cuba that has allowed its people freely to express their historical creativity.

On this solemn anniversary, Mr. President, let us reiterate our respect and support for the political prisoners that continue to languish in Castro's jails and pray for those Cubans who have lost their lives and endured the pain of family separation in the pursuit of liberty.

It is with great pride and hope for the liberation of Cuba that I submit this resolution honoring the brave men of the Brigade 2506.●

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,223d day that Terry Anderson has been held captive in Lebanon.

Mr. MOYNIHAN. Mr. President, as the distinguished Republican Leader BOB DOLE records in his estimable "Historical Almanac of the United States Senate," the Senate created its first staff position, the post of Doorkeeper, on April 7, 1789. James Mathers—"an Irish immigrant who earlier had distinguished himself in the Revolutionary War"—was chosen for this post which he held for 22 years until his death.

In the two and more centuries since, the staff of the Senate has grown, and with it the number of exceptionally able and devoted persons who have given some or all of their working careers to the institution. But I would not know of any whose service can be compared to that of Peter Galbraith of the staff of the Committee on Foreign Relations who has, quite literally, risked his life in the performance of his duties.

On Easter weekend, March 30-31, Mr. Galbraith crossed the Tigris River—under bombardment—from Syria into northern Iraq. There he spent two harrowing, incredibly heroic days among the Kurdish inhabitants of that region. This included one hellish night in the city of Dihok, then held by the Kurdish resistance and under continuous bombardment from the forces of Saddam Hussein.

This bombardment included the use of phosphorus shells.

In utter disregard of his own safety, Mr. Galbraith met with Kurdish leaders, spoke with refugees, watched and recorded the unimaginable devastation of that region and those people. The Mathers spirit is still alive in this Chamber.

Somehow, he survived. He crossed back into Syria and returned to the United States where he reported his experiences to the American public on television programs and in a graphic article in the current New Republic. He has of course provided even more information to the Committee on Foreign Relations itself.

In any organization within the executive branch there would surely exist a form of recognition for such service above and beyond the call of duty. A military medal, a departmental citation. We have nothing of that sort for members of the Senate staff. This is no dereliction on our part. It is simply that in two and more centuries we have not seen the like of young Galbraith: The indifference to his own welfare and safety; the all-consuming concern for the welfare and safety of an oppressed people caught up in a ghastly travail. At minimum I would wish to record this Senator's admiration for an incredible display of grace under pressure. I ask unanimous consent that his New Republic article be printed in the RECORD at this point.

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

[From the New Republic, Apr. 29, 1991]

LAST STAND

(By Peter Galbraith)

KURDISTAN.—Dihok is a pleasant northern Iraqi city of 100,000, situated on the gently sloping sides of a valley and surrounded by mountains. On this Easter morning its people, mostly Kurds but also Christian Assyrians and Chaldeans, were fleeing. Since my arrival the previous evening, the city had been under continuous bombardment from Iraqi forces. After eight months of sanctions and two months of war, little gasoline remained in this oil-producing region of Iraq. So mostly the refugees walked—long lines of women, children, and armed men—streaming toward the relative safety of the high mountains north of the Zakho-Amadiyah Road. The few vehicles that did move were extraordinarily over-burdened. Even the trunks of cars provided passage to one or two adults, or several children. It was a scene strikingly reminiscent of the photographs of the exodus from Paris just before the arrival of the Nazis.

I drove through the high mountain region that was to become the refugees' destination. With spring rains, the rocky Kurdish landscape was green, and there were wild flowers in the new grass. The almond trees in abandoned orchards were in bloom, and I stopped to photograph some newly arrived refugee children. On that sunny day at least some of the children seemed to enjoy the novelty of their new location. But in the mountains it gets cold at night. In the 1980's, the Iraqi regime systematically dynamited or bulldozed every village in Kurdistan, and thus there were no shelters within miles. These urban refugees had only the food they could carry—not much for those who came by foot and only a little more for those who drove.

I had come to Dihok at the invitation of Jalal Talabani, the chairman of the Patriotic Union of Kurdistan and one of the two principal Kurdish leaders. He was deeply frustrated by the unwillingness of the Bush administration to talk to any Iraqi opposition figures. Obviously he also hoped the information I collected on the visit might influence Congress to support the anti-Saddam rebellion in northern and southern Iraq. As it turned out, my trip coincided with the collapse of the Kurdish insurgency and the beginning of a new humanitarian calamity.

I'd entered Iraq a day earlier under sporadic artillery fire, by crossing the Tigris River in a small boat from Syria. (Alone among the Kurds' neighbors, Syria permitted people and supplies to pass through its frontier to the rebels.) The next stop was Zakho. Just across the Khabur River from Turkey, Zakho was under the rule of the Kurdish guerrillas, the Peshmerga, literally "those who face death." The streets were crowded, shops open, and a sense of purposefulness and order prevailed. Loudspeakers played political messages, and slogans, some in imperfect English ("We librated Kurdistan"), adorned public buildings. The Peshmerga were using earth-moving equipment to tow abandoned Iraqi trucks to repair sheds. And they were attempting to rebuild a span on the bridge to Turkey (blown up by the departing Iraqis), in the hope of making an avenue for food, gasoline, and other commodities in desperately short supply. The Kurds had even restored electricity, something the Baath regime is still unable to do in Baghdad. Yet this picture of Zakho proved illusory. Two days later the city fell.

In Dihok I joined Talabani as he presided over a meeting of local notables. A large man who looked even larger in his baggy Peshmerga uniform, Talabani is a genuinely charismatic figure, and evidently a skilled politician. The gathering had the air of a lively town meeting, with much give and take between Talabani and his interlocutors. A former judge said the priority must be on restoring the courts. A teacher urged the execution of several citizens accused of passing on military information to the Iraqis. Talabani demurred, saying that a fair hearing was essential. An Assyrian raised the issue of religious minorities, and Talabani said that the protection of these rights is an integral part of the Iraqi Kurdistan Front program, which also includes Kurdish autonomy and support for a democratic Iraq.

The principal reason given for the administration's reluctance to support the Kurdish rebellion was a fear that the rebel agenda includes the breakup of Iraq. Yet to his own people in Dihok, Talabani said much the same thing that he had told the Senate Foreign Relations Committee a month before: "It is very difficult to change the borders of five countries. We are not for an independent Kurdistan; we are asking for our national rights within the framework of Iraq. I know of dreams and reality. All Kurds dream of an independent, unified Kurdistan, but we have to face the reality."

Later Talabani and his top lieutenants adjourned to the home of an engineer, Lizginn Hamzani, where forty guests were served a lavish meal. Hamzani is one of the men who made the Kurdish revolution, and he did so because he thought he had the backing of President Bush. Until a month ago Hamzani was the commander of the National Defense Battalion of Dihok, an all-Kurdish light battalion financed by the Baghdad regime. Through this sinecure, he had grown quite wealthy and was able to build a solid stone house. Following Iraq's military collapse and the Shiite uprising in the south, Hamzani and his fellow officers saw an opportunity to join a cause in which he says he always believed. He assumed, as did all other Kurds with whom I spoke, that Bush's call on the Iraqi people to overthrow Saddam would also mean U.S. backing for the rebellion. And with U.S. support, Hamzani figured, Saddam would surely fall. Nearly 300 Kurdish officers in various territorial units made the same calculation. The meal I shared with Hamzani in his fine stone house was surely the last he was able to eat there.

Heading from Dihok toward the relative safety of the mountain town of Amadiyah, we stopped at Saddam's hilltop palace, an opulent retreat with imported marble floors, enormous bathtubs, and fancy Italian fixtures. Two hundred acres, including a private lake, orchard, and vegetable patch, lie within a high concrete wall studded with numerous guard towers. From this palace we could see another on top of Gera Peak that is accessible only by helicopter or pack animal. Talabani told me these are just two of fifteen of Saddam's palaces within a fifty-kilometer radius. He never spends more than a day or two a year at each. But it will be a while before Saddam returns to this palace. The local people have smashed every window and every light.

What the refugees fleeing Kurdistan's cities fear most is the vengeance of the Iraq army. In 1988, after the Iran-Iraq war ended, the Iraqi air force launched massive chemical weapon attacks on villages along the Iraq-Turkey border. The villages were adjacent to Peshmerga camps, but characteristically the regime did not attack the rebels. Instead it went after villages, where the terrifying impact of poison gas could be most effectively exploited. This year, with whole cities having joined the rebellion, it is frightening to contemplate the scale of the potential vengeance. I heard tales of massacres of entire neighborhoods as the army retook Kurkuk. Certainly the bombardment of Dihok was intended to maximize civilian casualties.

After the Baath regime destroyed the villages of Kurdistan, they moved the inhabitants to overcrowded new settlements that were under the eve of the army. They were called Victory Cities but were really concentration camps. One such settlement sits just outside Zakho. When I went there on Easter Sunday, the army was gone but so was the food. One man carried a bag of grain, treated for use as rat poison. This is all the inhabitants had left to eat, he said, and they were trying to wash the poison off the grain. The water supplies had also broken down, and the people were using a very polluted well. Even worse off than the city-dwellers, the inhabitants of the settlements have no food or transportation resources to get them to the mountain refuges. Unless help comes they will either be slaughtered or starve.

By late in the day we were back in Zakho, and the mood among my Kurdish companions had changed sharply. Clearly they were becoming aware of the extent of their military collapse. Dihok had fallen that morning and the shelling sounded close to Zakho. They decided to get me out to Syria as soon as possible, rather than waiting, as we had earlier agreed, to make the crossing under the cover of darkness. A young Kurd named Mohid was assigned to take me back to Syria. We drove out of Zakho along the Iraqi army road that parallels the Khabur River, which is the Turkish border. As we approached the Syrian border, we came under frequent artillery fire. With shells landing as close as fifteen yards away, I made a dash across the mudflats to a sandbagged position at the river's edge. From there a small boat took me to Syria. The next day the Iraqis seized the border crossing.

Some of my Kurdish companions are now in Turkey, as I have discovered from seeing them quoted in the Western press. But so far I have heard nothing about Talabani or Hamzani. And of course I'll never know what happened to the children playing on Easter Sunday among the mountain almond blossoms.

TELEPHONE RATES AND PROCEDURES FOR OPERATION DESERT STORM PERSONNEL

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 56, Senate Joint Resolution 77 regarding telephone rates and procedures for Desert Storm personnel.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 77) relative to telephone rates and procedures for Operation Desert Storm personnel.

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

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment.

Mr. HOLLINGS. Mr. President, I rise to express my complete and wholehearted support for Senate Joint Resolution 77. As my colleagues know, I am an original cosponsor of this legislation, and I am pleased that the Commerce Committee, which I chair, could repair this resolution so that it could be considered in a timely manner by the Senate today.

Mr. President, this resolution will help relieve thousands of U.S. soldiers and their loved ones of the burden of paying inordinate sums to communicate with their loved ones while they are stationed in the Persian Gulf region. The costs of telephone calls and fax communications to that region of the world are simply too high. Americans are putting their lives on the line to protect Saudi Arabia, yet still the Saudis are charging a $.73 surcharge per call. It is enough of a hardship to be separated from loved ones, and to know that those people are in great danger. It is even worse when the only way one has of keeping in touch with loved ones in the gulf region—the telephone—costs so much.

Our service personnel and their families should not have to choose between going broke or denying themselves the comfort of hearing each others' voices and sharing life's troubles and joys.

This is not a new problem—we have been fighting these surcharges for years. However, in times like these, it is only fair that our allies substantially reduce, and even waive, these charges. Long-distance companies in this country have themselves reduced prices of telephone calls to Saudi Arabia, and I commend them for that. The Saudis should do the same. Quite simply, it is the right thing to do.

Although this resolution does not specifically mention the government of Turkey, I also encourage Turkey to take its own steps to reduce their telephone rates now that United States service personnel are stationed in that country. I believe that such action by the Turkish Government can only serve to strengthen the ties between our two nations.

The resolution calls for the State Department to negotiate with the Saudi Arabian Government to eliminate these charges and for the Federal Communications Commission to use its existing regulatory powers to ensure that telephone service providers adopt flexible building policies and procedures in connection with these calls. I urge these government agencies to act quickly to implement the terms of this joint resolution.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, shall it pass?

So the joint resolution (S.J. Res. 77), as amended, was passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 77

Whereas United States service men and women deployed in the Persian Gulf for Operation Desert Storm rely heavily on telephone service to communicate with their families at home;

Whereas, in addition to the significant cost of a call to or from Saudi Arabia, there is imposed a $0.73 per minute surcharge by Saudi Arabia on all calls not using Saudi telecommunications facilities;

Whereas the expense of these calls has placed an additional burden on members and families of the Armed Forces at a time when they are already bearing great burdens for the Nation and the world; and

Whereas the Federal Communications Commission has special tariff procedures which allow for promotional offerings such as an "Operation Desert Storm Special Offering": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the sacrifices borne by the men and women of the United States Armed Forces participating in Operation Desert Storm, and by their families—

(1) the Department of State should immediately undertake to convince the Government of Saudi Arabia to eliminate the $0.73 per minute surcharge where Saudi facilities are not used in transmission, and to reduce the charge applicable to calls using Saudi facilities;

(2) The Federal Communications Commission exercise its existing regulatory authority to ensure that local and interexchange telephone service providers adopt flexible billing procedures and policies in connection with costs incurred by service persons or their families for telephone calls to and from the Persian Gulf;

(3) the Federal Communications Commission work with appropriate State authorities to ensure that no family or spouse is disconnected from basic telephone service due to financial hardship imposed by such costs; and

(4) United States long distance service carriers should file, and the Federal Communications Commission should immediately consider, special reduced rates to and from the Saudi Arabia theater, to be effective for the duration of the conflict.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

NATIONAL TOURISM WEEK

Mr. LEAHY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 102, a joint resolution designating the second week in May as "National Tourism Week," and that the Senate proceed to its immediate consideration.

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

The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 102) designating the second week in May 1991 as "National Tourism Week."

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

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

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 102) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 102

Whereas travel and tourism is the third largest retail industry and the second largest private employer in the United States, generating nearly six million jobs and indirectly employing another two million six hundred and forty thousand Americans.

Whereas total travel expenditures in the United States amount to more than $350,000,000,000 annually, or about 6.5 percent of the gross national product;

Whereas tourism is an essential American export, as thirty-eight million seven hundred thousand foreign travelers spend approximately $44,000,000,000 annually in the United States;

Whereas development and promotion of tourism have brought new industries, jobs and economic revitalization to cities and regions across the United States;

Whereas tourism contributes substantially to personal growth, education, appreciation of intercultural differences, and the enhancement of international understanding and good will; and

Whereas the abundant natural and manmade attractions of the United States and the hospitality of the American people establish the United States as the preeminent destination for both foreign and domestic travelers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning the first Sunday in May 1991 is designated as "National Tourism Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY POSTPONED

Mr. LEAHY. Mr. President, I ask unanimous consent that Calendar No. 39, S. 647, be indefinitely postponed.

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

NATIONAL COMMISSION ON A LONGER SCHOOL YEAR ACT

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 50, S. 64, regarding a longer school year commission.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Table of contents.

TITLE I—NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

Sec. 101. Short title.
Sec. 102. National Commission on a Longer School Year Act

TITLE II—NATIONAL WRITING PROJECT

Sec. 201. Findings.
Sec. 202. National writing project.

TITLE III—MISCELLANEOUS

Sec. 301. Instruction on the history and principles of democracy in the United States.

TITLE IV—EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS

Sec. 401. Education programs for commercial drivers.

TITLE I—NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

SEC. 101. SHORT TITLE.

This title may be cited as the "National Commission on a Longer School Year Act".

SEC. 102. NATIONAL COMMISSION ON A LONGER SCHOOL YEAR ACT.

(a) ESTABLISHMENT.—There is hereby established a National Commission on a Longer School Year Act (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of nine members, of whom—

(A) three members shall be appointed by the President from among the Secretaries of the executive departments as set forth in section 101 of title 5, United States Code;

(B) three members shall be appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and

(C) three members shall be appointed by the President pro tempore the Senate upon the recommendation of the Majority Leader and Minority Leader of the Senate.

(2) REQUIREMENTS.—

(A) Members of the Commission shall be appointed on the basis of exceptional education, training, or experience from—

(i) individuals who are representatives of nonprofit organizations or foundations committed to the improvement of American education;

(ii) individuals who are engaged in the professions of teaching;

(iii) individuals engaged in school administration, members of school boards, parents or representatives of parents or parent organizations;

(iv) individuals who are State officials directly responsible for education; and

(v) individuals representing organizations with an interest in lengthening the academic year or lengthening the school day.

(B) The first nine members of the Commission shall be appointed no later than 60 days after the date of enactment of this Act.

(3) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) TERMS.—Members of the Commission shall be appointed to serve for the life of the Commission.

(5) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(6) ACTIVITY OF COMMISSION.—The Commission may begin to carry out its duties under this subsection when at least 5 members of the Commission have been appointed.

(c) FUNCTIONS OF THE COMMISSION.—

(1) STUDY.—The Commission shall study and make recommendations regarding the advisability of lengthening the school day to a predetermined minimum number of hours and lengthening the academic year in all United States public elementary and secondary schools. Such recommendations shall include—

(A) a comparative analysis of the length of academic days and academic years in schools throughout the United States and in schools of other nations;

(B) a recommendation of the appropriate number of hours per day and days per year of instruction for United States public elementary and secondary schools;

(C) an examination as to whether an increase in the length of school days and school years should be accompanied by an appropriate increase in teacher compensation;

(D) a model plan for adopting a longer academic day and academic year in all United States public elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in transitioning from current academic day and year to an academic day and year of a longer duration;

(E) suggestions for such changes in laws and regulations as may be required to facilitate States, school districts, and schools in adopting longer academic days and years;

(F) an analysis and estimate of the additional costs, including the cost of increased teacher compensation, to States and local school districts if longer academic days and years are adopted; and

(G) a plan to assist States and local districts in meeting all such additional costs.

(2) REPORT.—The Commission shall submit a final report and plan pursuant to subsection (d).

(d) COMMISSION REPORT.—

(1) REQUIREMENT.—Not later than September 1, 1991, or one year after the Commission concludes its first meeting of members, whichever is longer, the Commission shall submit a report to the President and the Congress on the study and recommendations required pursuant to the provisions of this subsection.

(2) CONSIDERATIONS.—The report described in paragraph (1) shall consider current educational policies and practices regarding the length of the school year and school day throughout the United States and the world.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this subsection, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) TESTIMONY; PUBLIC HEARINGS.—In carrying out this subsection, the Commission shall receive testimony and conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the advisability of lengthened academic day and year.

(3) INFORMATION.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this subsection. Upon request of the Chairman of the Commission, the head of the agency shall furnish such information to the Commission.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(6) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(f) ADMINISTRATIVE PROVISIONS.—

(1) MEETINGS.—The Commission shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(2) QUORUM.—A majority of the appointed members of the Commission shall constitute a quorum for the transaction of business.

(3) CHAIRMAN AND VICE CHAIRMAN.—

(A) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission for the life of the Commission.

(B) The Chairman of the Commission, in consultation with the Vice Chairman, shall appoint and fix the compensation of a staff administrator and such support personnel as may be reasonable and necessary to enable the Commission to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates.

(4) OTHER FEDERAL PERSONNEL.—Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any personnel of such agency to the Commission to assist the Commission in carrying out its duties under the subsection. Such detail shall be without interruption or loss of civil service status or privilege.

(g) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after submitting the final report required by subsection (d).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994 to carry out the provisions of this title.

TITLE II—NATIONAL WRITING PROJECT

SEC. 201. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 202. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the "grantee"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as "contractors") under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term "Federal share" means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(4) SPECIAL RULE.—For the purposes of paragraph (1), the costs of teacher programs do not include the administrative costs, publication cost, or the cost of providing technical assistance to the grantee.

(e) CLASSROOM TEACHER GRANTS.—

(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

(f) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

(2) COMPOSITION.—The National Advisory Board established pursuant to subsection (a) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) DUTIES.—The National Advisory Board established pursuant to subsection (a) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) EVALUATION.—The National Writing Project may reserve up to $100,000 from the amount authorized to be appropriated pursuant to the authority of this section to evaluate the teacher training programs conducted pursuant to this Act. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(h) RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) GRANTS AUTHORIZED.—From amounts available to carry out the provisions of this subsection, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(2) PRIORITY.—(A) In awarding grants pursuant to paragraph (1), the Secretary shall give priority to junior researchers.

(B) The Secretary shall award not less than 25 percent of the funds received pursuant to subsection (i)(2) to junior researchers.

(C) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the grant to the National Writing Project, $10,000,000 for fiscal year 1991 to carry out the provisions of this section.

(2) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated $500,000 for fiscal year 1991 to carry out the provisions of subsection (h).

(j) DEFINITION.—As used in this Act—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.

TITLE III—MISCELLANEOUS

SEC. 301. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 (as added by Public Law 100-297) as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this section) the following:

"SEC. 4609. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civil responsibility. Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) CONTRACT AUTHORIZED.—The Secretary is authorized to enter into a contract with the Center for Civic Education to carry out the program required by paragraph (1).

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and Bill of Rights;

"(2) school and community simulated congressional hearings following the course of study at the request of participating schools; and

"(3) an annual competition of simulated congressional hearings at the congressional district, State, and national levels for secondary students who wish to participate in such program.

"(c) PROGRAM PARTICIPANTS.—The education program authorized by this section shall be made available to public and private elementary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—Funds provided under this section may be used for the advanced training of teachers about the Constitution and Bill of Rights after the provisions of subsection (b) have been implemented.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the provisions of this section.".

TITLE IV—EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS

SEC. 401. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

Part C of the Adult Education Act (20 U.S.C. 1211 et seq.) is amended by inserting at the end thereof the following new section:

"SEC. 373. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants on a competitive basis to pay the Federal share of the costs of establishing and operating adult education programs which increase the literacy skills of eligible commercial drivers so that such drivers may successfully complete the knowledge test requirements under the Commercial Motor Vehicle Safety Act of 1986.

"(b) FEDERAL SHARE.—The Federal share of the costs of adult education programs authorized under subsection (a) shall be 50 percent. Nothing in this subsection shall be construed to require States to meet the non-Federal share from State funds.

"(c) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section include—

"(1) private employers employing commercial drivers in partnership with agencies, colleges, or universities described in paragraph (2);

"(2) local educational agencies, State educational agencies, colleges, universities, or community colleges;

"(3) approved apprentice training programs; and

"(4) labor organizations, the memberships of which include commercial drivers.

"(d) REFERRAL PROGRAM.—Grantees shall refer individuals who are identified as having literacy skill problems to appropriate adult education programs as authorized under this Act.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'approved apprentice training programs' has the meaning given such term in the National Apprenticeship Act of 1937.

"(2) The term 'eligible commercial driver' means a driver licensed prior to the requirements of the Commercial Motor Vehicle Safety Act of 1986.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of fiscal years 1991, 1992, and 1993 to carry out the provisions of this section.".

AMENDMENT NO. 70.

Mr. LEAHY. Mr. President, I send a technical amendment on behalf of Senators PELL and KASSEBAUM to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. PELL (for himself and Mrs. KASSEBAUM), proposes an amendment numbered 70:

Beginning on page 29, line 14 strike title IV, and all that follows through and including page 31, line 13.

The PRESIDING OFFICER. The question is an agreeing to the amendment.

The amendment (No. 70) was agreed to.

Mr. DURENBERGER. Mr. President, I would like to ask my good friend from Massachusetts for a clarification both on the makeup of the Commission under title I of this act and on the information gathered by this Commission. It is my understanding that membership on the Commission is not intended to be restrictive to education groups only, and that in order to receive the comprehensive input that is envisioned under this study that membership on the Commission include noneducational entities with an interest in lengthening the school year. Is that correct?

Mr. KENNEDY. Yes, that is correct.

Mr. DURENBERGER. It is also my understanding that the language in the act outlining information gathered at public hearing was purposefully left broad enough to allow a variety of interests input into the process, including agricultural groups and other business and recreational groups that may have an interest in the length of the school year, but not necessarily a direct interest in education.

Mr. KENNEDY. The Senator from Minnesota is correct, the committee's intent was to conduct a comprehensive study of the issue surrounding the length of the school year.

Mr. DURENBERGER. I thank the Senator from Massachusetts for this clarification.

Mr. COCHRAN. Mr. President, I am pleased to support S. 64, a bill to study extending the school year, authorize funding for the national writing project, authorize funding for classroom instruction on the Constitution of the United States, and authorize funding for programs to improve literacy skills for commercial truck drivers.

Each title of this bill is important and for a modest funding level will offer Federal support to improve the quality of education in the Nation's classrooms.

I am particularly pleased that the legislation includes a bill introduced earlier this year as S. 264, to support the national writing project. The bill garnered 40 Senate sponsors in the 101st Congress and has similar bipartisan support in the 102d. Identical legislation passed the other body during the 101st Congress unanimously and currently has over 100 cosponsors. In addition, the Appropriations Committees of both Houses agreed to a $2 million appropriation for the program in fiscal year 1991, pending enactment of authorizing legislation.

The United States faces a crisis in writing both in our schools and in the workplace. The "Writing Report Card," the Nation's assessment of student writing ability, conducted by the U.S. Department of Education, recently reported that fewer than 25 percent of our high school juniors can write an adequate letter. Universities and colleges across the country report increasing numbers of entering freshmen who are unable to meet the writing demands of college work. Lack of writing skill also contributes to the unfavorable comparisons of American students with those in other countries in many academic subjects. In testimony before the Senate Labor and Human Resources Committee, business leaders expressed serious concern about the basic skills of entry level workers. They indicated that the lack of writing ability is a key element of our Nation's illiteracy problem.

S. 64 authorizes $10 million in Federal support for the national writing project, which currently provides training to teachers to enhance the

teaching of writing at 143 sites in 44 States, most of which are associated with universities. Last year, 87,000 teachers voluntarily sought training in one of the national writing project intensive summer and school-year workshops.

The national writing project is a teachers-teaching-teachers program which identifies and promotes productive techniques used in the classrooms of our best teachers. It is a positive program celebrating good teaching practice, one which through its work with schools, increases the Nation's corps of successful classroom teachers. When the project was funded for an unprecedented 10th year by the National Endowment for the Humanities, a spokesman said:

I have no hesitation in saying that the national writing project has been by far the most effective and cost-effective project in the history of the endowment's support for elementary and secondary education programs.

In Mississippi, national writing project sites have contributed greatly to the remarkable improvement in the quality of teaching. Program participants include not only English teachers but also teachers of history, geography, math, reading, science, and elementary schools. The result has been a measurable improvement in student performance and a rekindling of teachers' enthusiasm, confidence, and morale.

Over the past 17 years, the national writing project has received numerous national awards and has been generously funded by private foundations such as the Carnegie and Mellon Foundations, as well as State and local agencies. However, program needs have far exceeded the funding potential of these organizations. Each year more and more teachers seek training from one of the existing sites. In light of the need for approximately 250 regional sites to establish a network to serve all the Nation's teachers, it is discouraging to note that 13 sites in 8 States have become inactive within the past year due to inadequate funding.

S. 64 authorizes the funding of 50 percent of the cost of existing sites and 50 percent of the cost of establishing new sites, with a maximum of $40,000 per site on a dollar-for-dollar matching basis. It would fund matching grants to teachers to conduct research on effective classroom practices and to the national writing project to disseminate information on effective teaching of writing. The Office of Educational Research and Information in the U.S. Department of Education would receive $500,000 to conduct research on the teaching of writing and on methods to use as a learning tool to improve the quality of education.

In light of the widespread problems described in the "Writing Report Card," this legislation could not be more timely. As Union Carbide warned in its report "Undereducated, Undercompetitive USA":

Without improvements, we have, at best, an undereducated population which keeps this Nation from reaching its highest economic potential.

Since the ability to put thoughts into words is fundamental to learning, it is unfortunate that many teachers are not prepared to teach writing as part of basic education and consequently fail to concentrate on their students' writing abilities. By improving writing instruction as part of a basic education, I believe this legislation will provide a very high return for a modest investment and will take us further toward our goal of improving the quality of education in our Nation.

I thank other Senators for joining in support of this legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 64) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 64

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

SECTION 1. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Table of contents.
TITLE I—NATIONAL COMMISSION ON A LONGER SCHOOL YEAR
Sec. 101. Short title.
Sec. 102. National Commission on a Longer School Year Act.
TITLE II—NATIONAL WRITING PROJECT
Sec. 201. Findings.
Sec. 202. National writing project.
TITLE III—MISCELLANEOUS
Sec. 301. Instruction on the history and principles of democracy in the United States.

TITLE I—NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

SEC. 101. SHORT TITLE.

This title may be cited as the "National Commission on a Longer School Year Act".

SEC. 102. NATIONAL COMMISSION ON A LONGER SCHOOL YEAR ACT.

(a) ESTABLISHMENT.—There is hereby established a National Commission on a Longer School Year Act (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of nine members, of whom—

(A) three members shall be appointed by the President from among the Secretaries of the executive departments as set forth in section 101 of title 5, United States Code;

(B) three members shall be appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and

(C) three members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and Minority Leader of the Senate.

(2) REQUIREMENTS.—

(A) Members of the Commission shall be appointed on the basis of exceptional education, training, or experience from—

(i) individuals who are representatives of nonprofit organizations or foundations committed to the improvement of American education;

(ii) individuals who are engaged in the professions of teaching;

(iii) individuals engaged in school administration, members of school boards, parents or representatives of parents or parent organizations;

(iv) individuals who are State officials directly responsible for education; and

(v) individuals representing organizations with an interest in lengthening the academic year or lengthening the school day.

(B) The first nine members of the Commission shall be appointed no later than 60 days after the date of enactment of this Act.

(3) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) TERMS.—Members of the Commission shall be appointed to serve for the life of the Commission.

(5) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(6) ACTIVITY OF COMMISSION.—The Commission may begin to carry out its duties under this subsection when at least 5 members of the Commission have been appointed.

(c) FUNCTIONS OF THE COMMISSION.—

(1) STUDY.—The Commission shall study and make recommendations regarding the advisability of lengthening the school day to a predetermined minimum number of hours and lengthening the academic year in all United States public elementary and secondary schools. Such recommendations shall include—

(A) a comparative analysis of the length of academic days and academic years in schools throughout the United States and in schools of other nations;

(B) a recommendation of the appropriate number of hours per day and days per year of instruction for United States public elementary and secondary schools;

(C) an examination as to whether an increase in the length of school days and school years should be accompanied by an appropriate increase in teacher compensation;

(D) a model plan for adopting a longer academic day and academic year in all United States public elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in transitioning from current academic day and year to an academic day and year of a longer duration;

(E) suggestions for such changes in laws and regulations as may be required to facilitate States, school districts, and schools in adopting longer academic days and years;

(F) an analysis and estimate of the additional costs, including the cost of increased teacher compensation, to States and local

school districts if longer academic days and years are adopted; and

(G) a plan to assist States and local districts in meeting all such additional costs.

(2) REPORT.—The Commission shall submit a final report and plan pursuant to subsection (d).

(d) COMMISSION REPORT.—

(1) REQUIREMENT.—Not later than September 1, 1991, or one year after the Commission concludes its first meeting of members, whichever is longer, the Commission shall submit a report to the President and the Congress on the study and recommendations required pursuant to the provisions of this subsection.

(2) CONSIDERATIONS.—The report described in paragraph (1) shall consider current educational policies and practices regarding the length of the school year and school day throughout the United States and the world.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this subsection, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) TESTIMONY; PUBLIC HEARINGS.—In carrying out this subsection, the Commission shall receive testimony and conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the advisability of lengthened academic day and year.

(3) INFORMATION.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this subsection. Upon request of the Chairman of the Commission, the head of the agency shall furnish such information to the Commission.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(6) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(f) ADMINISTRATIVE PROVISIONS.—

(1) MEETINGS.—The Commission shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(2) QUORUM.—A majority of the appointed members of the Commission shall constitute a quorum for the transaction of business.

(3) CHAIRMAN AND VICE CHAIRMAN.—

(A) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission for the life of the Commission.

(B) The Chairman of the Commission, in consultation with the Vice Chairman, shall appoint and fix the compensation of a staff administrator and such support personnel as may be reasonable and necessary to enable the Commission to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates.

(4) OTHER FEDERAL PERSONNEL.—Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any personnel of such agency to the Commission to assist the Commission in carrying out its duties under the subsection. Such detail shall be without interruption or loss of civil service status or privilege.

(g) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after submitting the final report required by subsection (d).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994 to carry out the provisions of this title.

TITLE II—NATIONAL WRITING PROJECT

SEC. 201. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 202. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the "grantee"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as "contractors") under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term "Federal share" means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(4) SPECIAL RULE.—For the purposes of paragraph (1), the costs of teacher programs do not include the administrative costs, publication cost, or the cost of providing technical assistance to the grantee.

(e) CLASSROOM TEACHER GRANTS.—

(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

(f) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

(2) COMPOSITION.—The National Advisory Board established pursuant to subsection (a) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) DUTIES.—The National Advisory Board established pursuant to subsection (a) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) EVALUATION.—The National Writing Project may reserve up to $100,000 from the amount authorized to be appropriated pursuant to the authority of this section to evaluate the teacher training programs conducted pursuant to this Act. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(h) RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) GRANTS AUTHORIZED.—From amounts available to carry out the provisions of this subsection, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(2) PRIORITY.—(A) In awarding grants pursuant to paragraph (1), the Secretary shall give priority to junior researchers.

(B) The Secretary shall award not less than 25 percent of the funds received pursuant to subsection (i)(2) to junior researchers.

(C) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the grant to the National Writing Project, $10,000,000 for fiscal year 1991 to carry out the provisions of this section.

(2) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated $500,000 for fiscal year 1991 to carry out the provisions of subsection (h).

(j) DEFINITION.—As used in this Act—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.

TITLE III—MISCELLANEOUS

SEC. 301. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 (as added by Public Law 100-297) as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this section) the following:

"SEC. 4609. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civil responsibility. Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) CONTRACT AUTHORIZED.—The Secretary is authorized to enter into a contract with the Center for Civic Education to carry out the program required by paragraph (1).

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and Bill of Rights;

"(2) school and community simulated congressional hearings following the course of study at the request of participating schools; and

"(3) an annual competition of simulated congressional hearings at the congressional district, State, and national levels for secondary students who wish to participate in such program.

"(c) PROGRAM PARTICIPANTS.—The education program authorized by this section shall be made available to public and private elementary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—Funds provided under this section may be used for the advanced training of teachers about the Constitution and Bill of Rights after the provisions of subsection (b) have been implemented.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the provisions of this section.".

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

STRENGTHENING EDUCATION FOR AMERICAN FAMILIES

Mr. MITCHELL. Mr. President, earlier today, the Senate Labor and Human Resources Committee approved S. 2, the Strengthening Education for American Families Act.

As I said in January, this legislation is the guideline for our education agenda. It is not the full agenda, but it sets the path that we will follow during the remainder of the 102d Congress.

S. 2 can be broken down into four simple components.

The bill enhances economic growth, which is particularly important now for so many areas that are facing economic hardship. The bill improves accountability for programs already in place. It expands important efforts we know are effective, and it raises student performance by providing parents, teachers, and principals with the flexibility necessary to better target local needs.

In effect, S. 2 restores common sense to education.

We have established in legislation eight national education goals. These goals are designed to ensure excellence by the year 2000.

But goals alone cannot be the answer. We need accountability. We need to measure performance. Parents need to know if their children are learning.

That is why we disagree with the President's approach to measuring student performance.

The President has created a joint council with the Governors to measure student achievement. The intent of this council is meritorious. The intent is to measure student achievement against national education goals. But intent is not the question at hand.

The question that I have, and that many in Congress share, is whether a council designed to be objective and free of political pressure in measuring student performance can be objective, when several of the voting members on the council work in the White House.

I do not know the answer to that question. But I do not want to wait to find out. I do not think Americans want to wait to find out.

For that reason, S. 2 includes a truly independent National Council on Educational Goals. This council will have no White House representation. It will have no Members of Congress as official or ex officio members.

This council will be comprised of a bipartisan group of Governors, and others, who have experience working with education issues—either in States and local school districts or in higher education.

If our students are to reach the goals by the year 2000, there is no question that we need an objective council to measure our Nation's progress.

True accountability begins with measuring where we are and measuring our progress as it is achieved.

Another critical component to S. 2 is designed to ensure that today's adults, as well as tomorrow's adults, are ready for the work force of the future.

We simply cannot enhance economic growth when between 23 and 27 million Americans are functionally illiterate. We cannot afford to leave these Americans behind as we move toward an ever more technological economy.

S. 2 includes an interagency task force to coordinate literacy programs throughout the Federal Government. State literacy resource centers will provide training, technical assistance, and coordination among available programs as well.

Coordination is another form of accountability. Again, we seek to make sure that existing efforts work.

Through workplace literacy partnerships and work force literacy assistance to small- and medium-sized businesses, we hope to expand our partnership effort with the business community to improve productivity on the job.

As critical as literacy efforts are for adults, even less fortunate is the fact that too many of our high school seniors graduate with poor reading skills. Too many graduate with poor math and science skills. Far too many do not graduate at all.

American education is in need of a revolution. To really spur effective teaching methods and raise student achievement, we need to provide communities with flexibility to design and implement their own targeted strategies.

That is why S. 2 fosters local vision. Through school-based management, Democrats are inviting parents, teachers, and principals to design their own plan to raise student performance levels. Only through this type of flexibility will innovative techniques be created to target local problems.

Local problems cannot be micromanaged from Washington. S. 2 provides the flexibility necessary to enhance local innovation.

To further local efforts in areas with large numbers of economically disadvantaged students, S. 2 includes a Model Schools of Excellence Program.

Model schools will be designed by local school districts working together or working with an area university or community organization or State educational agency to improve the quality of education offered, to ensure that students have a place to which they want to go, not a place to which they have to go.

We recognize that not all students learn at the same pace. And, not all students learn in the same manner. For some, learning by the chalk and blackboard method is not enough. For this reason, S. 2 includes Classrooms for the Future.

This program will enable local schools to develop curricula that combines classroom teaching methods with interactive technology.

Some students may learn concepts from a computer, working at their own pace or working with groups of other students, that they otherwise may not grasp in a large classroom from a blackboard. Democrats invite parents, teachers, principals, and school administrators to think about classes in nontraditional ways.

S. 2 also increases funding for the effective Star Schools Program to assist more communities in linking up for learning. While it may not be possible to have topnotch teachers in all subjects in every school, while that is certainly our goal, the satellite technology under Star Schools can give all students access to expert instruction regardless of where students live.

High technology is not only for businesses. It is for schools as well.

Another way in which we hope to foster local vision is by increasing funds for the Eisenhower Math and Science Program. Math and science education are critically important today and we cannot afford to let our students' abilities in these areas slip further.

Rounding up our efforts to reach the national education goals is an extension of the Dropout Demonstration Assistance Program.

S. 2, as approved by the Labor Committee today, is truly a commonsense plan. We set goals. We create a council to measure progress on the goals. We improve accountability. We provide flexibility. And, we invite the real experts, those parents, teachers, principals, and school administrators who work with students on a daily basis, to design their own plans of excellence.

As I said in January, S. 2 is our blueprint for education. For each of the national education goals, we will work on legislation during this Congress. Many of the goals are addressed in S. 2, but others will be addressed later this year and next year.

We will increase funding for Head Start. A quality education begins with preschool and we need to increase our efforts in early childhood development.

We will pass legislation addressing the recruitment and retention of teachers. We simply must make sure that we have enough teachers and that those teachers are qualified to teach the subjects for which they were hired.

We will pass legislation to reauthorize the Higher Education Act. As I've said many times, no student who studies hard should be precluded from higher education because of cost alone.

The ideas presented in S. 2 are revolutionary. We are not proposing changes at the margins. We are proposing changes that will change the way education is delivered. We are looking at tomorrow and we are asking communities to join with us in meeting that challenge.

As John F. Kennedy said in 1961, "Our progress as a nation can be no swifter than our progress in education."

Mr. MITCHELL. Mr. President, with each day, the United States and other nations expand their efforts to provide relief to Kurdish, Shi'ia, and other Iraqi civilians fleeing Saddam Hussein's retribution.

We can only hope and pray that this massive humanitarian relief effort will not be too late to prevent widespread death and disease. The Iraqi people, having already suffered greatly at the hands of the Iraqi military, certainly deserve to find safe haven at the border.

It is unfortunate that the United States, as General Scowcroft recently said, had not anticipated the extent of the refugee crisis. It is perhaps impossible to have predicted the scale of the uprising against Saddam Hussein, or the indiscriminate brutality to which all Iraqis subsequently would be subjected.

Still, our response has been painfully slow in the context of the enormous need. The United States and its coalition partners have a compelling responsibility to help alleviate the human suffering that has followed our success in forcing Iraqi troops from Kuwait.

I, therefore, am pleased that the President has recognized this responsibility by proposing an expanded United States role in assisting Iraqi refugees. This will involve significant numbers of American troops in the setting up of secure camps and facilitating food delivery to those in need.

While the administration has funds at its disposal to use in such an emergency, I am confident that the Congress will fully support requests for additional assistance to make American participation as effective as possible.

It is fortunate that the administration has reversed its opposition to such a direct and significant American role in the humanitarian relief effort.

The horrendous plight of over 1 million refugees along the Iraqi border affords no one, and certainly not the United States, the luxury of remaining uninvolved. I hope that the President's statement reflects an American commitment to doing all it can to end the suffering.

I believe there is another step the United States should take. It is a simple and straightforward action. The President should clearly state the United States Government's support for democracy in Iraq.

It is regrettable that there appears to be confusion on this point. But last week I met with leaders of various Iraqi opposition groups. They all asked that the United States express its support for democracy in their country.

Each of these Shi'ia and Kurdish leaders said he felt that democracy represented the best guarantee of the peoples' rights in the long run.

They did not request American military intervention on behalf of their efforts to depose Saddam Hussein. But they do not seek the removal of one brutal military regime only to have it replaced by another military regime.

This is why they all agreed that the most important thing the United States can do to promote their struggle against Saddam Hussein is simply to support democracy in Iraq.

Just last Thursday, the Senate, in Senate Resolution 99, unanimously called for a United States policy "in support of democracy and respect for human rights and international law in Iraq."

The Senate shares the Iraqi opposition's desire that United States support for a democratic Iraq be clearly articulated.

This is not inconsistent with maintaining Iraq's territorial integrity. Indeed, a representative government might best ensure the survival of the Iraqi State.

Yet United States support for Iraq's territorial integrity should not be misconstrued as a preference for just another dictator in Baghdad.

The Iraqi opposition leaders I met with only asked for an unequivocal statement of American support for a democratic Iraq.

I hope that President Bush will join the Senate in clearly stating that the United States supports democracy in Iraq.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. (Mr. CONRAD). Without objection, it is so ordered.

RAILWAY LABOR DISPUTE SETTLEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 222, a resolution regarding the ongoing rail strike; that the joint resolution be deemed to have been read three times, passed, the preamble be agreed to; and that the motion to reconsider be laid upon the table; that Senator GRAHAM of Florida be authorized to sign the enrolled joint resolution; and that the House be immediately notified of the Senate's action.

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

So the joint resolution (H.J. Res. 222) was deemed passed.

Mr. KENNEDY. Mr. President, the reason for following this particular procedure is that it is the understanding of the majority and minority leaders that this expedites the engrossment of the legislation and expedites the matter going to the President, who anticipates signing the measure this evening.

It is important for the RECORD that we understand why we are following that particular procedure.

Mr. President, first of all, I want to express my appreciation to my colleague, Senator HATCH, for all of his help and assistance in moving this measure to the time this evening where we are able to take this action. We have seen over the period of the past days a remarkable coming together of not only the membership of our committee in the Senate, but also the full membership of the Senate and the House of Representatives with Secretary Skinner, who has been a very constructive and positive force, as well as the President.

I think all of us understand the significance of a national strike and all of us understand the importance of meeting our responsibilities in a timely way. I think this is really an example of the institution at its finest in responding to a matter of emergency.

I am grateful to my colleague, Senator HATCH, for all of his constructive suggestions and his cooperation in working together with me and with the majority leader.

Second, I want to thank Senator MITCHELL in particular for his constancy in ensuring that we were going to be able to move expeditiously. Over the period of the last several days, he has taken an enormous amount of his own time in familiarizing both himself and the interested Members of the Senate with the particular details of the legislation that was being considered and also indicating his strong support for the measure. This, I think, has been indispensable in bringing us to the point of where we are this evening.

I am grateful as well for all the cooperation that we have had from Speaker FOLEY and from the chairmen of the Commerce and Labor Committees, and, I believe, even the Environmental Committee in the House of Representatives, but primarily Chairman DINGELL for all of his work. He is a knowledgeable individual on this issue.

Over the period of the last 29 years, we have had, I believe, 10 or 11 different occasions where we have had to take action with regard to a strike in the railroad industry. None have involved disputes over issues as extensive as the range of issues that are involved in this strike—disputes over working conditions, wages, health care issues. These complex issues involve 98 carriers, 11 unions, and some 200,000 employees in the railroad industry.

This has been an enormously important question for the country, and I think all of us should be satisfied that we are able to meet our responsibilities in a relatively short period of time.

Mr. President, I will speak very briefly, but I would like to just give a summation as to what is incorporated in the legislation. First, let me thank my colleague, Senator METZENBAUM, who has been involved in all of the details of resolving this issue.

Senator METZENBAUM is the chairman of the Labor Subcommittee of our Labor and Human Resources Committee and has a great deal of understanding and knowledge in the area of labor-management relations, and he has been invaluable in helping to move this process along.

I would also like to thank the members of the staff who have been absolutely magnificent in helping us this evening. They have done really yeoman work around the clock for a period of days. I know Senator HATCH feels as I do in regard to the work that has been done by Sarah Fox of my staff. We are all enormously obligated to staff on both sides of the aisle for really an outstanding job.

Mr. President, I am pleased to say that a satisfactory bipartisan compromise has been reached on legislation to end the railroad strike and resolve the remaining issues in the dispute. Legislation implementing the compromise will be fashioned this evening by unanimous consent without the need for a rollcall vote by the Senate once the House of Representatives has acted.

The essence of the compromise is that the remaining issues in the dispute will be resolved by a follow-on special board to be promptly appointed by the President. The Special Board will consist of three members under an informal understanding that was reached between Congress, the administration, and the parties. And that is the heart of the present compromise.

It is expected that one of the members of the Board will be a member of the former Presidential Emergency Board. He will therefore have extensive experience with the many complex issues in this controversy. The other two members of the Special Board will not be members of the former Board and will therefore bring a fresh look to these challenging issues.

Within 5 days after the new Board is appointed, any party may ask it to clarify ambiguities in the recommendations of the former Board. Within 15 days after the Board is appointed, it must issue an interim report responding to these requests by the parties. Within 10 days after that report, any party may ask the Board to modify any specific recommendation made by the previous Board on which parties are still in disagreement. Issues that were not part of specific recommendations by the previous Board will not be considered by the new Board.

In another important part of the compromise the new Board is required to give a presumption of validity to the recommendations of the old Board. Any party requesting a modification of those recommendations will have the burden of persuasion and must show that the old recommendation was demonstrably inequitable or based on a material error or material misunderstanding. After 30 more days the new Board must issue its final report, and 10 days later the report will become binding on the parties with the force of law. Additional procedures are included to enable the parties to obtain any necessary clarification from the Board and the determinations in its finality report. Finally, the parties are entitled through mutual written agreements to reach whatever settlement they wish, notwithstanding the Board's report.

Again, I want to commend the Members of the Congress, including the Senate and House leadership, for all of their skillful cooperation. I also commend the many staff members on both sides of the aisle who facilitated our efforts to reach this compromise. I also commend Secretary Skinner and other members of the Bush administration who have been a central part of this bipartisan effort.

We have all worked closely together to expedite this satisfactory resolution of this long dispute without a long divisive strike and with a minimum of disruption for the Nation, for business, and for the traveling public. This accord is good for labor, good for business, good for the economy, and good for the Nation, and I look forward to its implementation.

Mr. HATCH. Mr. President, I appreciate the comments of my colleague, and I appreciate the efforts and the work he has expended in helping to bring this to pass. We have been working day and night on this for almost a week and, frankly, for a long time before that in other ways.

I have to say that this is a reasonable and good, effective resolution of what could have been a disastrous problem to this country. The railway industry handles better than a third of all the tonnage shipped in this country and a lot of businesses depend upon it, a lot of workers depend upon it, more than 200,000 workers and, frankly, these problems just had to be solved. Everybody felt that the Presidential Emergency Board recommendations might have solved these problems but there were some loose ends that had to be gathered up.

Mr. President, I am pleased that we have been able to act on this legislation so promptly.

As my colleagues and all of our constituents know, it is in our Nation's best interest to settle this rail strike as quickly as possible. Our economy depends on the regular transportation of goods by rail.

President Bush has urged expeditious action to restore this essential service.

At the outset, I want to commend the President, Secretary Skinner, Senator KENNEDY, Senator METZENBAUM, Senator MITCHELL, Senator DOLE, and Congressmen DINGELL and LENT for their concerted efforts to end this strike.

But, we should also not fail to commend the months and months of work put in by the Presidential Emergency Board, chaired by Robert Harris. There can be no disagreement that this was a mammoth undertaking; it involved the review of thousands of pages of testimony and documents to produce a 100-page report.

Additionally, I want to recognize the service performed so admirably by the members of the National Mediation Board.

The legislative action we are taking today builds on the work of the PEB.

The pre-strike status quo will be restored until the process described below is complete. The timeframe for completion is 65 days from the appointment of the Special Board.

During this period, a Special Board will be appointed by the President which will consist of 3 members. One of the members will be from the Presidential Emergency Board just completed. It is my understanding that this member will be Robert O. Harris.

This special panel will have until the expiration of the cooling off period to perform two functions: First, answer questions of interpretation about the meaning of provisions in the Presidential Emergency Board report; and second, to resolve issues still in disagreement between the parties only where the PEB made specific recommendations. Where the PEB made no specific recommendation, the issue would not be subject to review by the Special Board. For example, the Special Board would not review the line sales issue.

In the latter case, there is presumptive validity to the current PEB provisions. Second, the party seeking the change has the burden of proof that any such recommendation was demonstrably inequitable or involved a material error or material misrepresentation.

There will also be a process for addressing loose ends on the drafting of contracts.

This joint resolution may not be exactly what any of the parties would have preferred. It should be obvious that, in any negotiation, any individual or organization tries to win as much as it can.

But, Mr. President, this resolution is fair. And, most importantly, it takes a strong stand in favor of collective bargaining as the way to develop labor agreements. It does not set up the Congress of the United States as an arbitrator now and forever.

Again, I commend my colleagues for their dedication to resolving this strike and urge immediate passage of this joint resolution by the Senate.

I would like also to acknowledge the hard work of the number of our staff members: Sarah Fox of Senator KENNEDY's staff, who has been a very strong worker on this matter; Jim Brudney, and Al Cacozza of Senator METZENBAUM's staff; Jim McMillan of Senator DOLE's staff; Bob Carolla of Senator MITCHELL's staff; the House Energy and Commerce staff, and officials from the Department of Transportation—all have been very, very important.

Last, but certainly not least, I want to express special thanks to my personal labor counsel, Sharon Prost. She has worked day and night on this. I think she deserves an awful lot of credit for the work she has done along with Sarah Fox and of course all the other staff people.

I want Ken, Matthew, and Jeffrey to know how hard she worked to solve this difficult strike in a fair and effective way.

Mr. President, the Presidential Emergency Board, on page 78 of the report, states that "it is clear that the retroactive payment which will be recommended as well as the general wage increases proposed, may be larger than one or two carriers can reasonably afford." Further, the Board cites in this connection "uncertainty and possible loss of jobs that the inability of a railroad to meet its financial obligations would entail."

The Board accordingly recommends that the parties negotiate "to adapt the Board's recommendations to the particular circumstances present in each railroad." That recommendation may make perfect sense in the context of the PEB, which is meant in part to provide a structure for negotiation, for voluntary settlement by the parties.

A particular problem may arise here, however, when we use the recommendation of the PEB in a legislative solution. In the absence of a voluntary agreement on individual adaptation, we could be imposing upon the carrier "impracticable," even ruinous, wage and benefit levels.

Such an outcome could have a particularly harmful impact on my State of Utah, its shippers and rail workers, and on the western part of the country in general. One of the major carriers serving my State and the west has been very actively negotiating with its unions in an attempt to adopt the PEB-recommended wage and payment levels to its circumstances.

It is my understanding, that the legislation we are considering today establishes a binding process under which the Special Board would have authority to adapt the wage and benefit levels to that which the page 78-carrier's operations can sustain—if the Special Board, in accordance with the procedures established in this resolution, were to find that such a modification was in order. Similarly, it is my understanding that if the Special Board so finds, it would have authority to refer the matter of adaptation of these provisions to the carrier's financial circumstances to binding arbitration should the Board believe that such a procedure is appropriate.

I ask my friend from the State of Massachusetts if my understanding is correct.

Mr. KENNEDY. The understanding of my friend from Utah is correct, and I might add that I know this is also an issue of particular concern to our colleague on the Labor and Human Resources Committee, Senator BINGAMAN, who has spoken with me about his concerns.

Under this legislation the Special Board would have authority to adapt the recommended wage and benefit levels to fit the individual circumstances of the carrier, if the Board in accordance with the procedures we have established were to find that the evidence submitted to the Special Board so warrants. Further, as the gentleman states, if the Special Board finds that the appropriate process to accomplish such an adaptation is a separate binding arbitration process, the Board could so provide.

We are also concerned that page 78 of the report not become a loophole used to evade or delay payment of the recommended benefit levels by carriers who do not fit the page-78 description and who have not engaged in the negotiation process contemplated by page 78. The PEB recommended that any carrier seeking relief under page 78 engage in bargaining with its unions to attempt to adapt the recommended wage and benefit levels to its individual circumstances. It is our understanding that only one carrier has attempted to do so. It is our understanding that only one carrier notified its unions of its intent to seek relief under page 78; only one carrier has actively engaged in negotiations to that end; and, only one carrier was identified in the formal communication to the unions on this issue by the National Railway Labor Conference. I ask unanimous consent that a copy of the Railway Conference's letter of April 8, 1991, on this point be printed in the RECORD. It is our view that only one carrier has acted in compliance with the PEB's requirements regarding page 78, and thus only one carrier has preserved its rights under the provision.

Mr. HATCH. I thank my good friend.

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

NATIONAL RAILWAY LABOR CONFERENCE,
Washington, DC, April 8, 1991.

Messrs. R.I. KILROY, V.M. SPEAKMAN, D.C. BUCHANAN, DONALD CARVER, W.G. FAIRCHILD, MAC FLEMING, F.A. HARDIN, R.J. IRVIN, C.W. JONES, E.P. MCENTEE, L.D. MCFATHER, J.L. WALKER.

GENTLEMEN: This is to inform you that the National Railway Labor Conference fully supports the findings and recommendation in Emergency Board Report No. 219 contained on page seventy-eight as follows:

"It is clear that the retroactive payment which will be recommended, as well as the general wage increases proposed, may be larger than one or two carriers can reasonably afford. If that is the case it will be up to the Carrier involved to show the Brotherhoods the particular economic facts on which it relies and which make the Board's recommendations impracticable. The Board anticipates that the Brotherhoods would sympathetically examine the situation and take into account that a delay or even denial of a retroactive wage payment and/or immediate wage increase may be more desirable than the uncertainty and possible loss of jobs that the inability of a railroad to meet its financial obligations would entail. It is up to the parties, in other words, to adapt the Board's recommendations to the particular circumstances present on each railroad."

The conference understands this language to have vitality and meaning. The conference is further aware that the Southern Pacific Lines carriers have made known to you their position that the language quoted is applicable to them. We support the right of a carrier (believing the language quoted to be applicable to it) to follow the procedures suggested by that language and to obtain a remedy(s) consistent with that language and its spirit and intent.

Very truly yours,

C.I. HOPKINS, Jr.

Mr. DOLE. Mr. President, I would like to express my strong agreement with the colloquy of my good friends, the Senators from Utah and Massachusetts, regarding adaptation of the PEB-recommended wage and payment levels to the particular circumstances of a carrier which cannot afford the PEB-recommended levels. I believe this is absolutely vital to the shippers, rail workers and citizens of my State and indeed to the Nation's transportation system as a whole.

It would be a grave error if this Congress were to impose upon any carrier wage and benefit levels that its operations cannot sustain and which could indeed contribute to financial failure. I look forward to the Board's careful examination of this and other matters within the scope of its mandate.

Mr. HATCH. Mr. President, once again this is an effective resolution of what has been a horrendous problem. I think everybody concerned deserves a great deal of credit for it.

Again, I just want to thank my great colleague from Massachusetts for the work he has done, for the efforts he has made, and for the energy that he has expended on this matter. And, frankly, without him, it would not have happened. That is true of a number of other people as well.

Certainly, I want to pay specific tribute this evening to this Senator at 11:30 p.m., and we are anxious to get this down to the President for his signature so that this matter will be ended and we can go about our country's business and, hopefully, get the country back on its feet again.

Mr. KENNEDY. Mr. President, the Senator from Utah has been typically kind and generous in mentioning a number of members of our staff on our side of the aisle who are indispensible.

I, too, want to underline the yeoman service of Sarah Fox of the Labor and Human Resources Committee, who recently joined our committee and has really been enormously valuable and helpful and dedicated, and has done extraordinary work; Jim Brudney and Al Cacozza, of Senator METZENBAUM'S staff, and Bob Carolla of Senator MITCHELL'S staff, who were involved in all of the negotiations and have provided invaluable assistance; and Sharon Prost, of Senator HATCH'S staff, who has been enormously effective and valuable in helping us to shape this bipartisan legislation, with Jim McMillan of the minority leader's staff.

I would also like to thank Paul Donovan, Lorrie McHugh, Nick Littlefield, Gary Hernberg, Suzanne Butler, and Esther Higginbotham for all their hard

work in connection with this issue. I think this is, as I mentioned earlier, a fair and just conclusion.

Mr. METZENBAUM. Mr. President, I rise to support this emergency resolution that creates an orderly, balanced process to resolve the current dispute between railway labor and the national freight carriers. This resolution represents the culmination of long hours of bipartisan negotiation between both Houses of Congress and the administration. I want to applaud the leadership of Senators KENNEDY, HATCH, MITCHELL, and DOLE, along with Chairman DINGELL and Secretary Skinner, who have worked tirelessly to craft the resolution.

This consensus resolution embodies two crucial principles. First, it fulfills our duty to the public to minimize the dramatic economic impact of a national railroad shutdown by ordering the parties back to work immediately. At the same time, it respects the principle of collective bargaining by establishing a process that I believe could result in mutual, voluntary agreements by the parties to this dispute. Everyone agrees that such a result is preferable to Congress precipitously short-circuiting the bargaining process by prematurely imposing a contract.

The resolution provides a new Special Board to help the parties narrow their remaining differences. Both sides should try to settle their differences voluntarily to avoid the uncertain rulings of this new Board. But each party will have the option to be heard by this new Board on the remaining areas of true disagreement. After a period of 65 days from the time this new Board is appointed by the President, if the parties have not reached a voluntary agreement, then and only then, the final determination of this new Board will be imposed on the parties. This imposition will be automatic without need for further action by Congress or the President.

Mr. President, this is a compromise. I would have preferred not to allow any bypass of the collective bargaining process. But given the urgency of this situation, I accept the need to enact this resolution on an expedited basis, I urge my colleagues to support this fair, balanced resolution.

ORDERS FOR TOMORROW

Mr. KENNEDY. Mr. President, I ask, on behalf of the majority leader, unanimous consent that when the Senate completes its business today, it stand in recess until 9:30, Thursday, April 18, that following the prayer, the Journal of proceedings be deemed approved to date; that there then be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein; that the time from 9:30 a.m. to 10 a.m. be under the control of the majority and the minority leaders; and that the time from 10 a.m. to 11 a.m. be under the control of the majority leader or his designee; and that at 11 a.m. the Senate stand in recess until 12 noon.

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

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, and if the acting Republican leader has no further business, I ask unanimous consent the Senate stand in recess, as under the previous order, until 9:30 a.m., Thursday, April 18.

There being no objection, the Senate, at 11:30 p.m., recessed until Thursday, April 18, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 17, 1991:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DAPHNE WOOD MURRAY, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1995, VICE BEVERLY FISHER WHITE, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CARL E. VUONO, xxx-xx-x... U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE ARMY AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 3033:

TO BE CHIEF OF STAFF OF THE ARMY

To be general

GEN. GORDON R. SULLIVAN, xxx-xx-x... U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

ROBERT J. ABBLITT, xx...
MICHAEL P. ABRAHAM, x...
KEVIN P. ADAMS, x...
RICHARD C. ADAMS, x...
LEROY R. ALBRIGHT, xx...
JOHN J. ALLEN, x...
KATHRYN A. ALLEN, xx...
TRAVIS M. ALLEN, xx...
GEORGE S. AMLAND, x...
FRANK K. ANDERSON, JR., x...
HOWARD W. ANDERSON, JR., xx...
KEITH R. ANDERSON, x...
TERRY N. ANDERSON, xx...
BRUCE J. ANICH, x...
MICHAEL S. ARCHER, xx...
WALTER H. AUGUSTIN, xx...
BRUCE A. AVERITT, xx...
RONALD F. BACZKOWSKI, xx...
KURT A. BADEN, x...
GREGORY P. BALZER, x...
GEORGE N. BAMBROUGH, JR., x...
JOHN N. BARCLAY, x...
HOWARD F. BARKER, x...
ROBERT H. BARROW, JR., x...
WILLIAM L. BARTELS, II, xx...
GREGORY A. BASS, xx...
MARK H. BEAN, x...
MARK L. BEBO, x...
DAVID R. BECKER, x...
DAVID M. BELL, x...
WILLIAM S. BENNETT, xx...
DAVID W. BERKMAN, xx...
RANDALL E. BERNARD, xx...
DAVID A. BETHEL, x...
ROBERT R. BICKEL, x...
DEBRA M. BIELY, xx...
CHRISTOPHE H. BIGGS, x...
KEITH A. BIRKHOLZ, xx...
ELVIS E. BLUMENSTOCK, xx...
MICHAEL S. BOHN, xx...
EUGENE L. BOLEY, xx...
MICHAEL S. BONEM, x...
JOHNNY D. BORJA, xx...
VINCENT P. BOUSA, x...
TONI G. BOWERS, x...
GREGORY D. BOYD, x...
FRANK R. BOYNTON, xx...
STEPHEN D. BRAAM, xx...
KENT W. BRADFORD, x...
SCOTT G. BRADLEY, x...
RONALD R. BRASSARD, x...
MICHAEL J. BRENNAN, xx...
STEVEN J. BRENNAN, xx...
ROGER C. BRENT, x...
BROOKS R. BREWINGTON, xx...
MICHAEL M. BROGAN, xx...
MICHAEL F. BROOKER, x...
JEROME W. BROWN, JR., x...
STEPHEN E. BROWN, xx...
PHILIP R. BROWNING, xx...
JAMES F. BROWNLOWE, xx...
JOHN J. BRYANT, xx...
PAUL A. BRYGIDER, xx...
WILLIAM H. BUCKEY, xx...
EDWARD C. BUCKNER, x...
ROBERT C. BURGE, x...
MARK A. BURGER, x...
DONALD M. BURLINGHAM, x...
JOHN R. BURNETTE, x...
JEFFERY L. BUSH, xx...
LARRY R. BUYNAK, xx...
BARETT R. BYRD, xx...
SCOTT R. CAMPBELL, xx...
SCOTT T. CAMPBELL, xx...
SHAWN E. CARR, xx...
STEPHEN D. CHACE, xx...
THOMAS M. CHANEY, xx...
MICHAEL A. CHENGERY, x...
FRANCIS W. CHESNEY, x...
PHILIP G. CHURCHILL, II, xx...
DON D. CLINE, x...
NORMAN R. COBB, x...
DAVID D. COBERT, x...
MARK W. COCHRAN, x...
PATRICK COFFEY, x...
JOSEPH M. COLE, xx...
JOHN T. COLLINS, x...
DANIEL J. CONN, x...
KEVIN E. CONYERS, x...
WILLIAM C. COOK, x...
STEPHEN B. COOPERIDER, xx...
BRADFORD T. COPPOCK, x...
GREGORY V. CORBETT, x...
BRIAN T. COSTELLO, x...
STEPHEN R. COTE, x...
PETER J. COTSONAS, x...
ROBERT A. COTTERELL, xx...
RICHARD E. COYLE, JR., xx...
PETER B. COZ, x...
LYLE M. CROSS, xx...
CHARLES A. DALLACHIE, xx...
DAVID F. DAMBRA, x...
RAYMOND C. DAMM, JR., x...
PAUL J. DAVIDOVICH, x...
KEITH T. DAVIES, xx...
CLAUDE H. DAVIS, III, x...
JON M. DAVIS, xx...
MICHAEL J. DEAN, x...
RAYMOND F. DEATHERAGE, x...
MICHAEL H. DECKER, x...
JEAN C. DERESCHUK, xx...
GILBERT DESROCHES, x...
JOHN P. DIFFLEY, xx...
PAUL E. DIMARCO, xx...
JOHN K. DODGE, x...
JAMES M. DOLL, xx...
JOHN D. DONAHUE, xx...
JOSHUA W. DORSEY, I, x...
FRANK H. DUCKWORTH, JR., xx...
RICHARD D. DUDLEY, x...
JAMES C. DUNCAN, xx...
EDWARD T. DUNLAP, xx...
MICHAEL G. DUNNAGAN, x...
JOHN J. DUPRAS, xx...
WILLIAM O. DWIGGINS, xx...
ANDREW P. DWYER, xx...
KARL S. ELEBASH, III, x...
MICHAEL B. ELKO, x...
DONALD M. ELLIOTT, x...
JAMES J. EMERSON, xx...
ANDREW D. ENGELKE, x...
ANGELA F. EPPS, xx...
DAVID W. ESTRIDGE, x...
JOHN E. EVANS, x...
JOHN F. FELTHAM, xx...
ROBERT A. FITZGERALD, JR., xx...
PAUL D. FLOWER, x...
STEPHEN A. FOGLIO, xx...
JOHN D. FOLDBERG, x...
GARY F. FORJAN, xx...
ERNEST H. FORNI, III, xx...
KEVIN B. FOSSETT, x...
STEVEN L. FRANKLIN, x...
KEVIN F. FREDERICK, x...
LEE P. FUTCH, xx...
JOHN E. GALLI, x...
THOMAS B. GALVIN, x...
MARK E. GANDER, xx...
STEPHEN T. GANYARD, x...

MICHAEL A. GARRISON
STEVEN L. GAUDREAU
STEPHEN L. GEIGER
MICHAEL D. GEORGE
THOMPSON A. GERKE
PAUL C. GIBBONS
STEPHEN V. GIUSTO
WILLIAM W. GO
PATRICK R. GOOD
TIMOTHY R. GOSSETT
PATRICK J. GOUGH
JOHN S. GRACZYK
DAVID J. GRECO
DAVID L. GREENFIELD
FREDERICK R. GRIGGS, II
GREGORY W. GROVE
RICHARD W. GUIDRY
DAVID H. GURNEY
ANDREW S. HAEUPTLE
JOHN W. HALINSKI
DARREL L. HANDGRAAF
WILLIAM E. HARRIS
GORDON E. HARTWAY, II
CALVIN E. HASTINGS
MARK R. HAUCK
MANTFORD C. HAWKINS, II
STEPHEN D. HAWKINS
ERIC HEIDHAUSEN
JOSEPH A. HEINS
HUGH A. HENRY
GARY B. HERBOLD
EUGENE A. HERRERA
CLIFFORD D. HESTER, JR.
CHAD W. HOCKING
MELINDA HOFSTETTER
WILLIAM P. HOLOWECKI
TIMOTHY W. HOONAN
JAMES E. HORR, JR.
GREGG H. HORSTMAN
RICHARD G. HOUCK
RAYMOND W. HOWER
STEPHEN P. HUBBLE
CARL F. HUENEFELD
NORA S. HUETE
PAUL D. HUGHES
KENNETH S. HUNTER
GARY R. IBANEZ
DONALD M. INGRAM
TIMOTHY J. JACKSON
KENNETH E. JACOBSEN
BRIAN J. JAMES
JAMES F. JAMISON
MITCHELL A. JAURENA
CARL J. JENKINS
RUSSELL I. JONES
JAMES C. JUMPER, JR.
JOEL P. KANE
MARK M. KAUZLARICH
PATRICK A. KELLEHER
DAVID A. KELLEY, JR.
MICHAEL A. KELLEY
JAMES A. KESSLER
BRUCE R. KIME
ROBERT F. KLUBA, JR.
RALPH H. KOHLMANN
LEE KORZAN
BRUCE T. KOWALSKI
JOHN T. KRAUSE
DAVID W. KUEHN
DWIGHT S. LADA
GARY A. LAMBERTSEN
FRANK R. LAWSON
ODIN F. LEBERMAN, JR.
WILLIAM J. LEITHEISER, JR.
CLARKE R. LETHIN
DOARIN R. LEWIS
CARL A. LEWKE
MICHAEL A. LHEUREUX
DENNIS M. LINDBERG
THOMAS J. LINDBLAD
PHILIP A. LINDEMAN
STEPHEN L. LITTLE
SCOT D. LLOYD
MATTHEW G. LOGSDON
EDWARD W. LOUGHRAN
JOHN A. LOWE
JAMES W. LUKEMAN
JEROME M. LYNES
WILLIAM R. LYON, JR.

CHARLES J. MAGILL
JEAN T. MALONE
RICHARD V. MANCINI
BRIAN MANTHE
JOEL A. MARQUARDT
JONATHAN B. MARTIN
KENNETH B. MARTIN
STEVEN P. MARTINSON
ALEXANDER V. MARTYNENKO
DEAN H. MARVIN
ROLAND L. MASSEY
MICHAEL C. MAYNARD, JR.
EUGENE T. MCBRIDE
PAUL T. MCBRIDE
DANIEL C. MCCARRON
PETER G. MCCARTHY
GARY K. MCCOWEN
JAMES E. MCCOWN, III
STEPHEN C. MCCULLEY
WILLIAM F. MCEVOY
DESMOND P. MCGLADE
MICHAEL J. MCGRATH
STEVEN J. MCGRATH
PAUL D. MCGRAW
DANIEL E. MCGUINNESS
FRANKLIN D. MCKINNEY, JR.
JOHN D. MCMASTER
CHRIS D. MCMENOMY
JAMES F. MCNEIVE
TIMOTHY L. MECOMBER
JAMES E. MEYEN
DWAIN A. MEYER
STEPHEN N. MIKOLASKI
GEORGE F. MILBURN, III
WALTER L. MILLER
GREGORY K. MISLICK
GREGORY T. MITCHELL
MARK E. MONROE
GARY W. MONTUORI
DANIEL E. MOODY
CHRISTOPHE M. MOONEY
TERRY M. MOORES
JOSEPH A. MORTENSEN
HUEY D. MOSER, JR.
BOBBY A. MOSLEY
MATHEW D. MULHERN
CHRISTOPHE U. MULHOLLAND
WILLIAM L. MUNCK
DWIGHT A. MUNDY
JOHN D. MURPHY, JR.
JAMES T. MURTHA
SCOTT L. NELSON
OBRENE L. NEWMAN, JR.
LAWRENCE D. NICHOLSON
DONALD A. NIESEN
MARK L. NOBLIT
CARLOS I. NORIEGA
HERBERT A. OAKES, JR.
GORDON P. OBERMUELLER
PATRICK W. OBRYAN
CHRISTOPHE L. OCONNOR
ANDREW W. ODONNELL, JR.
DENNIS P. ODONOGHUE
MICHAEL B. OHARA, JR.
GARY R. OLES
MARK T. OLSEN
MICHAEL S. ONEIL
REUBEN A. PADILLA
GUS E. PAPAGOLOS
LEON M. PAPPA
PAUL E. PAQUETTE
RICHARD L. PARK
THOMAS G. PEERY
RICHARD J. PETROFF
BUDDY L. PEYTON
WILLIAM J. PHILBIN
TIMOTHY A. PHILLIPS
THEODORE L. PLAUTZ
CURTIS J. POWELL
THOMAS A. PROGAR
CHRISTOPHE F. PSILLAS
DONALD J. PUTNAM
RAYMOND R. PUTNAM
WALTER J. QUINLAN
CHARLES H. RADERSTORF
CARL K. RADFORD
ROBERT W. RALL
HENRY G. RAUM
DENNIS W. RAY

CONSTANCE A. REEP
DAVID A. REICHERT
DAVID C. REINAMAN, II
EDWIN S. RENEGAR
BRUCE A. REXROAD
WILLIAM E. RIDENOUR, II
DAVID A. RIEDEL
JAMES E. RILEY, JR.
NORMAN J. ROBISON
JOSEPH C. RODGERS, JR.
MURRAY O. ROE, JR.
VICTORIA J. ROSE
CRAIG D. ROSS
JAMES G. ROUSE
WILLIAM A. RUDOLPH
MARK J. RUGER
JOHN R. RUNNING
BEVERLY J. RUNOLFSON
TERRY M. RYAN
THOMAS M. RYCHLIK
DENNIS G. SABAL
MICHAEL B. SAGASER
CECIL R. SAMSON
EMILE E. SANDER, I
FRED H. SANFORD
JEFFREY M. SANKEY
ANTHONY L. SAUNDERS
MICHAEL L. SAUNDERS
SHEILA M. SCANLON
BRET D. SCHOMAKER
KEVIN M. SCOTT
MICHAEL W. SCOTT
STEPHEN M. SHEEHAN
CARLYLE E. SHELTON
KEITH C. SHULTIS
MICHAEL P. SLATER
RICHARD S. SLATER
DALE M. SMITH
DAVID E. SMITH
RASLER W. SMITH
RICHARD E. SMITH
MARCUS SNEED
STEPHEN L. SPEHN
THOMAS R. SPENCE
LEE A. STEBBINS
THOMAS G. STEIN
JOHN A. STEWART, III
PETER K. STINGER
JAMES H. STROUP
MARK P. STUCKY
KEITH M. SWEANEY
WILLIAM H. TAGGART
JEFFREY G. TAWEEL
GARY S. TEPERA
CHARLES T. THOMPSON
KEITH B. THOMPSON
KENNETH J. THOMPSON, JR.
MARK H. TRIPLETT
GREGORY A. TRUBA
CRAIG A. TUCKER
CECIL G. TURNER
THOMAS S. ULLRICH
DAVID K. UNDELAND
ANTHONY J. VERDUCCI
JOHN A. VILLALTA
JEFFREY S. VOGEL
PATRICIA J. VOGLER
RONALD E. VONLEMBKE
ROBERT E. WALDEN
MICHAEL A. WALLACE
JEREMIAH J. WALSH
STEVEN L. WALSH
STANLEY H. WATKINS
WILLIAM J. WEISS, JR.
FRED WENGER, III
MARK E. WHEELER
ROBERT F. WHEELER
FREDERICK J. WHITTLE
WILLIAM W. WIGGINS
DAN B. WILLIS
MARY P. WILLIS
ROBERT E. WILSON, JR.
SANDRA L. WILSON
ERIK M. WOLF
MARK F. WOOD
MICHAEL D. WYKOFF
KAY L. YOUNG
WALTER T. ZABICKI
ROBERT M. ZEISLER

HOUSE OF REPRESENTATIVES—*Wednesday, April 17, 1991*

The House met at 10 a.m.

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

As we pray each day for justice in the affairs of people, we remember particularly the hostages who are denied the freedoms that are their rightful heritage. Our earnest petition, O gracious and loving God, is that people will be moved by Your spirit of reconciliation and peace so that the hostages will again know the security and warmth of their own lands and their own families. May Your presence and Your abiding spirit be with them and be their hope and strength this day and every day. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nebraska [Mr. BARRETT] please come forward and lead the House in the Pledge of Allegiance.

Mr. BARRETT led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 740. An act to provide a new civil cause of action in Federal law for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against United States nationals.

The message also announced that, pursuant to section 1024, title 15, of the United States Code, the Chair, on behalf of the Vice President, appoints Mr. SMITH to the Joint Economic Committee.

REPRESENTATIVE WILLIAM NATCHER: A NATIONAL TREASURE

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

Mr. MAZZOLI. Mr. Speaker, it is very rare when we uncover one national treasure within a week, but here we have uncovered two national treasures within 1 week. The first, an early copy of the U.S. Constitution, was found affixed to the rear of a picture bought at a flea market sale, and the second national treasure, uncovered just yesterday in the Washington Post, is the dean of the Kentucky congressional delegation, Congressman WILLIAM NATCHER. BILL NATCHER, my friend for these past 20-plus years, has served this Congress well. He is notable for the fact that since 1953 when he first walked into this Chamber, he has never missed a vote or a quorum call; but we who know him better know that his record goes beyond not missing votes. It is a positive record of civility, of decency, of competency, of courtliness, in the way he handles his responsibilities.

The only thing that I would say negative about the gentleman from Kentucky [Mr. NATCHER] is that he always comes to the floor so elegantly clothed and so perfectly suited, so elegantly shod, that he makes all of us by contrast look disheveled, really quite messy and in disrepair.

But, with that sole exception, everything about the gentleman from Kentucky [Mr. NATCHER] is wonderful and positive, and we in the Kentucky delegation are very proud to share our national treasure with the United States and the world.

I am including the Washington Post article which profiles BILL NATCHER at this point in the RECORD:

[From the Washington Post, Apr. 17, 1991]

CONGRESSMAN NATCHER, PRESENT ON ALL COUNTS—THE KENTUCKY OCTOGENARIAN'S VOTING VIGOR

(By Lois Romano)

In a world of excesses, he is a man of unheralded self-restraint. In a congressional atmosphere of frenetic fund-raising, surplus staff and haphazard attention to substance, he is a paradigm of order and control.

There is no one left on the Hill like him: "When I first got here 37 years ago, I was number 435 out of 435," says Congressman William Natcher. "I looked around the House floor and thought, 'None of you are ever going to die and none of you are ever going to retire.' Now, here I sit."

Where the gentleman from Kentucky sits is fourth from the top in the House of Representatives—in terms of both age and seniority. At 81, he is one of the most powerful members of Congress as evidenced by the $200 billion purse he controls as chairman of the labor, health and human services and education subcommittee of the House Appropriations Committee.

He is a throwback to a time when seniority meant something, when a campaign could be paid for with a Texaco credit card, and roll calls weren't parliamentary weapons used to keep members in Washington.

That this Democratic representative has, for nearly four decades, made a total of 16,883 votes and quorum calls, paid for every campaign out of his own pocket and rarely uses more than a third of the congressional allowance provided to hire staff, is no small feat. He is the lone member of Congress who can boast as much.

"When I talk to new members I say to them maybe it's better in the beginning to miss one vote that isn't so important," says the member who has missed not a one. "I say to them I don't advise you to do this. When you've been here as long as I have and never missed a day or a vote, it's right around your neck."

He is a sweet and courtly man, who although revered by his congressional colleagues commands little attention off the Hill. "He fits the part of the congressman from the tip of his polished black shoes to the top of his white hair," says Vic Fazio (D-Calif.), a member of the Appropriations Committee.

"The ultimate Southern politician," adds Dennis Eckart (D-Ohio). "I assure you he knows every member's name."

"He's so identified with the institution and all that's good about it," says Mary Rose Oakar (D-Ohio), who became the first woman to sit on the gym committee that Natcher chairs.

The worst that is said about the man amounts to this: He is stubbornly practical about getting his massive appropriations bill—a prime target for wild-card funding amendments—through the Congress and past the White House. No horse trader, he. This singlemindedness, it is said, makes him rather inflexible when it comes to earmarking new or controversial monies, such as abortion funding. And predictably, he manifests his time-earned eccentricities.

Hearings start at 10 a.m. sharp, adjourn at noon and restart at 2 p.m. No exceptions. "And when you're interested in a particular project," advises one staffer, "you better not leave to go to the bathroom—he stops for no one. That old man will sit there during a mark-up in 100-degree weather in his three-piece navy suit till 8 o'clock at night without moving. And you better stay real close to him or you'll lose whatever it is you want."

He has saved about 16,000 pieces of mail sent to him over the years, and refuses to relinquish them to House storage rooms. They are packaged in brown paper and piled in a closet in his office, which he proudly shows off. "I have 200 letters from presidents," he says, as well as letters from "Tony Randall, Lynda Carter and Bob Hope. . . . I keep the originals." He also collects gavels, porcelain bells and replicas of White House china. His office looks like the Mount Vernon gift shop.

He has never cared to deal with the media, not during his campaigns, or his years as the

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controversial chairman of the District of Columbia appropriations subcommittee when he intermittently held up Metro funding, or through recent time when he has been sought out for friendly stories. He agreed to chat for this piece, but when the interview was abruptly interrupted by—what else—a roll call, Natcher refused to speak to the reporter again. "I believe we're finished," he said crisply when approached after a hearing.

Nonetheless, for an enlightening 15 minutes he shared his philosophy and thoughts about the job he loves. There is something so poignant, even sad, about how this man defines his life, his loves, his losses, his universe, through his perfect voting record.

He says he had not realized he was voting at 100 percent until 1958, five years into his tenure, when a clerk phoned him to inform him. "Ever since then, I made up my mind I'd see where I could take it," he says.

He takes no chances with his vote. He enters the electronic voting card he carries in his wallet not once, as required, but five or six times at different stations on the House floor. "Then I ask the floor clerk to check to make sure it took," he says. "I sat there one day and watched one of my colleagues vote—and we sat and waited for the light to go on [next to his name on the board] and it never did."

He says he has had "a thousand narrow escapes" but will only speak of one.

When his wife of 53 years passed away in January, he says, he simply accepted the fact that he would miss his first roll call vote. "I just said to myself, 'Well, this is it,'" he says with resignation. "I just made up my mind to the fact. . . ."

There was the Monday he needed to fly his "beloved Virginia" to her final resting place in Kentucky. There was the day of viewing at the funeral parlor. And finally, there was the burial itself, scheduled for a Thursday that the House was in session. "I would have missed five votes that day," he recalls with precision.

But, he says, the days seemed to break his way and the services were delayed because the six grandchildren could not make it to Kentucky in time. "But I had some help," he says, pointing skyward. "I guess it was just meant for me not to miss a vote."

"People just don't realize how extraordinarily easy it is to miss a vote," says Rep. Tom McMillen (D-Md.), who has himself made the effort to maintain a perfect voting record since his 1986 election. "You can't undervalue his accomplishment. . . . It will never be duplicated. I've already told myself I am not going to go crazy when I miss my first vote."

There are other disciplines too. Natcher still swims aggressively in the House gym several times a week. Every day the House is in session, he keeps a journal, which he has locked away somewhere. Once a year he pulls the bound books out of their sanctuary and invites a photographer to memorialize the occasion. There are 52 volumes now. "I dictate and then have it typed on the finest bond I can find," he explains. "I put it down just like it happens every day. It takes some doing. You have to be right well organized."

And he writes religiously to each of his grandchildren weekly. While all receive identical letters, he is quick to note that no one receives a copy. "I started it when they were born—wrote to welcome them," he says. "And kept on going. Every week."

A staff of "five ladies"—his words—helps him with his obsessions. "I dont' have any need for an administrative assistant, a press secretary or a legislative aide," he says flatly. "We get it all done. I don't need to pay any 18 people."

What he does get done with such a low overhead is impressive. As financial puppeteer for some of the most popular and sensitive social programs around—Job Corps, student aid, Social Security administration, biomedical research—he is on the minds of many special interests. Labor groups and universities parade before him, abortion advocates wince at his name, members beg him for pennies.

He listens to all, changes his mind for virtually none.

The job has enormous potential for power brokering. That he doesn't take a dime of campaign money, of course, greatly diminishes the input of lobbying groups who would so like to sway him. "They all come to see me and I hear them out nice," he says. "But this is the best system. My wife—she didn't like the way they did things up here, but she believed you could be in politics and do it right."

To a certain extent, Natcher has tried to preserve the purity of 1953, the year he came to Washington by virtue of a special election. To the amazement—and at times frustration—of his peers, he has never been influenced by the times. He believes he is reelected not because he is so powerful or so smart, but because he effectively does his "duty." He still runs his own reelection campaign, driving himself from event to event. He says his last campaign cost him a little more than $6,000.

The Washington Post files on him overflow with stories about his tightfisted control of the D.C. appropriations subcommittee in the '60s and early '70s. He is legendary for his refusal to release millions in Metro funding—despite public pleas by President Nixon. To Natcher, it was cut and dried: If the local government was not upholding its end of the bargain to improve the highways, it didn't get the money. "It took the combined effort of the White House and the House leadership to get that money finally released," recalls Rep. Dave Obey (D-Wis.), then a junior member of the subcommittee. "If you decide to fight him, you'd better be prepared to pull out all the stops. He believes you can only have one quarterback at a time—and he's it on his committee."

In recent years, liberal House Democrats have been stymied by Natcher's refusal to loosen restrictions for federally funded abortions. (The bill's language for the past decade permits federal funding of abortions only if the mother's life is in jeopardy.) Over his reservations, the House slapped an amendment onto his bill two years ago that would have allowed abortion funding in times of rape or incest. President Bush vetoed the bill, and the House failed to override the veto.

Sources say Natcher remains adamant against introducing such funding into his bill again. But the abortion-rights Democrats still hope to persuade Natcher to give his blessing to an extended floor debate on the matter. "We want an up-or-down vote on this issue," says one such Democrat who did not want to be identified. "But to his practical mind, it's counterproductive to getting his bill passed. Those of his generation simply fail to acknowledge there might be some value in simply making a point."

On other issues of a contemporary nature, however, members say Natcher tries. "I've been badgering him on [funding for] breast cancer research," says Oakar, "and he's really evidenced a desire to learn about the issue."

Says one member of the Appropriations Committee: "You're not going to see him poring over the newest studies on this or that, but he does listen. I mean, he wasn't the last member of the Congress to realize the importance of AIDS research funding."

During the brief interview, Natcher alludes to the time when he might quit the good fight. He says the bells and china in his office would then go to his lone granddaughter. And the gavels and other masculine mementos would be given to the grandsons. He says that upon his retirement, he would also release his prized journals.

And the question is posed: Is he planning to cast his last vote any time soon?

"Oh, no, no," he says, quite astonished by the question. "No plans. No plans at all."

And then, the bell tolls once again for Bill Natcher.

INTRODUCTION OF RESOLUTION CALLING FOR WAR CRIMES TRIAL AGAINST SADDAM HUSSEIN AND IRAQI OFFICIALS

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

Mr. LANTOS. Mr. Speaker, on behalf of the distinguished ranking Republican on the Foreign Affairs Committee, my good friend, the gentleman from Michigan [Mr. BROOMFIELD] and myself, today I am introducing a concurrent resolution calling upon the President of the United States to take action through the United Nations to bring Iraqi officials, beginning with Saddam Hussein, before an appropriate international tribunal to be judged for war crimes and crimes against humanity.

We have seen during the course of recent years, beginning with the gassing of Kurdish citizens of Iraq years ago, Saddam Hussein engaging in a pattern of crimes against humanity, genocide, the mass killing of innocents. Our television screens are filled with children and old people dying of hunger, disease, and cold and persecution and helicopter gunfire.

The 12 nations of the European Economic Community are calling for the same action. It is high time that Saddam Hussein and his henchmen pay for their crimes before an international tribunal properly constituted.1

A CLEAR CHOICE ON BUDGET PRIORITIES

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

Mr. MILLER of California. Mr. Speaker, later today the House of Representatives is going to get a very clear choice on the budget priorities of this Nation. We are going to get an opportunity to vote not only on the resolution presented by the Budget Committee, but also on the resolution that was

sent to this Congress by the President of the United States.

It has been suggested by our Republican counterparts that there is no difference between these budgets, but I think when the Members have a chance to examine these alternatives they will understand that there is a very real fundamental difference between these budgets and the future of this country's children and the future of this country's working men and women in their efforts to support their families, to provide for an education, to achieve health care, and to provide for the safety of their children.

There are dramatic and very substantial differences in the health care of very young children and our ability to fight off infant mortality, to improve the health statistics of young children who have problems in their ability to thrive from the very onset of life in this country.

We have an opportunity in the Democratic budget to reverse those figures, to reverse those declines, to make major commitments for full participation in the Head Start Program, the most successful pre-education program that we have in this Nation, yet only a third of the children who are already eligible without expanding eligibility are able to participate. The other two-thirds fall between the cracks, become far more expensive, and end up dropping out of school. That is the difference in the two budgets.

THE BUDGET AND FAIRNESS

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

Mr. NAGLE. Mr. Speaker, for months now, the pundits have been writing that President Bush really has no domestic agenda.

The pundits are wrong.

The President has a domestic agenda. It is just not one that includes many of America's working families.

Today, this body will consider the President's budget, which is the essence of his agenda. It would cut Medicare; put such rigid restrictions on college student aid that most middle income working families would be excluded entirely, and underfund the war against drugs and crime.

Oh yes. There is one more thing. It also asks—again—that we approve a capital gains tax break for the rich.

Fortunately, the House Budget Committee has drafted an alternative. It protects Medicare. It invests more in education for all Americans; and it provides the funds necessary to obtain the personnel, equipment, and training required to back up all the tough talk against drugs and crime.

And—quite reasonably, in this Member's view—it also asks that the rich pay their fair share.

I congratulate the chairman of the House Budget Committee, Mr. PANETTA, and urge my colleagues to support the committee's budget.

For those who care about fairness and America's working men and women, Mr. Speaker, the choice is clear.

THE RAILROAD STRIKE

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

Mr. TRAFICANT. Mr. Speaker, the railway workers are on strike, and I do not blame them. How would you like to go three years without a pay raise? How would you like to have your seniority stripped away? How would you like to report to work and be told that you are reassigned 1,500 miles away next weekend?

And listen, if you raise your voice, listen to what you are told. You are told, "Look here, Buster, be thankful that you have a job."

The truth is, Mr. Speaker, the American worker is sick and tired of getting the shaft. Their wages have been cut, their benefits have been stripped, their pensions are underfunded, and in some cases they are even taken away, stolen.

□ 1010

Their jobs are shipped overseas, their families are fractured.

But, "Look here, Buster, don't complain, be thankful you have a job."

Ladies and gentlemen, the American workers have but one weapon, and that is to strike, and it is a shame they have to strike, but it is up to labor. Since the air traffic controllers, if organized labor lets the railway workers go down the chute, then there is no one left to help these workers but labor unions.

I am hoping Congress addresses the issues and gives some fairness to the American workers. They sure deserve it.

INTRODUCTION OF BUDGET SIMPLIFICATION AND REFORM ACT

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, once again we in Congress find ourselves standing at the entrance of the budget maze. We have tough battles to fight and difficult decisions to make as we work our way through the twists and turns, toward the goal of achieving a fair and adequate budget solution.

Today, I am introducing the Budget Simplification and Reform Act. This bill attempts to bring some sanity to the Federal budget process. It is my hope that this bipartisan approach will help make our budget process simpler, stronger, and more honest.

Among the ideas included in the bill are limitations on continuing resolutions, an expedited rescission process, and the elimination of the current services baseline. It would also amend congressional budget procedures to provide for a biennial budget and a binding budget resolution.

Under BSRA, all provisions of appropriations bills that benefit 10 or fewer beneficiaries would have to be disclosed. In addition, it would require that both the President and the Congress identify funding sources for any additional Federal spending.

I ask that my colleagues consider this legislation as we work toward reaching an equitable budget solution.

CONGRESSIONAL SUPPORT FOR RECOMMENDATIONS OF KNIGHT COMMISSION ON INTERCOLLEGIATE ATHLETICS

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

Mr. NEAL of Massachusetts. Mr. Speaker, I am sure many of us were enthralled with the NCAA basketball championships. We had the opportunity to watch some very talented men and women play some superb basketball. Now that March madness is over we should do more than cheer for the young men and women athletes at our colleges and universities. May is fast approaching and that brings reality and graduation.

Recently, we have received a copy of "Keeping Faith With the Student-Athlete/a New Model for Intercollegiate Athletics." This report was published by the Knight Foundation Commission on Intercollegiate Athletics. The report focused on the abuses in the college athletic system and the commission devised principles that could correct the situation.

My district is the home of basketball. Just about a year ago, Dr. Edward Steitz passed away and he was commonly referred to as Mr. Basketball. Dr. Steitz was concerned and outspoken about the need for reform in college athletics. If he was here today, I know he would be in support of the Knight commission. Dr. Steitz was the athletic director of Springfield College and Springfield College is an excellent example of college with a strong athletic program that does not sacrifice the integrity of its academic program.

The report by the Knight commission sets forth principles that colleges and universities should follow. I have introduced a concurrent resolution that expresses the sense that Congress supports the recommendations of the Knight commission.

This will send a message to our athletes that we are concerned about them

as individuals. In addition, it will tell universities and colleges that it is time to make a change. I urge you to support House Concurrent Resolution 119. Let us take action before the academic integrity of our universities is sacrificed.

UNITED STATES MUST NOT STAND BY WHILE INTERNATIONAL OUTLAWS COMMIT GENOCIDE

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

Mr. KENNEDY. Mr. Speaker, the world continues to witness Saddam Hussein's annihilation of the Kurdish people. What he has failed to achieve by gassing and bombing, he now tries to accomplish by mass starvation and freezing. No less than 1,000 innocent refugees are dying in the mountains each day. Many, maybe most, of these victims are children under 5 years old.

If the new world order means anything, it is that the United States will not stand by while international outlaws commit genocide.

After urging the Iraqi people to rise up, our President has finally stood up for them. He is to be congratulated for his decision yesterday to provide greater relief and safety to Kurds in northern Iraq.

But our efforts to bring peace to Iraq will not end in a month. Nor will they stop at the 36th parallel. Peace will only come once the Kurds and Shiites can return home without the threat of massacre. And peace will only come once these persecuted peoples have a say in how their country is run.

Mr. Speaker, as the moral leader of the free world, the United States should immediately place before the United Nations a resolution demanding that sanctions against Iraq will not be lifted until the Iraqi people have food, safety, and free elections. That is what our soldiers fought for, that is what the people of Iraq deserve, and that is what it takes to bring real peace and stability to this region.

IN SUPPORT OF THE BRADY BILL

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

Mr. ROEMER. Mr. Speaker, today I rise in support of the second amendment rights, my right, our right to bear arms. I do this with a great deal of thought and concern and have looked at two differing bills. One is the Brady bill, the other is the Staggers bill.

I will support the Brady bill because it does not infringe on my ability to bear arms and to hunt. I did hunt in northern Indiana, growing up, and I want to protect those rights.

But as we debate the budget today, as we debate the budget impact of a bill that might require us to have automatic and immediate control on computers overlooking into people's background, I am not sure we can afford it, timewise or budgetwise.

Also, my constituents sent me here not just to look over the budget and spend our money wisely and prudently, but also for public purposes, not special interests.

Finally, Mr. Speaker, my State, Indiana, has adopted the 7-day waiting period that the Brady bill has recommended. This is a commonsense approach that would provide a consistent State law from one State to the other, which Indiana has already had the consistency and commonsense approach to adopt.

INVESTIGATION INTO THE ADMINISTRATION AND ENFORCEMENT OF U.S. EXPORT CONTROL PROGRAMS

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

Mr. PICKLE. Mr. Speaker, my oversight subcommittee is conducting an investigation into the administration and enforcement of U.S. export control programs. As part of this review, the subcommittee is examining the enforcement activities of the U.S. Customs Service and the Department of the Treasury's Office of Foreign Assets Control [OFAC], which administers trade and financial sanctions against selected foreign countries. The subcommittee will begin hearings on this issue on April 18, 1991.

Last week, OFAC revealed the names of 89 businesses and individuals determined to be agents and front companies in Iraq's arms procurement and financial network. The action taken by OFAC puts the world on notice that when they deal with those designated nationals, they deal with Saddam. The OFAC list will also assist the allied nations in discovering hidden wealth that could be used to pay part of Iraq's war reparations.

The subcommittee's investigation hopes to shed light on who is acquiring sophisticated technology, machinery, weapons, and other dangerous materials, how potential adversaries are able to circumvent U.S. export control laws, and whether improvements can be made to strengthen U.S. export control systems.

We, the United States, sell voluminously. We screen very carelessly.

Mr. Speaker, we have got to change our priorities.

EXTENDING THE APPRECIATION OF CONGRESS TO ALL AMERICAN INDIAN VETERANS FOR THEIR SERVICE IN THE ARMED FORCES

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs and the Committee on Armed Services be discharged from further consideration of the Senate concurrent resolution, S. Con. Res. 22, extending the appreciatiion of Congress to all American Indian veterans for their service in the armed forces of the United States, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

Mr. RHODES. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from California [Mr. MILLER] so that he may explain the purpose of the Senate concurrent resolution.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to bring before the House today this resolution extending the appreciation of Congress to all American Indian veterans for their service in the armed forces of the United States.

American Indians have contributed to all phases of American life, but among their more striking contributions are in the defense of this country. Native Americans have fought in unusually high numbers in every major war in this country's history. Ironically, they were not even made citizens of the United States until 1924.

From the early days of the Revolution to raising the flag at Iwo Jima, American Indians have performed their duties with valor and commitment.

In Operation Desert Storm, American Indians again answered the call. Again they came out in great numbers and some gave their lives to the struggle.

We must remember their courage, sacrifice, and contributions. They are the pride of the Indian nations and great defenders of this Nation.

Mr. Speaker, this resolution extends the appreciation of the Congress to all American Indian veterans. Their contributions and sacrifices have helped preserve democracy and the integrity of this country.

I urge my colleagues to support this resolution.

Mr. KYL. Mr. Speaker, I rise in support of Senate Concurrent Resolution 22, and I wish to join all my colleagues today in commending all American Indian veterans who served in Operations Desert Shield and Desert Storm.

Mr. Speaker, one of the very first casualties of the war was a member of the San Carlos Apache Tribe from my congressional district in Arizona. Pfc. Michael Noline died on January

26 in a collision of two armored vehicles after a combat raid near the Kuwait border. He made the ultimate sacrifice for freedom on that day, a sacrifice this Nation will never forget.

That Private Noline and hundreds of other Indian Americans including Navajo, Hopi, Apache and Pima, served with honor and distinction in the gulf comes as no surprise, for Indian Americans have a long history of serving so ably in defense of this Nation. One of the most notable contributions came during World War II when, using their native Navajo language, the Navajo Code Talkers helped secure communications during war effort. The Navajo language code was never broken, no doubt helping lead the United States to a successful conclusion of that war.

Let us never forget the contributions and sacrifices of our Indian veterans—and all veterans—who served so ably in this most recent conflict, and other conflicts, abroad.

With the passage of this resolution, we say thank you to those who served, to their families, and to the communities that raised them. We are proud of every one of you.

Mr. RHODES. Mr. Speaker, the minority concurs in the Senate concurrent resolution.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 22

Whereas, American Indians, of various Indian tribes across the nation, have a long, proud and distinguished tradition of service in the Armed Forces of the United States;

Whereas, American Indians have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States;

Whereas, American Indians have lost their lives in the service of their nation, and in the cause of peace, including Operations Desert Storm and Desert Shield; and

Whereas, American Indians currently deployed in the Persian Gulf have continued this proud and courageous tradition of service in the Armed Forces of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. APPRECIATION.

The Congress expresses its appreciation to:

(1) all American Indian veterans for their long, proud, and distinguished tradition of service in the Armed Forces of the United States;

(2) all American Indian service men and women currently or heretofore deployed in the Persian Gulf region as part of Operations Desert Shield and Desert Storm; and

(3) the families of American Indian service men and women and members of Indian tribes nationwide who have supported their loved ones through traditional ceremonies and have prayed for the safety and continued strength of all American forces and Allied partners.

SEC. 2. CONDOLENCES.

The Congress expresses its condolences to the families whose loved ones have made the ultimate sacrifice in the service of their nation and in the cause of peace.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

□ 1020

REASONS TO OPPOSE H.R. 5

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

Mr. ROHRABACHER. Mr. Speaker, the American economy, like the American railroad system, seems to be sputtering and almost grinding to a halt, and, when we look at the Federal deficit this year, $350 billion in deficit, we know we have got some serious economic challenges ahead of us.

Mr. Speaker, one thing we cannot do is to ensure that we have a sputtering economy and that our economy begins to grind to a halt like our railroads and other sectors of the economy, and, if we change the work rules so that employees have an incentive to strike, we are going to see strikes like we now see in the railroads spread throughout our economy.

The United States of America cannot, cannot, afford to see our economy go down like this. I am asking my colleagues to join me in opposing the H.R. 5 which would change the work rules and give an incentive to American workers throughout the United States to strike and bring down the American economy.

CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1992

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 123 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution, House Concurrent Resolution 121.

□ 1022

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 121) revising the congressional budget for the U.S. Government for the fiscal year 1991 and setting forth the congressional budget for the U.S. Government for the fiscal years 1992, 1993, 1994, 1995, and 1996, with Mr. GRAY in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, April 16, 1991, all time for general debate had expired.

Pursuant to the rule, the concurrent resolution is considered as having been read for amendment under the 5-minute rule.

The text of House Concurrent Resolution 121 is as follows:

H. CON. RES. 121

Resolved by the House of Representatives (the Senate concurring), That the budget for fiscal year 1991 is revised and replaced, the budget for fiscal year 1992 is established, and the appropriate budgetary levels for fiscal years 1993, 1994, 1995, and 1996 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $793,000,000,000.
Fiscal year 1992: $850,400,000,000.
Fiscal year 1993: $909,800,000,000.
Fiscal year 1994: $966,300,000,000.
Fiscal year 1995: $1,025,700,000,000.
Fiscal year 1996: $1,079,800,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1991: $0.
Fiscal year 1992: $0.
Fiscal year 1993: $0.
Fiscal year 1994: $0.
Fiscal year 1995: $0.
Fiscal year 1996: $0.

and the amounts for Federal Insurance Contributions Act revenues for hopsital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1991: $74,100,000,000.
Fiscal year 1992: $82,100,000,000.
Fiscal year 1993: $88,600,000,000.
Fiscal year 1994: $94,400,000,000.
Fiscal year 1995: $100,600,000,000.
Fiscal year 1996: $107,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,187,500,000,000.
Fiscal year 1992: $1,269,400,000,000.
Fiscal year 1993: $1,272,600,000,000.
Fiscal year 1994: $1,300,900,000,000.
Fiscal year 1995: $1,341,600,000,000.
Fiscal year 1996: $1,407,300,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,155,200,000,000.
Fiscal year 1992: $1,212,500,000,000.
Fiscal year 1993: $1,212,100,000,000.
Fiscal year 1994: $1,234,400,000,000.
Fiscal year 1995: $1,209,100,000,000.
Fiscal year 1996: $1,276,900,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1991: $362,200,000,000.
Fiscal year 1992: $362,100,000,000.
Fiscal year 1993: $302,300,000,000.
Fiscal year 1994: $268,100,000,000.
Fiscal year 1995: $183,400,000,000.
Fiscal year 1996: $197,100,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1991: $3,567,200,000,000.
Fiscal year 1992: $3,993,300,000,000.
Fiscal year 1993: $4,364,300,000,000.
Fiscal year 1994: $4,707,700,000,000.
Fiscal year 1995: $4,966,900,000,000.
Fiscal year 1996: $5,237,700,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995, are as follows:

Fiscal year 1991:

(A) New direct loan obligations, $18,100,000,000.

(B) New primary loan guarantee commitments, $109,900,000,000.
Fiscal year 1992:
(A) New direct loan obligations, $15,400,000,000.
(B) New primary loan guarantee commitments, $114,200,000,000.
Fiscal year 1993:
(A) New direct loan obligations, $15,600,000,000.
(B) New primary loan guarantee commitments, $118,000,000,000.
Fiscal year 1994:
(A) New direct loan obligations, $15,500,000,000.
(B) New primary loan guarantee commitments, $121,400,000,000.
Fiscal year 1995:
(A) New direct loan obligations, $15,600,000,000.
(B) New primary loan guarantee commitments, $125,600,000,000.
Fiscal year 1996:
(A) New direct loan obligations, $14,900,000,000.
(B) New primary loan guarantee commitments, $127,300,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1991 through 1996 for each major functional category are:

(1) National Defense (050):
Fiscal year 1991:
(A) New budget authority, $289,100,000,000.
(B) Outlays, $297,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $290,800,000,000.
(B) Outlays, $295,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $290,900,000,000.
(B) Outlays, $292,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $327,800,000,000.
(B) Outlays, $320,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $341,900,000,000.
(B) Outlays, $333,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $356,600,000,000.
(B) Outlays, $346,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1991:
(A) New budget authority, $20,800,000,000.
(B) Outlays, $17,900,000,000.
(C) New direct loan obligations, $1,600,000,000.
(D) New primary loan guarantee commitments, $7,800,000,000.
Fiscal year 1992:
(A) New budget authority, $21,900,000,000.
(B) Outlays, $17,900,000,000.
(C) New direct loan obligations, $1,700,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
Fiscal year 1993:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $18,100,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $7,200,000,000.
Fiscal year 1994:
(A) New budget authority, $20,900,000,000.
(B) Outlays, $18,400,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $7,500,000,000.
Fiscal year 1995:
(A) New budget authority, $21,700,000,000.
(B) Outlays, $19,400,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $7,800,000,000.
Fiscal year 1996:
(A) New budget authority, $22,600,000,000.
(B) Outlays, $20,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $8,100,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1991:
(A) New budget authority, $16,500,000,000.
(B) Outlays, $15,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $16,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $18,600,000,000.
(B) Outlays, $17,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $18,500,000,000.
(B) Outlays, $18,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $19,200,000,000.
(B) Outlays, $18,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $20,000,000,000.
(B) Outlays, $19,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1991:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $3,100,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1993:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $5,900,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $200,000,000.
Fiscal year 1994:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $5,800,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1995:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $4,900,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1996:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $4,900,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):
Fiscal year 1991:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $18,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $19,500,000,000.
(B) Outlays, $19,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $20,500,000,000.
(B) Outlays, $20,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $22,500,000,000.
(B) Outlays, $21,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $23,500,000,000.
(B) Outlays, $22,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $24,400,000,000.
(B) Outlays, $23,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):
Fiscal year 1991:
(A) New budget authority, $20,000,000,000.
(B) Outlays, $15,400,000,000.
(C) New direct loan obligations, $7,600,000,000.
(D) New primary loan guarantee commitments, $7,800,000,000.
Fiscal year 1992:
(A) New budget authority, $22,300,000,000.
(B) Outlays, $17,000,000,000.
(C) New direct loan obligations, $7,500,000,000.
(D) New primary loan guarantee commitments, $8,200,000,000.
Fiscal year 1993:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $15,500,000,000.
(C) New direct loan obligations, $7,300,000,000.

(D) New primary loan guarantee commitments, $7,600,000,000.
Fiscal year 1994:
(A) New budget authority, $17,500,000,000.
(B) Outlays, $14,500,000,000.
(C) New direct loan obligations, $7,100,000,000.
(D) New primary loan guarantee commitments, $7,800,000,000.
Fiscal year 1995:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $6,800,000,000.
(D) New primary loan guarantee commitments, $7,800,000,000.
Fiscal year 1996:
(A) New budget authority, $14,500,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $6,500,000,000.
(D) New primary loan guarantee commitments, $5,600,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1991:
(A) New budget authority, $97,900,000,000.
(B) Outlays, $112,400,000,000.
(C) New direct loan obligations, $4,900,000,000.
(D) New primary loan guarantee commitments, $64,700,000,000.
Fiscal year 1992:
(A) New budget authority, $105,700,000,000.
(B) Outlays, $104,700,000,000.
(C) New direct loan obligations, $2,600,000,000.
(D) New primary loan guarantee commitments, $66,600,000,000.
Fiscal year 1993:
(A) New budget authority, $57,300,000,000.
(B) Outlays, $53,600,000,000.
(C) New direct loan obligations, $2,700,000,000.
(D) New primary loan guarantee commitments, $69,200,000,000.
Fiscal year 1994:
(A) New budget authority, $39,100,000,000.
(B) Outlays, $30,700,000,000.
(C) New direct loan obligations, $2,800,000,000.
(D) New primary loan guarantee commitments, $71,800,000,000.
Fiscal year 1995:
(A) New budget authority, $21,600,000,000.
(B) Outlays, −$41,400,000,000.
(C) New direct loan obligations, $2,900,000,000.
(D) New primary loan guarantee commitments, $74,500,000,000.
Fiscal year 1996:
(A) New budget authority, $18,500,000,000.
(B) Outlays, −$37,700,000,000.
(C) New direct loan obligations, $3,000,000,000.
(D) New primary loan guarantee commitments, $77,300,000,000.
(8) Transportation (400):
Fiscal year 1991:
(A) New budget authority, $31,200,000,000.
(B) Outlays, $31,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $34,700,000,000.
(B) Outlays, $33,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $37,800,000,000.
(B) Outlays, $35,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $40,500,000,000.
(B) Outlays, $36,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $43,500,000,000.
(B) Outlays, $38,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $46,800,000,000.
(B) Outlays, $39,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1991:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $7,700,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $6,700,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1993:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $6,400,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1994:
(A) New budget authority, $6,800,000,000.
(B) Outlays, $6,500,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1995:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $6,700,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1996:
(A) New budget authority, $7,400,000,000.
(B) Outlays, $6,800,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1991:
(A) New budget authority, $44,200,000,000.
(B) Outlays, $43,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $12,500,000,000.
Fiscal year 1992:
(A) New budget authority, $50,600,000,000.
(B) Outlays, $47,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,200,000,000.
Fiscal year 1993:
(A) New budget authority, $51,600,000,000.
(B) Outlays, $49,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,300,000,000.
Fiscal year 1994:
(A) New budget authority, $50,300,000,000.
(B) Outlays, $49,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,600,000,000.
Fiscal year 1995:
(A) New budget authority, $51,700,000,000.
(B) Outlays, $50,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $14,000,000,000.
Fiscal year 1996:
(A) New budget authority, $53,600,000,000.
(B) Outlays, $47,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $14,300,000,000.
(11) Health (550):
Fiscal year 1991:
(A) New budget authority, $73,100,000,000.
(B) Outlays, $71,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1992:
(A) New budget authority, $83,100,000,000.
(B) Outlays, $83,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1993:
(A) New budget authority, $93,000,000,000.
(B) Outlays, $92,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1994:
(A) New budget authority, $102,700,000,000.
(B) Outlays, $101,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1995:
(A) New budget authority, $113,500,000,000.
(B) Outlays, $112,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1996:
(A) New budget authority, $126,000,000,000.
(B) Outlays, $124,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(12) Medicare (570):
Fiscal year 1991:
(A) New budget authority, $105,700,000,000.
(B) Outlays, $104,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $120,100,000,000.
(B) Outlays, $116,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $131,500,000,000.
(B) Outlays, $128,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $145,700,000,000.
(B) Outlays, $142,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $162,200,000,000.
(B) Outlays, $157,700,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $181,400,000,000.
(B) Outlays, $176,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1991:
(A) New budget authority, $210,900,000,000.
(B) Outlays, $169,800,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $221,900,000,000.
(B) Outlays, $180,100,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $230,300,000,000.
(B) Outlays, $188,500,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $240,400,000,000.
(B) Outlays, $199,100,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $253,900,000,000.
(B) Outlays, $209,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $266,900,000,000.
(B) Outlays, $219,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1991:
(A) New budget authority, $2,300,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $8,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $9,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $9,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $10,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $8,400,000,000.
(B) Outlays, $11,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1991:
(A) New budget authority, $32,200,000,000.
(B) Outlays, $31,200,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $16,000,000,000.
Fiscal year 1992:
(A) New budget authority, $34,400,000,000.
(B) Outlays, $34,000,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $18,200,000,000.
Fiscal year 1993:
(A) New budget authority, $35,700,000,000.
(B) Outlays, $35,900,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $19,800,000,000.
Fiscal year 1994:
(A) New budget authority, $36,800,000,000.
(B) Outlays, $38,200,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $19,700,000,000.
Fiscal year 1995:
(A) New budget authority, $38,100,000,000.
(B) Outlays, $37,900,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $20,500,000,000.
Fiscal year 1996:
(A) New budget authority, $39,100,000,000.
(B) Outlays, $37,600,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $21,300,000,000.
(16) Administration of Justice (750):
Fiscal year 1991:
(A) New budget authority, $12,800,000,000.
(B) Outlays, $12,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $14,300,000,000.
(B) Outlays, $14,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $15,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $14,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $15,700,000,000.
(B) Outlays, $15,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $16,400,000,000.
(B) Outlays, $16,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1991:
(A) New budget authority, $12,600,000,000.
(B) Outlays, $11,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $12,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $14,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $15,800,000,000.
(B) Outlays, $15,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $16,700,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1991:
(A) New budget authority, $219,700,000,000.
(B) Outlays, $219,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $235,400,000,000.
(B) Outlays, $235,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $253,000,000,000.
(B) Outlays, $253,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $268,800,000,000.
(B) Outlays, $268,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $280,400,000,000.
(B) Outlays, $280,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $292,500,000,000.
(B) Outlays, $292,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1991:
(A) New budget authority, −$300,000,000.
(B) Outlays, $800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $0.
(B) Outlays, −$2,600,000,000.

(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $0.
(B) Outlays, −$1,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $0.
(B) Outlays, −$800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $0.
(B) Outlays, −$1,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $0.
(B) Outlays, −$1,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1991:
(A) New budget authority, −$33,700,000,000.
(B) Outlays, −$33,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$32,900,000,000.
(B) Outlays, −$32,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$35,400,000,000.
(B) Outlays, −$36,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, −$80,900,000,000.
(B) Outlays, −$76,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, −$100,500,000,000.
(B) Outlays, −$94,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, −$111,000,000,000.
(B) Outlays, −$100,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

The CHAIRMAN. No amendments are in order except the amendments printed in House Report 102–33, which shall be considered in the order and manner specified in the report, shall be considered as having been read, shall not be subject to amendment or to a demand for a division of the question, and shall be in order even if amending portions of the concurrent resolution already changed by amendment. If more than one amendment in the nature of a substitute is adopted, only the last amendment adopted shall be considered as having been finally adopted in the Committee of the Whole and reported back to the House.

It is also in order to consider any amendment provided for in section 305(a)(5) of the Congressional Budget Act of 1974 necessary to achieve mathematical consistency.

PERFECTING AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer a perfecting amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FORD of Michigan:

Section 2(b) is amended by reducing in fiscal year 1992 the appropriate levels of budget authority and budget outlays as set forth below:

(1) Functional category (300):
(A) New budget authority, $100,000,000.
(b) Outlays, $100,000,000.
(2) Functional category (400):
(A) New budget authority, $100,000,000.
(B) Outlays, no change.
(3) Functional category (750):
(A) New budget authority, $100,000,000.
(B) Outlays, no change.
(4) Functional category (800);
(A) New budget authority, $100,000,000.
(b) Outlays, $100,000,000.

Section 2(b) is amended by increasing in fiscal year 1992 the appropriate levels of budget authority and budget outlays as set forth below;

(1) Functional category (500)
(A) New budget authority, $400,000,000.
(b) Outlays, $200,000,000.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Is the gentleman from Ohio [Mr. GRADISON] opposed to the amendment?

Mr. GRADISON. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Ohio [Mr. GRADISON] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of my amendment to increase budget authority and outlays for function 500 of the budget by $400 million and $200 million respectively and to reduce certain other budget functions by a corresponding amendment; in other words, to add nearly half a billion dollars to the money available to the Committee on Appropriations for education and to pay for that in the budget so that it is budget neutral by reducing other programs, none of which is reduced more than 1 percent.

Mr. Chairman, this amendment is in furtherance of what I have called sincerely this year the home front budget initiative, and we have been working on it since the early part of the year.

The amendment would target additional funding for education and related programs without jeopardizing any of the initiatives agreed to by the Committee on the Budget. Decisions made by the committee in nutrition, health, energy, security, transportation and infrastructure, the elderly, veterans, anticrime, antidrugs, rural poverty, the working poor, and the homeless and competitiveness would not be affected by the offsetting reductions in this amendment.

In a recent column in the Wall Street Journal written after our victory in the gulf, John Akers, the chief executive officer of IBM, Inc., wrote:

As our focus shifts back to the home front, now is the time for an equal commitment to rescue our educational system.

Because of the constraints of the Budget Act, my amendment cannot reduce the defense budget. I want to repeat that. I have already had people say, "You're not taking money from defense for education; are you?" My answer to it is: I wish that I could, but under the rules I cannot do that, so the defense budget is in no way affected by this amendment.

Mr. Chairman, I cannot raise taxes to pay for the budget, although I am required to give my colleagues a budget neutral amendment, and that is why it is necessary to selectively reduce other programs to pay for it.

A truly equal commitment would mean that this administration would ask the Congress to declare a national education emergency and provide off-budget funding for our programs. That is what we did in the Middle East. We declared an emergency, and took it off budget, and we did not have to go through this exercise. A majority of us are not ready to scrap the Budget Act, so my amendment is the best we can do.

I want to reassure the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA], that I think that, given the constraints that they have operated under as a result of last year's budget agreement, they have done as well as anybody could expect. What this amendment seeks to do is not to criticize the actions of the Committee on the Budget; in fact we try to stay consistent with the Committee on the Budget. I should make it clear on the record that this amendment employs the same methodology as the Committee on the Budget in reducing noninitiative discretionary domestic funding by 1 percent in order to provide the $400 million.

Mr. Chairman, the protected initiatives that were set out by the Committee on the Budget are still protected in this amendment. In other words, in fuction 300, the 1 percent reduction does not apply to EPA operations, superfund, land acquisition through the land and water conservation fund. In function 400, the 1 percent reduction

does not apply to aviation, Federal aid to highways, mass transit and Amtrak. In function 750, the 1 percent reduction does not apply to antidrug abuse programs, anticrime programs or the Legal Services Corporation. Finally, in function 800, the 1 percent reduction does not apply to the Internal Revenue Service.

With that in mind I believe the issue is simple. No other domestic priority is in my mind more important than education. Everybody talks a good game about how much we recognize the need to move, to move decisively, to move boldly, and to do it quickly, and this is the quickest way that we can respond to the cry that is across the country for us to show that we are willing to do something.

Tomorrow many of us have been invited to the White House to join the President when he will publicly announce what is indicated to us by the White House press as a major initiative in education, an indication that, as he turns now from problems in the world arena to the domestic problems of this country, he turns first for his attention to the focus on education, and we welcome that, and we are looking forward to working with him on it.

□ 1030

I believe that the Congress today, since the budget is before us, can, consistent with that thought, indicate that we believe education to be such an important priority in our country that we are willing to take a little bit away from a lot of discretionary programs and put this additional money in education. We must be fair to the Budget Committee. They had already increased the new money for education by about $2 billion, and this is on top of what they did.

This is an additional amount of new money. When I say it is new money, I mean it is not money we are going to print. It is permitting, under the budget, the Committee on Appropriations to decide the appropriate way to spend an additional $400 million on top of the new money that the gentleman from California [Mr. PANETTA] and the Budget Committee had already suggested in the budget resolution.

I hope that during this debate we will not get into arguments about which way is the best way to spend the money, because neither this amendment nor our action here can bind the Appropriation Committee. The Appropriations Committee will decide where within the function the money is going to be spent.

We are not operating in a vacuum. We have been in consultation with them. We have a pretty good idea where they think the immediate needs are, and where they are likely to do it. I have every confidence in the world that the House is going to be proud of the decisions made by the Appropriations Committee when they come back to us later this year with the appropriation to spend this money, if we make it possible for them to do it.

Obviously the Appropriations Committee will do their own job, but I am going to guess a little bit at some of the things they could do. It is possible to say, although we cannot say with any certainty exactly what they will do, that a $200 million increase in Chapter 1, which is compensatory education for early intervention in children's lives to bring them up to their peer group if they are running behind, will provide services for about 250,000 additional children. This is where you start to stop high school dropouts. You do not do that in high school. You do it in grade school. These are children at risk by everybody's standard. Every evaluation of Chapter 1 shows that these services narrow the skill gap between the children at the bottom of the scale and the rest of us, and that this is where we get the biggest payoff and the biggest bang for our buck.

Another $100 million for Head Start adds 25,000 preschoolers who can be better prepared for the world that they are going to find when they get to school. Children are being raised without a parent in the house during the day and without any preparation to go to school. I am happy to tell you that every evaluation that has been made for many years of Head Start indicates that we have never had a program of school preparation or anything related to education that has had the kind of payoff to the taxpayers that that program has provided.

Now, as little as $50 million invested to expand the TRIO Programs would offer hope of college education for about 75,000 minority high school students. And finally, adding about $50 million to the Job Corps could buy us 2,500 slots for disadvantaged kids who are hanging around on the street corner right now. Investments in the Job Corps have been found by many studies to return to us $1.46 for every Federal $1 that we spend.

The chairman of the Budget Committee, the gentleman from California [Mr. PANETTA], and the members of the Budget Committee are to be commended for taking a step in the right direction in the areas of education and training, identifying those areas among the Nation's most important priorities. Our amendment will allow us to make a slightly greater stride in preparing this country's children for the future, and clearly indicates that it is Congress' intent to join the President in making education our No. 1 domestic priority.

Mr. GRADISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague, the gentleman from Michigan [Mr. FORD]. I want to talk about where we are in considering the funding for education in the fiscal year 1992 budget. No matter what number is proposed by the President, it is reasonable to expect that my friends on the other side of the aisle are going to outbid the administration, and that, of course, was not only predictible, it is exactly what happened. The curse of being President, when it comes to the budget, is that you go first.

That budget was laid on the table for all the world to see on February 4, and there has been plenty of time to look at it and see how to appear to one-up the President. The President, in putting a budget together, had to do something which the country needs but does not always sell here in the House of Representatives, and that is to have a comprehensive budget which has balance among all of the competing claims for funds. After all, this is a zero sum game under the new budget agreement.

Increases in one area obviously require cuts in another. I think it is interesting, therefore, as I listened to the presentation by my colleague, the gentleman from Michigan [Mr. FORD], that while he has said a great deal and very effectively, I might add, about what would be done with this money that he recommends be spent, he has said virtually nothing about where the cuts would come from.

Well, there are cuts, and there are dollar-for-dollar cuts to balance the increases which he has recommended. Those cuts are on top of cuts which the Democratic majority on the Budget Committee has already recommended to fund increases which they have proposed in education and in other areas.

Therefore, I would like to give some specific examples of where these cuts might come from. I listened very carefully to the description of the gentleman from Michigan [Mr. FORD] concerning some of the areas which would not be affected by the cuts within a certain function, but I would like to go further and point out from where these cuts might come.

Under function 300, the natural resources and environment function, there would be cuts in budget authority of $100 million. That could effect protection of endangered species, wetlands conservation and restoration, protection of wildlife refuges, reforestation, protection, and restoration of the Civil War battlefields.

Under function 400, there is an additional $100 million in cuts from budget authority. That, of course, is the transportation function. Programs not protected, that is, exposed and vulnerable to the cuts which the amendment offered by the gentleman from Michigan would require, include the search and rescue missions of the Coast Guard, drug-related missions of the Coast Guard, the Maritime Administration,

NASA's aeronautics program, and the Northeast corridor improvement program.

And in addition to this, another $100 million is called for in cuts from function 750, the administration of justice function. Once again leaving out the things which would be protected under the proposal of the gentleman from Michigan, I note that programs which could be cut—and the cuts have to come from somewhere—include the Immigration and Naturalization Service, drug-related services of the FBI, the Customs Service, nonrelated activities of the Secret Service, and various court and judicial services. I do not know where these cuts that would come later would be made, but I know they are there and it is useful to recognize that fact.

My overall concern about much of the debate about funding for education goes back to the way in which the majority, in its report on the budget, has supported its increases. The focus is entirely on the money side, and I could not find a single word about education reform. Certainly to put more money into education sounds well and good, but to do that without pointing out areas which are indeed crying out for reform in the education system may not have the effect of increasing the quality of education, which, of course, is what we are after.

In my own community—and I say this with great sadness—my constituents have reached the point where they have for the first time in memory turned down the school levy necessary to keep our Cincinnati public schools operating.

□ 1040

Why? As near as we can figure it out, it is a feeling on the part of the taxpayers of the city of Cincinnati School District that they are dissatisfied with the quality of education being offered by those schools. They are dissatisfied with what they perceive to be excessive administrative overhead in the running of our own system. In other words, they do not think they are getting their money's worth. As a result of this, they do not want to pump more money into what is admittedly a very troubled school system.

Mr. Chairman, I think we should listen to people who make these pleas. I just observe again, with a degree of sadness, that there is no mention, really none at all that I have heard, and certainly none that I have read in the committee report, about the need for educational reform as a quid pro quo, or at least a major element in the increased spending that is recommended here.

Mr. Chairman, I am not here to support the Democratic budget. That is not my role, nor should it be. But I think it is useful to make this point: That adoption of the Ford amendment amounts to repudiation of the Democratic budget proposal.

Mr. Chairman, we heard in the Committee on the Budget and have heard on the floor that the proposal which the Democratic majority on the Committee on the Budget put together and unanimously supported is the greatest thing since sliced bread. It was so perfect, they were not willing to consider any changes in it when we marked up that budget proposal in the Committee on the Budget.

Now, with the ink barely dry on the committee report, we have a proposal to move around an additional $400 million of budget authority and $200 million of outlays in what we were told is, if not a perfect, then an awfully good document.

Mr. Chairman, I will listen as this debate proceeds on the amendment of the gentleman from Michigan [Mr. FORD] with great care to see what the response is of my chairman, the gentleman from California [Mr. PANETTA], and others on the Committee on the Budget. Will they defend their budget here today, as they did yesterday, and as they did against proposals for change a week ago Tuesday when we took this up in committee, or are they just going to go along with this pressure for a change in order to keep some kind of peace?

Mr. FORD of Michigan. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. KILDEE], the chairman of the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor.

Mr. KILDEE. Mr. Chairman, I rise in strong support of the amendment by the gentleman from Michigan, [Mr. FORD].

Chairman FORD's amendment would add $400 million to the $2 billion already in the budget resolution for the Department of Education.

Mr. Chairman, I would also like to commend Chairman PANETTA for his tremendous work on this budget resolution.

Last year's budget agreement with the White House not only imposed strict caps on domestic spending, it also erected walls between the domestic, defense and foreign aid accounts, thus making it impossible to transfer funds to high priority programs such as education, Head Start and job training.

Under those tough conditions, Chairman PANETTA has all but worked a miracle to bring to this House a balanced, compassionate budget resolution which reverses the President's budget for working families and our children.

The Ford amendment builds on the excellent framework provided by the House Budget Committee's resolution.

Chairman FORD's amendment increases the Appropriations Committee's ability to provide significant funding for those programs which directly address the pressing needs of our Nation's children—education, Head Start, and job training.

Mr. Chairman, too often it seems we want to make our investments at the wrong end of the process.

We cannot find a cure for cancer or AIDS without educating the scientists and researchers who will work at our world-class labs.

We cannot design and build the roads, bridges, and airports without trained engineers and skilled workers.

We cannot build NASA's space station without the trained and educated people to design the blueprints, develop the new technology, and construct the station.

Yes, it is important to continue funding health research, infrastructure development, and science and technology.

But it is equally important to remember that we cannot make any long-term advances in these crucial areas without a well educated and trained work force—from the rocket scientists to construction workers.

Other countries understand the basic necessity of investing in education and training.

The elementary and secondary school systems in Germany and Japan are well-known for their ability to educate their students to a high level.

Our economic competitors place great emphasis on helping students make the transition from classroom to workplace.

As a result, their workers have among the highest literacy rates in the world.

Moreover, students from around the world come to study at our first-class universities and colleges.

They take back to their homelands the knowledge, the skills and the expertise to develop their Nation's industries, and run their business and governments.

One could say that one of America's major exports is our higher education system.

We must make sure that American children have at least as equal an opportunity as these foreign students to get a degree from our Nation's universities and colleges.

Mr. Chairman, America is already No. 1 in higher education—but many of our students are unable to go to college.

But keeping America No. 1 in higher education, and making us No. 1 worldwide in elementary and secondary education is not going to happen by just wishing it or by merely setting ambitious goals for our students, teachers and administrators, and it not going to happen by calling ourselves the education Congress or the education President.

It is going to take hard work—and money.

It is going to take cooperation—and money.

And it is going to take money invested in our children.

Our recent success in the Persian Gulf provided graphic evidence of our Nation's return on investment of almost $3 trillion in defense since 1981.

I would like to think that the $2 billion in the budget resolution—plus the $400 million added by the Ford amendment—represent this House's downpayment on a similar concerted investment in securing the future of our children.

I urge my colleagues to support the Ford amendment.

Mr. GRADISON. Mr. Chairman, I yield 9 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, we have two strong parties today and both are strong advocates of education. As former State senators, my good friend, DALE KILDEE and I, once wrote a school aid bill and served together on the Higher Education Committee in the State senate. I also served as chairman of the Committee on Community Colleges.

Mr. Chairman, the question before us is where do we put our scarce resources to improve the quality of education and be competitive in the year 2000?

President Bush has appointed, and the Senate has confirmed a new Secretary of Education, Lamar Alexander. As the Governor of Tennessee, he put through some major reforms in education working with the private sector, Al Shanker, and the teacher unions, to incorporate better pay for teachers and provide more State dollars for education. These reforms made Tennessee a national leader in the education of its children. That record is a matter of history today. The President will announce at the White House tomorrow approximately 46 new ideas with respect to education as his initiative to improve the quality of education in the United States.

As a former classroom teacher, a lot of this is not new. Some of these ideas have been around a long time. It seems that in education we like to recycle good ideas. But today we cannot afford to reinvent the wheel.

□ 1050

So we have to start with the dollars that are available. And I have to say at the outset that we have a national deficit that is unparalleled in American history, and if we are going to invest in our children I suggest that we be careful that we do not leave them with a legacy of financial debt that they cannot pay. The interest on the national debt this year is over $200 billion, right off the top of the general funding. The deficit is unparalleled, and as I have said, our children and our children's children are going to pay for that deficit.

I think we have to be very careful that we do not just add more dollars to existing education programs and put this country in peril and close to bankruptcy. I know we have the ability to print paper money here. My father brought me down here when I was 12 years old and we had a chance to visit the Treasury building and watch dollars being printed.

I think when States have to comply with the balanced budget amendments and the local governments are cutting budgets and Governors all over the country are cutting budgets, the Congress must accept its responsibility to address the deficit as well as spending programs. I hope that the Ford amendment and the President's initiatives tomorrow can be formulated into a compromise that takes the best ideas out of both those proposals. The compromise can be put into the appropriations mark by the Subcommittee on Labor, Health and Education, chaired by Chairman NATCHER, with myself as the ranking member on the Republican side. I think we can do that within the caps and within the limitations of the budget.

Governor Alexander and the President tomorrow are going to announce some new ideas. I have not seen the specifics. We met with the Secretary yesterday morning. We discussed the umbrella ideas. He is proposing four major areas of concentration to guide our schools toward the year 2000.

We need better and more accountable schools. We know that. There is no question I think on either side of the aisle in respect to accountability and quality of education. One of the programs that is being talked about is national testing. I have mixed feelings about national testing because a question arises as to who makes up the test, who sets the test for the students in the 50 States. Are they uniform? Can we make comparisons between Michigan, Ohio, Kentucky and other States? I am not so sure we can do that.

But be that as it may, we ought to at least have the capability through this legislation to look at those ideas. I do not think we should close that idea out, although I personally do have some reservations. I think that the principle of allowing local school systems, the elected schools boards, the faculties, and the parents, to determine the priorities of education over the years has been basically a sound principle, and I support that, and I think most of us do.

However, we acknowledge that we have some weak programs in the country that need to be supported both by the State and the Federal level. The President is going to discuss things like demonstration grants and new opportunities to work with the private sector and the inner city school system.

We have a new superintendent in the Detroit school system, a young woman, 41 years old, who thinks that we should have choice. Her definition of choice is to be able to move within the Detroit system from one school to another. A bill that has been introduced by a State senator in Michigan, Senator Dan DeGrow and Representative O'Neil from Saginaw, proposes that choice be made within the intermediate school district, that you can move from one to another within a given intermediate district. So I think we have to be careful when we discuss the question of choice as to whether we include it in the broad sense of public versus private education, tax tuition credits, vouchers, and the like. But nevertheless, the Secretary would like some demonstration grants to at least look at some of those ideas, particularly the inner city schools in which a lot of the black community is suggesting that we look at choice or alternatives to the existing system, where we have dropout rates of up to 50 percent. The children in the city of Detroit are dropping out of the school system in great numbers that is unacceptable, I am sure, to all Members of Congress and to this Nation.

In the area of research and development, I have looked at some studies in which we have compared our first grade students in math and science with Taiwan and Japan. In the first grade we do very well. At the end of the fifth grade U.S. students are last in those categories.

The point I want to make with this study and these facts is that the Taiwanese and the Japanese students are going to school 200 days a year. I am not sure that is a positive idea, but we ought to look at it. We ought to allow a school system willing to try it to fund a demonstration grant and give that school system an opportunity to look at what the results could be in a 200 day-a-year school system. The Japanese and the Taiwanese students were ahead of us at the end of the fifth grade, light years ahead of us, not because they are any smarter, they were just working harder.

So with the President tomorrow announcing his program, with Congressman FORD's ideas on existing programs which I fully support, like Head Start, Tech prep and some of the others, I think we can work out a compromise that will be good for education, good for our kids and good for America.

Mr. FORD of Michigan. Mr. Chairman, I yield myself 30 seconds. I want to thank the gentleman from Michigan for his support. His support of education has been consistent.

I do want to reassure him, however, I expect to be at the White House tomorrow as chairman of the Education and Labor Committee with an open ear and an open mind. I have heard all kinds of rumors, as has my colleague from Michigan, about what is likely to be in the announcement.

The one thing I can commit to in the presence of the House is that just because it comes from that side of the aisle or from the other end of the street does not mean it will not be treated fairly in our committee, and we will listen and pay attention. Sooner or later Members here will introduce the President's ideas in the form of legislation. As soon as we have specific things to look at, I can assure the gentleman that they will get our attention.

Mr. GRADISON. Mr. Chairman, I yield 5½ minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I have always supported education. I have been on the Appropriations subcommittee that funds education for 26 years. In fact, I have been one of the Members who has supported most of the programs in effect today before they were ever started.

But it is a mistake to take $100 million out of the Justice function where it has already been reduced to $500 million less than the President's request in the budget resolution. In order to support education for another $400 million, when it has already gotten a $2 billion increase, a good share of the $2 billion already came out of the Justice function.

Members should know what they are voting on when they vote to take $100 million out of the Justice function. The administration's budget request for the Justice function was $14.8 billion. The resolution before the House only carries $14.3 billion, $500 million less than the budget request by the President, and the administration request did not include a dime for the Juvenile Justice Program. That is $80 million, with very strong House support. We have virtually always put that $80 million back in some way or another.

So the Justice function under the resolution is $580 million below the level that it takes to support the administration's request after we also fund juvenile justice. Now this amendment would take another $100 million out of it. That is not what we should be doing today.

What the House would be doing by adopting this amendment and the resolution would be to adopt the same approach that was adopted year before last. The House came in here in April 1989 with a budget resolution that robbed the Justice Department, but had to come back in September and scrounge around to find the money to put these reductions back in. That is what the House would be going to get into this year if you vote for this, because it is not tolerable to slash funding for the Justice function, no matter what the money is shifted to.

□ 1100

Now, it is said that some programs are exempt under this amendment if they deal with crime and drugs. Well, 97 percent of the money in the Justice function is for agencies that deal in some way with crime and drugs. There is not much funding left to reduce with that is not in some way or another concerned with crime and drugs.

The reason the administration requested an increase in dollars for this function is because we must annualize some big programs that we funded or approved right here in the House last year and the year before. Prisons are now completed and need to be opened. We funded the construction the year before last. They need to be opened now.

We need to fund parole reform, 85 new judges, S&L investigations. Both sides of the aisle tried to outbid one another last year in putting more money in for S&L investigations. That is one reason. We need to annualize that.

Do we not want to hire the additional people to investigate and prosecute these cases? If you vote for this amendment, you are voting to cut S&L investigations. There is no doubt about it, and prosecutions, too.

But, even if we could some way find enough money in programs which do not affect crime or do not affect drugs, what would they be? Well, here are some of the things, the few things that are left: one is the Missing Children's Program. We would have to have at least a 10-percent, probably a 20-percent, cut across-the-board in these programs if we exempt everything that is not connected in an agency with crime or drugs.

Missing Children's Program, do we want to cut that 10 or 20 percent?

The Juvenile Justice Program, we would have to cut them clear out, $80 million. We will have enough trouble cutting other programs enough to fund it.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, this is the second time you mentioned juvenile justice. I wish the gentleman would look at the report on page 31, and that is specifically exempted from this amendment, which is juvenile justice assistance.

Mr. SMITH of Iowa. All right.

Mr. FORD of Michigan. It is specifically exempted. You mentioned several programs.

Mr. SMITH of Iowa. No. That is juvenile justice assistance.

Mr. FORD of Michigan. Nothing gets cut more than 1 percent.

Mr. SMITH of Iowa. That is not true. It cannot possibly be true. There is no way that can be true.

Mr. FORD of Michigan. It is in writing, NEAL.

Mr. SMITH of Iowa. What is a few words in a report? That is just smoke and mirrors, and you know that. I am talking about the facts and the money, the dollars. There must be funds, not just words, to fund it. We can write anything in a report and say that it does something it does not do, but they cannot write a check based on a few words in a budget report.

Also, the Child Abuse Program, this House came in here last year and passed a new Child Abuse Program. We cannot fund it with this budget resolution, let alone taking another $100 million out of this function. Are you against Child Abuse Programs? If so, why did the House vote for it last year? Those who vote for this amendment are voting to cut Child Abuse Programs, no question about it.

Also involved are the Antitrust Division, the Civil Rights Division, Tax Division, Parole Commission. We need to do a lot of work in the parole area. The U.S. Trustees, Legal Services Corporation, Civil Rights Commission; if you support this across-the-board cut, you are supporting a cut in the Civil Rights Commission 10 to 20 percent below last year's level. They want an increase, but even level funding would not be possible under this amendment. Do you want to cut the Civil Rights Commission 10 to 20 percent below last year's level? Equal Employment Opportunity Commission. It would be slashed by this amendment too. These programs are just some of the programs you would cut if you vote to cut another $100 million out of the Justice function when the resolution before us has already taken $500 million out of this function in order to help with the increase of this other function by $2 billion.

I think Members should look at the facts here.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, after all this debate all I know is this: We have gone full cycle, Gramm-Latta, Gramm-Rudman, Gramm bankrupt.

My question is: What is next? Why does not Congress just simply take all the debt and deficits off budget? Why not? Like crooks, Congress has two sets of books.

Now, think about it. All we would have to do is give it a catchy new name. How about Gramm larceny? And then we would all have another 5 years.

I see these two great chairmen debating over here. Mr. Chairman, if you are going to stop crime, if you are going to stop poverty, you are going to have to start educating people. It is time that Congress sets up some priorities. That is our job.

The priorities of this country are so misdirected by our budgets that if we threw our budgets at the ground collectively they would probably miss.

The Ford amendment is an on-target amendment, and if we would listen to Chairman FORD we would do more.

Crime, poverty, narcotics, alcoholism, social deviance, these are not themselves the major problem. They are symptomatic of a greater problem, and if we do not have education, we do not have jobs, we do not have individual growth, and we are going to continue to have them and become a second-rate social nation.

I support the Ford amendment. Damn it, find some money somewhere else.

It is time we come up with some money for education, and it is time that instead of talking about being the education leaders, the President and the Congress and the Senate, why not come up with some money? Then maybe 700,000 high school students could graduate and be able to read, because right now there are 700,000 high school kids graduating that can't even read. Shame.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The time of the gentleman has expired.

The Chair would remind all Members that Members ought to be addressed in the third person, as the gentleman from a particular State, and not by first names. And the Chair would advise Members, in characterizing the acts of this body, to refer to the House rules for guidance. Those House rules have not been followed in recent statements.

Mr. GRADISON. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we are faced today with something similar to when you must choose between your children. What you try to do in those instances is be fair with your children, and the question today is fairness.

The gentleman from Iowa pointed out that while this amendment has merit, there are other programs that also have merit. It is the responsibility of a budget to make priority choices.

I am a strong supporter of "Chapter 1." I visited Chapter 1 Programs during the Easter recess, and likewise, of Head Start. Both serve a very worthy purpose.

However, I would urge the Committee on Education and Labor to take a look at the redtape that they have wound around the Chapter 1 Program. A lot more effective use of that money could be made if it were not for much of the redtape that is involved in Chapter 1. So let us address this problem rather than short other good programs today.

I want to point out that the Committee on the Budget, in dealing with natural resources—function 300—already took out $900 million below the President's request, whereas the same Committee on the Budget has added $2 billion to the education function above the President's request. They have been more than fair.

Let us recognize that there are many important functions of government. The Ford amendment would take $100 million out of function 300, a program vital to our Nation's future.

Now, what does that mean? That means reducing the America the Beautiful Program, that means reducing the EPA grants which our communities need, that means reduction in the number of wildlife refuges that we can fund, that means reductions in the Park Service, which are enjoyed by millions of Americans, that means reductions in fish and wildlife programs, that means reductions in our effort to protect endangered species, that means reductions in the soil conservation programs, that means reductions in the EPA program to deal with leaking underground water pollutant sources, and it means reductions in the underground storage program. It also, in the transportation function, means cuts in the Coast Guard which, of course, means that there will be less to deal with oil spills, to deal with response by the Coast Guard in prevention of spills, and in handling the problems of drug interdiction.

What I am saying here is, be careful. This is a vote that seemingly that you are doing something for education without penalizing any other needed program. Education has received an additional $2 billion, and I support that on the part of the Committee on the Budget, but let us not take an additional $100 million out of some very important and vital programs that have already suffered a reduction of $900 million below the President's request.

Some of the supporters of the point I am making, and in opposition to the amendment, are the Friends of the Earth, the Defenders of Wildlife, the National Parks and Conservation Association, the Wilderness Society, the Izaak Walton League, the Association of State Water Pollution Control Administrators.

Please keep in mind that we need to have fairness in the budget process, and we have to recognize that there are many different priorities, all of which are good.

Again, I would reiterate that we recognize the importance of education with a $2 billion increase, while at the same time we are reducing the conservation, the natural resource programs by $900 million.

Let us not take an additional hit of $100 million against natural resources, as this amendment would do. Weigh it carefully in terms of this Nation's priorities. I believe if you do, you will recognize that this amendment is not fair. It is not in the best interests of the overall equity in terms of budgeting.

□ 1110

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER], a member of the Committee on Education and Labor.

Mr. ROEMER. Mr. Chairman, everybody who has spoken so far in this Chamber is exactly on the point. This amendment is about tough critical choices for our future.

I met 1 month ago with the director of correctional facilities in Indiana. I asked him why we are spending so much money on building prisons in Indiana, hundreds of millions of dollars. We are spending nationwide billions of dollars.

He said that the biggest indicator of how many prison cells we will need in the year 2015 is the number of at-risk children in the second grade.

Now, if we do not make some tough choices here today supporting education funding and Head Start programs and preparing our workers for the future through preparation in vocational educational programs, in targeted Job Corps programs, we are going to be spending more money on prisons. We are going to have a larger debt with the Japanese and the Germans and we are going to continue to have, as I have, only 35 percent of my students enrolled in Head Start programs, a program that works.

Finally, Mr. Chairman, yes, we are receptive to change and reform. We need some new ideas in our schools and we will be receptive to looking at some ideas, such as national testing and magnet schools, and so forth. We are not throwing money at this problem.

Mr. Chairman, I rise in strong support of the Ford amendment to increase funding for education, training, and related programs by $400 million. This amendment builds upon Chairman FORD's homefront budget initiative by increasing our commitment to education in the fiscal year 1992 budget resolution.

I commend the Budget Committee for its recommendation that education be increased by $2 billion, which is triple the increase proposed in the President's budget. However, I believe that we need to go further in increasing education spending.

Education must be a top domestic policy priority for the United States. Providing quality education is an investment in the future of our Nation. Numerous studies have shown that for every $1 spent on early childhood education programs, such as Head Start, the return on that investment is $6 in savings in terms of welfare costs, remedial education, crime, and other social problems.

Far too many of our youth continue to leave school without the fundamental skills to be productive in the workplace. If we fail to adequately educate these youth, we are foreclosing their opportunities to become productive members of society. Their hopes and futures turn into despair and failure. The costs to these youth are enormous in terms of lost opportunities and shattered dreams. The costs to

society are enormous as well in terms of our economy and our ability to remain competitive.

We must ensure that America remains strong economically and able to meet the workplace challenges of the future. We as a nation must work to improve the future of our children. Increased funding for education is a sound investment in our Nation's children and our future.

Although I personally believe that we could go even further in investing in education, I strongly support the Ford amendment and I urge my colleagues to do the same.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK], a member of the committee.

Mrs. MINK. Mr. Chairman, I rise in very vigorous and strenuous support of the recommendation of our committee Chair here for additional funds in the educational function.

I have heard the debates this morning, critical of the suggestion that there would be individuals in this body willing to stand up and articulate the importance of education to the future of this country. This is what this debate is all about.

It is a question of determining where your priorities are. This is an investment in our future. It is not a funding for today or a look back to yesterday. This is an effort of this Congress to look to the future of this country. There is no better way to spend an additional $400 million than on the future of our country and our children. This investment will pay enormous dividends.

If we are concerned about crime, about drugs, and about all these other things that plague our Nation, it is an investment in our children, in education, to give them an opportunity to see that there is a chance for them in the future that is going to make a differnce.

I admit that we should stand here and congratulate the Budget Committee for coming up with $2 billion additional money for education beyond the budget, but this is only a paltry beginning. Think of it. We have over 12 million children in our country who come from poverty levels, and yet we are only able to accommodate a little over a third in a Head Start Program that everybody says is the most excellent program that ever has been put in place by the Congress in years past.

We can only fund it at 35 or 36 percent. This is really tragic. We have to only talk about full funding in the next 7 or 8 years. I would like to see full funding right now, but I am content to say that we must make progress in small steps, and I cannot describe this amendment that our chairman has offered as anything but a small step toward a future that is so essential.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in strong support of the Ford amendment.

Mr. Chairman, I yield to the gentleman from the Virgin Islands.

Mr. DE LUGO. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Michigan [Mr. FORD].

I would like to associate myself strongly with the remarks of the gentleman from Indiana [Mr. ROEMER] and the gentlewoman from Hawaii [Mrs. MINK].

Mr. Chairman, I am proud to make a statement today in support of the amendment offered by the gentleman from Michigan [Mr. FORD] to increase significantly the priority this Government places in education in this country by authorizing an additional $400 million and increasing outlays by an additional $200 million in the next fiscal year.

I salute the initiative Chairman FORD has taken on behalf of the tens of millions of people in this country who will benefit from the amendment he has offered. The Chairman's untiring commitment to this important legislation and his strong leadership in bringing it to the floor are remarkable, particularly in these times of budget constraints where we must operate under a virtual fiscal straightjacket. Chairman FORD recognizes—and is asking us to recognize—that every community, every city, every county, every State and territory has a stake in this important amendment. It is a solid commitment that will affect every family in America.

No domestic programs are more important than those that enhance and improve education. The future of the American people and the future of this great Nation, indeed the future of the global community, is dependent upon the education we endow to our young. For us to provide the quality of life we expect in America, for us to remain competitive with other nations, for us to share the American dream in this generation and for generations to come, we must ensure that our Nation's citizens have a solid foundation in learning.

Chairman FORD's amendment redoubles our support for a broad spectrum of programs, including health and nutrition, Head Start, training in science and math, student financial assistance, and vocational and adult education. History has shown that these programs really work and make a significant difference in the achievements of our Nation's students, from prekindergarten through postsecondary education.

These programs which Chairman FORD has identified are all crucial to successful learning in America today. They comprise a cornerstone of our democracy, for through knowledge comes freedom, in freedom comes strength, and in strength comes a more firm commitment to democracy.

I urge the Members to support this important amendment offered by Chairman FORD. It is an investment in the future of the American people and America itself.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we are talking about hard, tough decisions here today. We are talking about setting priorities so that we can invest in this great country, because right now 40 percent of the children who come to school for the first time as first graders are programmed to fail.

Mr. Chairman, the programs that we are crying about cutting are important, but they pale beside that statistic.

In the years since the Patriot missile was begun to be developed until it was used in the Persian Gulf, this country went from producing 70 percent of the world's consumer technology down to 5 percent.

We sent our Secretary of State around the world begging for funds to pay for that emergency. In another future conflict, we may be begging for the technology. We cannot afford to not invest in our children.

Mr. FORD of Michigan. Mr. Chairman, I yield 4 minutes to the gentleman from Montana [Mr. WILLIAMS], the chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, during the past district work period, I circulated a proposal in the House that asked our Budget Committee to increase the amount for education, as the chairman of the full committee had supported, an amount four times greater than the increase upon which the Members will now be asked to vote. During that district work period, with Members out of town, in only 3 days I secured almost 100 signatures, in effect cosponsors, for a proposal 4 times greater than this. We know that the Members of this House, as do their constituents, strongly support appropriate funding for America's schools, America's children and college and university students.

The current deficit situation in the United States and the accounting principles inherent in the Gramm-Rudman law have created a situation which has made this Congress very much like the small town pharmacist who, because he does not have enough medicine in the back room to cure everyone in town, has decided he will cure no one. As a result, he puts just one drop of the curative in every little prescription bottle, and sends people on their way with a pat on the head, telling them to take two aspirin, swallow this taste of medicine and get a good night's sleep. That is what is happening in this country, and as a result have you noticed that we are curing nothing. The bridges are falling down. Some say the children are not being taught properly. The roads are not being repaired. We have trouble in space and all the rest.

Can't we decide to cure something in this country? Cannot this Congress

provide enough attention and assistance to make a true difference in at least one important American institution—education?

□ 1120

That is what Chairman FORD's amendment is all about. If adopted, let me just tell you a couple of things it might do. If we put this additional $400 million here and the Committee on Appropriations decided to spend it on chapter 1, the 3 R's, it would bring an additional 420,000 students in America under chapter 1. If you will vote for this and the appropriators will decide to put it into Head Start, it will bring 130,000 American poor children into Head Start. That will mean only 70 percent of the poor children in this country are not receiving Head Start services instead of 80 percent not served as it is this morning.

If we decide to put this money into Pell grants, it will mean that your sons and daughters will have a $200 increase in their Pell grant money to help them pay those high tuitions and fees. But more important, it will mean that 200,000 more students become eligible for Pell grants in the United States, almost a quarter of a million new students being assisted if this money is used for Pell grants.

Let us be the pharmacist who cures ills in the United States, let us vote for the Ford amendment and do something positive for the schools and for education in this country.

Mr. GRADISON. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DANNEMEYER], a member of the Committee on the Budget.

Mr. DANNEMEYER. I thank my chairman for yielding.

Mr. Chairman, it is time that we begin to improve public education in America. We will do so when we present to the States a constitutional amendment that will reinstitute voluntary prayer in public schools. The denial of this practice came to us in 1962, and ever since, this Nation has been adrift in how we are going to educate our children.

There are twin goals in public education, education of competence and education of conscience.

Education of conscience principally belongs in the home and in the religious community of the family. But it also belongs in our public schools in order for us to teach our kids that there is a God in Heaven who created this world and everything in it and in order to have discipline in the classroom which establishes an environment for learning.

I am sad to say that in my work on the Committee on the Judiciary in the last 6 years in this House, the committee has bottled up the constitutional amendment and never brought it to the floor for a vote.

I hope in this Congress we can bring it to a vote on the floor of the House so that Members can explain to their constituents where they stand on this fundamental reform that is needed if we seriously intend to improve public education in the United States.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, as has been pointed out here by Chairman FORD and others who have addressed this issue, the Budget Committee gave a great deal of thought and discussion to the issue of education and Head Start and the need to make investments in our children, in our society. There is little doubt that if this Nation is going to become competitive in the future, we simply have to put more resources in these areas. And, in fact, education funding was the No. 1 priority in the committee budget that we present to the House. We tripled the increase that the President suggested to some $2 billion. We also put $350 million more into Head Start, putting it on a track toward full funding.

So I believe the committee did a good job in this area. But I also recognize and sympathize with those who want to put additional resources into it. I guess if there are additional resources to be put into an area, children should be our No. 1 priority.

Since this amendment does do it in a way that is deficit-neutral and takes it from the nonpriority areas, I am not opposed to it.

This week the President is going to announce an education initiative. His concerns are worthy concerns, and we should listen to them. But the test of any commitment to education is not just words, it is action. I think the committee recommendation and the Ford amendment will show that the House, when it comes to education, is ready to make this issue its No. 1 priority, not just in words but in actions as well.

Mr. GRADISON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to sum up in this way: I think it is perfectly clear from the debate itself and from the comments just made by the chairman of the Committee on the Budget, that education is already funded in the budget resolution before us well above current levels. What bothers me about the debate on this issue more than anything else is that I do not sense that it is focusing on the need for real change in the schools. In my judgment, this amendment is not focusing on the need for real change in the schools. One listening to this debate might get the impression that it is only money that matters. And that simply is not true.

What can make a difference is added funding for some carefully designed research, incentives, and service programs to help States and localities reform and revitalize our education system and move that system and our children more rapidly toward achievement of our national education goals.

Mr. Chairman, this is not a free vote. It involves making choices. As debate has already brought out, it involves a choice between education and the environment. We have already heard from the gentleman from Ohio [Mr. REGULA] a listing of six national organizations interested in the environment who are opposed, and indeed they have sent us a letter opposing the Ford amendment.

This amendment involves a choice between education and child abuse funds, as has been pointed out quite forcefully on this floor a little while earlier by the gentleman from Iowa [Mr. SMITH], a member of the Committee on Appropriations.

This amendment involves a choice between education and drug programs.

Mr. Chairman, whether you like the President's version, or you like the version brought here by the Committee on the Budget, they are at least balanced packages.

Mr. Chairman, I urge a "no" vote on the Ford amendment.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise to support the Ford amendment. The engine which pulls America is education. If you look at the host of problems we confront today, that is going to be a long uphill road. We need more investment in education.

There has been a change since I was younger, looking to go off to college. That change in America is increasingly less affordable for working Americans, and we need to do more to invest in that affordability, that accessibility.

The Ford amendment will do that. It will give us a strong, powerful engine that will help pull us forward.

We talk about problems, we talk about problems in the environment, talk about problems in health care, but really the solution to those problems begins and ends with education.

Mr. Chairman, this is an appropriate, important, crucial amendment which should be supported by all Members of the Congress. I applaud its author, and I hope all Members will join in supporting this amendment.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the Ford amendment.

Mr. Chairman, it is time to turn all this rhetoric into results. Let us support it strongly.

Mr. FORD of Michigan. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to close with one simple observation. Mr. GRADISON has proceeded as a gentleman, but his presentation has been a little bit misleading. This debate and this action was about the budget, and the budget is about money. Whether or not we adopt legislation that can be called the education reform will be done by the committees of the House and the Senate in the normal authorization process.

□ 1130

Mr. Chairman, that is not what we are doing here today. We are simply deciding how much money the Committee on Appropriations can spend in each of the functions of the budget, and what we have done is very carefully preserved the priorities that the Committee on the Budget set up by not touching those programs and taking a small amount, no more than 1 percent, from any program, from other budget functions, and I can understand when the chairman of the Committee on the Budget, the subcommittee chairman of the Committee on the Budget, see money being taken from their functions and being put in another chairman's function and that they might not like that, and I regret the fact that I have gotten between friends of many years' standing.

However, Mr. Chairman, I want to tell my colleagues something. I am willing to take anybody on on this issue because I believe the American people have heard all the rhetoric they want about how much we want to do for their children. They are waiting back there saying, "All right; put up or shut up."

This is a chance to put up or shut up. I say to my colleagues, "Don't claim you're for education if you can't vote for it when it comes to the hard, tough choices of putting your money where your mouth is."

Mr. PENNY. Mr. Chairman, I rise in support of the amendment offered by Congressman FORD to increase spending for education and training programs by $400 million next fiscal year. The additional spending provided by this amendment will result in significant increases for several education programs so vital to our children's well-being and to our Nation's future productivity: the Chapter 1 Compensatory Education Program, Head Start, college student financial assistance, math and science education, and others.

Passage of this amendment will mean that tens of thousands of students will have access to these successful programs. Furthermore, passage of this amendment adheres to the desire of so many of us for full funding of these cost-effective education and training programs before the end of the decade.

It is important for Member's to know that this additional spending in programs we all identify as high priority is completely offset by reductions in other functional spending categories in the budget. Chairman FORD is to be commended for adhering to the spirit and the letter of the pay-as-you-go budget process now in place.

Mr. Chairman, this amendment, which targets for spending increases the most cost-effective education and training programs currently in place, paid for by a reduction in low-priority domestic spending, deserves overwhelming support.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The question is on perfecting the amendment offered by the gentleman from Michigan [Mr. FORD].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FORD of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 158, not voting 12, as follows:

[Roll No. 67]

AYES—261

Abercrombie	Durbin	Kennelly
Ackerman	Dwyer	Kildee
Alexander	Early	Kleczka
Allard	Eckart	Klug
Anderson	Edwards (CA)	Kopetski
Andrews (ME)	Edwards (OK)	LaFalce
Andrews (NJ)	Edwards (TX)	Lancaster
Andrews (TX)	Engel	Lantos
Annunzio	Erdreich	LaRocco
Anthony	Espy	Leach
Aspin	Evans	Lehman (CA)
Atkins	Fascell	Levin (MI)
AuCoin	Fawell	Levine (CA)
Bacchus	Fazio	Lewis (GA)
Bennett	Feighan	Lloyd
Bentley	Fish	Lowey (NY)
Berman	Flake	Luken
Bilbray	Foglietta	Machtley
Bilirakis	Ford (MI)	Manton
Boehlert	Ford (TN)	Markey
Bonior	Frank (MA)	Martin
Borski	Frost	Martinez
Boucher	Gaydos	Matsui
Boxer	Gejdenson	Mavroules
Brewster	Gephardt	McCloskey
Brooks	Geren	McCurdy
Broomfield	Gibbons	McDade
Browder	Gilman	McDermott
Brown	Gingrich	McGrath
Bruce	Glickman	McHugh
Bustamante	Gonzalez	McNulty
Campbell (CO)	Goodling	Mfume
Carper	Gordon	Miller (CA)
Carr	Gray	Mineta
Chapman	Guarini	Mink
Clay	Gunderson	Moakley
Clement	Hall (OH)	Mollohan
Coleman (MO)	Hall (TX)	Moody
Coleman (TX)	Hamilton	Moran
Collins (IL)	Harris	Morella
Collins (MI)	Hatcher	Mrazek
Condit	Hayes (IL)	Murphy
Conyers	Hayes (LA)	Murtha
Cooper	Hefner	Nagle
Costello	Henry	Natcher
Coughlin	Hertel	Neal (MA)
Cox (IL)	Hoagland	Neal (NC)
Coyne	Hochbrueckner	Oakar
Cramer	Horn	Oberstar
Darden	Horton	Obey
Davis	Hoyer	Olin
de la Garza	Hubbard	Ortiz
DeFazio	Huckaby	Owens (NY)
DeLauro	Jacobs	Owens (UT)
Dellums	Jefferson	Pallone
Derrick	Jenkins	Panetta
Dicks	Johnson (CT)	Payne (NJ)
Dingell	Johnson (SD)	Payne (VA)
Dixon	Johnston	Penny
Donnelly	Jones (NC)	Perkins
Dooley	Jontz	Peterson (FL)
Dorgan (ND)	Kanjorski	Petri
Downey	Kaptur	Pickett
Duncan	Kennedy	Pickle
Poshard	Sharp	Thornton
Price	Shays	Torres
Pursell	Sikorski	Traficant
Rahall	Sisisky	Unsoeld
Ramstad	Skaggs	Upton
Rangel	Slattery	Vander Jagt
Reed	Slaughter (NY)	Vento
Richardson	Smith (FL)	Visclosky
Roemer	Snowe	Volkmer
Rose	Solarz	Walsh
Rostenkowski	Solomon	Washington
Rowland	Spratt	Waters
Roybal	Staggers	Waxman
Russo	Stallings	Weber
Sanders	Stark	Weiss
Sangmeister	Stokes	Weldon
Savage	Studds	Wheat
Sawyer	Swift	Williams
Schaefer	Synar	Wilson
Scheuer	Tauzin	Wise
Schroeder	Taylor (MS)	Wolpe
Schumer	Taylor (NC)	Wyden
Serrano	Thomas (GA)	Yatron

NOES—158

Applegate	Holloway	Ravenel
Archer	Hopkins	Ray
Armey	Houghton	Regula
Baker	Hunter	Rhodes
Ballenger	Hutto	Ridge
Barnard	Hyde	Riggs
Barrett	Inhofe	Rinaldo
Barton	Ireland	Ritter
Bateman	James	Roberts
Beilenson	Jones (GA)	Roe
Bereuter	Kasich	Rogers
Bevill	Kolbe	Rohrabacher
Bliley	Kolter	Ros-Lehtinen
Boehner	Kyl	Roth
Bunning	Lagomarsino	Sabo
Burton	Laughlin	Santorum
Byron	Lent	Sarpalius
Callahan	Lewis (CA)	Saxton
Camp	Lewis (FL)	Schiff
Campbell (CA)	Lightfoot	Schulze
Cardin	Lipinski	Sensenbrenner
Chandler	Livingston	Shaw
Clinger	Long	Shuster
Coble	Lowery (CA)	Skeen
Combest	Mazzoli	Skelton
Cox (CA)	McCandless	Slaughter (VA)
Crane	McCollum	Smith (IA)
Cunningham	McCrery	Smith (NJ)
Dannemeyer	McEwen	Smith (OR)
DeLay	McMillan (NC)	Smith (TX)
Dickinson	McMillen (MD)	Spence
Doolittle	Meyers	Stearns
Dreier	Michel	Stenholm
Emerson	Miller (OH)	Stump
English	Miller (WA)	Sundquist
Fields	Molinari	Swett
Franks (CT)	Montgomery	Tallon
Gallegly	Moorhead	Tanner
Gallo	Morrison	Thomas (CA)
Gekas	Myers	Thomas (WY)
Gilchrest	Nichols	Torricelli
Gillmor	Nowak	Traxler
Goss	Nussle	Valentine
Gradison	Orton	Vucanovich
Grandy	Oxley	Walker
Green	Packard	Whitten
Hammerschmidt	Parker	Wolf
Hancock	Patterson	Wylie
Hansen	Paxon	Young (AK)
Hastert	Pease	Young (FL)
Hefley	Pelosi	Zeliff
Herger	Porter	Zimmer
Hobson	Quillen	

NOT VOTING—12

Bryant	Kostmayer	Roukema
Dornan (CA)	Lehman (FL)	Towns
Dymally	Marlenee	Udall
Hughes	Peterson (MN)	Yates

□ 1154

The Clerk announced the following pairs:

On this vote:

Mr. Kostmayer for, with Mr. Lehman of Florida against.

Mr. Dymally for, with Mr. Dornan of California against.

Messrs. BOEHNER, LIPINSKI, and TRAXLER changed their vote from "aye" to "no."

Messrs. HENRY, GILMAN, COLEMAN of Missouri, ECKART, MOLLOHAN, and COUGHLIN changed their vote from "no" to "aye."

So the perfecting amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KOPETSKI. Mr. Speaker, I was unable to be present for the vote on rollcall No. 68, the Dannemeyer amendment, and had I been present, I would have voted "no" on rollcall vote No. 68.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DANNEMEYER:

Strike all after the resolving clause and insert the following:

That the budget for fiscal year 1992 is established, and the appropriate budgetary levels for fiscal years 1993, 1994, 1995, and 1996 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1992: $850,413,000,000.
Fiscal year 1993: $909,736,000,000.
Fiscal year 1994: $966,288,000,000.
Fiscal year 1995: $1,025,708,000,000.
Fiscal year 1996: $1,079,813,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1992: $0.
Fiscal year 1993: $0.
Fiscal year 1994: $0.
Fiscal year 1995: $0.
Fiscal year 1996: $0.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1992: $82,100,000,000.
Fiscal year 1993: $88,600,000,000.
Fiscal year 1994: $94,400,000,000.
Fiscal year 1995: $100,600,000,000.
Fiscal year 1996: $107,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1992: $1,214,096,000,000.
Fiscal year 1993: $1,205,829,000,000.
Fiscal year 1994: $1,222,914,000,000.
Fiscal year 1995: $1,254,282,000,000.
Fiscal year 1996: $1,302,290,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1992: $1,149,475,000,000.
Fiscal year 1993: $1,132,790,000,000.
Fiscal year 1994: $1,136,552,000,000.
Fiscal year 1995: $1,098,132,000,000.
Fiscal year 1996: $1,139,594,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1992: $299,062,000,000.
Fiscal year 1993: $223,054,000,000.
Fiscal year 1994: $170,264,000,000.
Fiscal year 1995: $72,424,000,000.
Fiscal year 1996: $59,781,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1992: $3,993,300,000,000.
Fiscal year 1993: $4,364,300,000,000.
Fiscal year 1994: $4,707,700,000,000.
Fiscal year 1995: $4,966,900,000,000.
Fiscal year 1996: $5,237,700,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995, are as follows:

Fiscal year 1992:
(A) New direct loan obligations, $14,699,000,000.
(B) New primary loan guarantee commitments, $115,695,000,000.
Fiscal year 1993:
(A) New direct loan obligations, $14,977,000,000.
(B) New primary loan guarantee commitments, $116,989,000,000.
Fiscal year 1994:
(A) New direct loan obligations, $13,583,000,000.
(B) New primary loan guarantee commitments, $118,897,000,000.
Fiscal year 1995:
(A) New direct loan obligations, $13,446,000,000.
(B) New primary loan guarantee commitments, $120,913,000,000.
Fiscal year 1996:
(A) New direct loan obligations, $13,688,000,000.
(B) New primary loan guarantee commitments, $122,544,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1992 through 1996 for each major functional category are:

(1) National Defense (050):
Fiscal year 1992:
(A) New budget authority, $290,820,000,000.
(B) Outlays, $295,245,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $290,904,000,000.
(B) Outlays, $291,986,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $289,878,000,000.
(B) Outlays, $286,666,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $297,282,000,000.
(B) Outlays, $288,620,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $306,778,000,000.
(B) Outlays, $293,235,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1992:
(A) New budget authority, $18,120,000,000.
(B) Outlays, $14,887,000,000.
(C) New direct loan obligations, $1,744,000,000.
(D) New primary loan guarantee commitments, $9,349,000,000.
Fiscal year 1993:
(A) New budget authority, $18,130,000,000.
(B) Outlays, $15,483,000,000.
(C) New direct loan obligations, $1,625,000,000.
(D) New primary loan guarantee commitments, $9,344,000,000.
Fiscal year 1994:
(A) New budget authority, $18,562,000,000.
(B) Outlays, $16,102,000,000.
(C) New direct loan obligations, $1,431,000,000.
(D) New primary loan guarantee commitments, $9,304,000,000.
Fiscal year 1995:
(A) New budget authority, $19,319,000,000.
(B) Outlays, $16,746,000,000.
(C) New direct loan obligations, $1,448,000,000.
(D) New primary loan guarantee commitments, $9,361,000,000.
Fiscal year 1996:
(A) New budget authority, $20,173,000,000.
(B) Outlays, $17,416,000,000.
(C) New direct loan obligations, $1,455,000,000.
(D) New primary loan guarantee commitments, $9,406,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1992:
(A) New budget authority, $15,839,000,000.
(B) Outlays, $15,623,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $16,473,000,000.
(B) Outlays, $16,248,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $17,131,000,000.
(B) Outlays, $16,897,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $17,817,000,000.
(B) Outlays, $17,573,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $18,529,000,000.
(B) Outlays, $18,276,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1992:
(A) New budget authority, $5,328,000,000.
(B) Outlays, $2,550,000,000.
(C) New direct loan obligations, $1,198,000,000.
(D) New primary loan guarantee commitments, $1,100,000,000.
Fiscal year 1993:
(A) New budget authority, $5,541,000,000.
(B) Outlays, $2,652,000,000.
(C) New direct loan obligations, $1,742,000,000.
(D) New primary loan guarantee commitments, $1,150,000,000.
Fiscal year 1994:
(A) New budget authority, $5,763,000,000.
(B) Outlays, $2,759,000,000.

(C) New direct loan obligations, $724,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1995:
(A) New budget authority, $5,993,000,000.
(B) Outlays, $2,869,000,000.
(C) New direct loan obligations, $650,000,000.
(D) New primary loan guarantee commitments, $1,250,000,000.
Fiscal year 1996:
(A) New budget authority, $6,233,000,000.
(B) Outlays, $2,984,000,000.
(C) New direct loan obligations, $849,000,000.
(D) New primary loan guarantee commitments, $1,280,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 1992:
(A) New budget authority, $19,612,000,000.
(B) Outlays, $18,460,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $20,396,000,000.
(B) Outlays, $19,198,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $21,212,000,000.
(B) Outlays, $19,966,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $22,060,000,000.
(B) Outlays, $20,765,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $22,943,000,000.
(B) Outlays, $21,595,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1992:
(A) New budget authority, $21,429,000,000.
(B) Outlays, $15,984,000,000.
(C) New direct loan obligations, $8,288,000,000.
(D) New primary loan guarantee commitments, $8,464,000,000.
Fiscal year 1993:
(A) New budget authority, $19,073,000,000.
(B) Outlays, $15,580,000,000.
(C) New direct loan obligations, $8,265,000,000.
(D) New primary loan guarantee commitments, $8,462,000,000.
Fiscal year 1994:
(A) New budget authority, $17,462,000,000.
(B) Outlays, $14,541,000,000.
(C) New direct loan obligations, $8,203,000,000.
(D) New primary loan guarantee commitments, $8,470,000,000.
Fiscal year 1995:
(A) New budget authority, $18,377,000,000.
(B) Outlays, $13,627,000,000.
(C) New direct loan obligations, $8,236,000,000.
(D) New primary loan guarantee commitments, $8,424,000,000.
Fiscal year 1996:
(A) New budget authority, $14,473,000,000.
(B) Outlays, $13,047,000,000.
(C) New direct loan obligations, $8,387,000,000.
(D) New primary loan guarantee commitments, $8,175,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1992:
(A) New budget authority, $108,025,000,000.
(B) Outlays, $104,799,000,000.
(C) New direct loan obligations, $1,380,000,000.
(D) New primary loan guarantee commitments, $67,768,000,000.
Fiscal year 1993:
(A) New budget authority, $60,419,000,000.
(B) Outlays, $55,764,000,000.
(C) New direct loan obligations, $1,355,000,000.
(D) New primary loan guarantee commitments, $70,827,000,000.
Fiscal year 1994:
(A) New budget authority, $38,669,000,000.
(B) Outlays, $29,360,000,000.
(C) New direct loan obligations, $1,356,000,000.
(D) New primary loan guarantee commitments, $72,450,000,000.
Fiscal year 1995:
(A) New budget authority, $21,295,000,000.
(B) Outlays, $45,141,000,000.
(C) New direct loan obligations, $1,341,000,000.
(D) New primary loan guarantee commitments, $73,816,000,000.
Fiscal year 1996:
(A) New budget authority, $21,720,000,000.
(B) Outlays, $40,693,000,000.
(C) New direct loan obligations, $1,324,000,000.
(D) New primary loan guarantee commitments, $75,218,000,000.
(8) Transportation (400):
Fiscal year 1992:
(A) New budget authority, $32,900,000,000.
(B) Outlays, $31,891,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $34,195,000,000.
(B) Outlays, $33,167,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $35,562,000,000.
(B) Outlays, $34,493,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $36,987,000,000.
(B) Outlays, $35,873,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $38,699,000,000.
(B) Outlays, $37,308,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1992:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $6,704,000,000.
(C) New direct loan obligations, $940,000,000.
(D) New primary loan guarantee commitments, $466,000,000.
Fiscal year 1993:
(A) New budget authority, $6,461,000,000.
(B) Outlays, $6,522,000,000.
(C) New direct loan obligations, $953,000,000.
(D) New primary loan guarantee commitments, $468,000,000.
Fiscal year 1994:
(A) New budget authority, $6,697,000,000.
(B) Outlays, $6,482,000,000.
(C) New direct loan obligations, $967,000,000.
(D) New primary loan guarantee commitments, $469,000,000.
Fiscal year 1995:
(A) New budget authority, $6,953,000,000.
(B) Outlays, $6,695,000,000.
(C) New direct loan obligations, $980,000,000.
(D) New primary loan guarantee commitments, $471,000,000.
Fiscal year 1996:
(A) New budget authority, $7,239,000,000.
(B) Outlays, $6,789,000,000.
(C) New direct loan obligations, $994,000,000.
(D) New primary loan guarantee commitments, $473,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1992:
(A) New budget authority, $43,636,000,000.
(B) Outlays, $42,643,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,281,000,000.
Fiscal year 1993:
(A) New budget authority, $45,382,000,000.
(B) Outlays, $44,349,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,994,000,000.
Fiscal year 1994:
(A) New budget authority, $47,197,000,000.
(B) Outlays, $44,973,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $14,880,000,000.
Fiscal year 1995:
(A) New budget authority, $49,085,000,000.
(B) Outlays, $45,834,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,572,000,000.
Fiscal year 1996:
(A) New budget authority, $51,048,000,000.
(B) Outlays, $43,218,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,268,000,000.
(11) Health (550):
Fiscal year 1992:
(A) New budget authority, $81,295,000,000.
(B) Outlays, $77,703,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $185,000,000.
Fiscal year 1993:
(A) New budget authority, $89,587,000,000.
(B) Outlays, $85,609,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $120,000,000.
Fiscal year 1994:
(A) New budget authority, $97,650,000,000.
(B) Outlays, $93,296,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $60,000,000.
Fiscal year 1995:
(A) New budget authority, $106,146,000,000.
(B) Outlays, $101,424,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $115,275,000,000.
(B) Outlays, $110,141,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(12) Medicare (570):
Fiscal year 1992:
(A) New budget authority, $118,301,000,000.
(B) Outlays, $114,450,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $129,066,000,000.
(B) Outlays, $124,865,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $140,295,000,000.
(B) Outlays, $135,728,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $152,220,000,000.
(B) Outlays, $147,265,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $165,159,000,000.
(B) Outlays, $159,783,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1992:
(A) New budget authority, $220,115,000,000.
(B) Outlays, $174,552,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $227,976,000,000.
(B) Outlays, $181,607,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $238,691,000,000.
(B) Outlays, $190,093,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $251,580,000,000.
(B) Outlays, $200,304,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $264,411,000,000.
(B) Outlays, $210,505,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1992:
(A) New budget authority, $5,853,000,000.
(B) Outlays, $5,853,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,453,000,000.
(B) Outlays, $6,453,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $7,078,000,000.
(B) Outlays, $7,078,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,738,000,000.
(B) Outlays, $7,738,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $8,447,000,000.
(B) Outlays, $8,447,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1992:
(A) New budget authority, $33,390,000,000.
(B) Outlays, $32,223,000,000.
(C) New direct loan obligations, $1,149,000,000.
(D) New primary loan guarantee commitments, $14,632,000,000.
Fiscal year 1993:
(A) New budget authority, $34,726,000,000.
(B) Outlays, $33,513,000,000.
(C) New direct loan obligations, $1,037,000,000.
(D) New primary loan guarantee commitments, $12,624,000,000.
Fiscal year 1994:
(A) New budget authority, $36,046,000,000.
(B) Outlays, $34,781,000,000.
(C) New direct loan obligations, $902,000,000.
(D) New primary loan guarantee commitments, $12,064,000,000.
Fiscal year 1995:
(A) New budget authority, $37,380,000,000.
(B) Outlays, $36,079,000,000.
(C) New direct loan obligations, $791,000,000.
(D) New primary loan guarantee commitments, $12,019,000,000.
Fiscal year 1996:
(A) New budget authority, $38,763,000,000.
(B) Outlays, $37,425,000,000.
(C) New direct loan obligations, $679,000,000.
(D) New primary loan guarantee commitments, $11,724,000,000.
(16) Administration of Justice (750):
Fiscal year 1992:
(A) New budget authority, $13,301,000,000.
(B) Outlays, $12,772,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $13,833,000,000.
(B) Outlays, $13,285,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $14,386,000,000.
(B) Outlays, $13,816,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $14,961,000,000.
(B) Outlays, $14,363,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $15,560,000,000.
(B) Outlays, $14,931,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1992:
(A) New budget authority, $13,011,000,000.
(B) Outlays, $11,599,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $450,000,000.
Fiscal year 1993:
(A) New budget authority, $13,532,000,000.
(B) Outlays, $12,063,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $14,073,000,000.
(B) Outlays, $12,546,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $14,636,000,000.
(B) Outlays, $13,047,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $15,221,000,000.
(B) Outlays, $13,569,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1992:
(A) New budget authority, $206,738,000,000.
(B) Outlays, $206,738,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $215,640,000,000.
(B) Outlays, $215,640,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $220,731,000,000.
(B) Outlays, $220,731,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $220,904,000,000.
(B) Outlays, $220,904,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $219,970,000,000.
(B) Outlays, $219,970,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1992:
(A) New budget authority, $0.
(B) Outlays, $4,611,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $0.
(B) Outlays, $754,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $0.
(B) Outlays, $406,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $0.
(B) Outlays, $0.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):
Fiscal year 1992:
(A) New budget authority, −$39,817,000,000.
(B) Outlays, −$39,817,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$41,958,000,000.
(B) Outlays, −$41,958,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, −$44,168,000,000.
(B) Outlays, −$44,168,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, −$46,451,000,000.
(B) Outlays, −$46,451,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, −$48,351,000,000.
(B) Outlays, −$48,351,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

SEC. 3(a) It is the sense of Congress that the Department of the Treasury shall initiate a program to issue Treasury obligations redeemable in gold, that

(1) have an annual investment yield not exceeding 2 per centum;

(2) have principal and interest redeemable at maturity in gold.

(b) The aggregate value of these obligations shall not exceed $20,000,000,000.

(c) Revenues collected pursuant to this program shall be used solely for the purpose of reducing the Federal budget deficit.

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. DANNEMEYER] will be recognized for 30 minutes and the gentleman from California [Mr. PANETTA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are two policy courses that we should pursue in dealing with the budget. The first is to restrain to the greatest extent possible the increase in spending, 1992 over 1991, which is the year we are talking about, fiscal year 1992. The second is to address, the issue of monetary reform in order to reduce interest costs.

Mr. Chairman, this chart displays what has happened to the budget and spending of the Federal Government since 1968 when a historic decision was made, when we severed the link between the dollar and gold. The facts just jump out at you. You cannot deny it. The deficits have essentially come into our system since that time. This 23-year experiment with the dollar being backed by nothing should be declared over.

□ 1200

Mr. Chairman, the second policy option we should pursue is to take a step down the road of reforming the monetary system. This budget resolution has some language in it which directs the Treasury to sell not more than $20 billion of gold-backed bonds. Nobody knows what the interest rate on those bonds would be. I believe there is good evidence it would be between 2-percent and 3-percent interest. That would significantly reduce the cost of borrowing money not only to the Government, but hopefully for all Americans when we truly reform the monetary system by once again linking the dollar to gold.

Not linking the dollar to gold results in these deficits that are massive and staring us in the face. For instance, we are going to add $426 billion to the national debt in fiscal year 1992—$426 billion. That is the measure of the deficit. Over the next 5 years we will add $1.8 trillion to our national debt. That is the spending stream that we are now pursuing. That is one option that should be pursued.

The other option, as I mentioned, is to restrain the growth in spending. The budget alternative that this Member is offering to the House does not cut anything from what we are spending in 1991. To be precise, we are spending in this fiscal year about $1.392 trillion. The budget alternative that I am talking about will spend $1.430 trillion. It is an increase in spending of some $38 billion.

I believe it is a responsible alternative, and I think this chart shows each Member where we are headed. In 1980 it took 30 percent of the personal income tax in this country to pay the interest on the debt. That is the red line. In 1991 it is taking almost 60 percent of the personal income tax to pay the interest on the debt. If we continue on our current course, by 1997 or 1998 we are going to take all of the revenue of the personal income tax to pay the interest on the debt.

The green line is the percentage of all revenue exclusive of Social Security. In 1980 it took 20 percent to pay the interest on the debt. Currently it takes about 40 percent. Either measure is a clear indication that we just cannot continue on the current course of spending.

What this alternative does is just modestly reduce the increase that otherwise would take place, and we get there by going back to fiscal year 1990 and letting 1991 spending grow 4 percent over 1990. In 1992 spending would grow over 1991 an additional 4 percent. By effectively limiting growth to the rate of inflation, we exempt from this limitation Social Security, the Resolution Trust Corporation, Desert Storm, and unemployment compensation, because I do not pretend to suggest to my colleagues that we should be reducing any of those. We are going to have to pay those bills.

But this alternative, over the next 5 years, if adopted, will reduce this projected increase in our debt of $1.8 trillion by some $475 billion.

It is very, very important that we reduce the level of spending projected for fiscal year 1992, and this alternative produces the lowest spending level of all five budgets that we will be considering today. It is $46 billion lower than baseline, it is $28 billion lower than the Democratic alternative, it is $11 billion lower than the President, and it is $5 billion lower than my colleague, the gentleman from Ohio [Mr. KASICH]. I commend the gentleman from Ohio for the work that he has done because I think his alternative is a responsible alternative as well.

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

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume and I rise in opposition to the substitute.

This is a substitute which we have seen in past budget debates. I have a great deal of respect for the gentleman from California [Mr. DANNEMEYER] who is now a member of the Budget Committee and is sincerely committed to his beliefs both with regard to the need to move toward the gold standard, and also with regard to his sense of priorities within our society. I do not believe that those priorities are reflected in a majority of either the Democratic or the Republican side, particularly when it comes to the discretionary area because he proposes an additional cut of almost $16 billion in the discretionary area which would bring the amount, for example, in the general science, space, and technology below the levels not only of the committee but also of the President. That is true also for energy, it is true for transportation, it is true for education and health care, for income security, for veterans, for the administration of justice.

I think all of us recognize that operating within the caps that were established in the Budget Committee is a difficult enough constraint in terms of these priority areas within our society, much less to go back and say that we ought to eliminate another $16 billion from those vital programs that serve people.

So it is for these reasons that I would oppose the substitute and ask Members to do the same.

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

Mr. DANNEMEYER. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, let me just first say that I greatly respect the gentleman from California [Mr. DANNEMEYER]. If this House, if this Congress, indeed if this Nation would just listen to the gentleman from California, who talks in real language, uses real figures

and understands real economics, we would not have the problems that we have in this country. We would be at a balanced budget. Indeed, if we had just listened to Senator PHIL GRAMM from Texas and adhered to Gramm-Rudman, we would be at a balanced budget today.

But what we are presented with today is a Democrat budget that raises spending to 25 percent of GNP, which is the highest that it has been since 1946. It puts us on a track that will get us to reaching 20 percent of GNP for taxes and for the first time in the history of this country for consecutive years thereafter, after 1994. That is what we are presented with, yet we very easily dismiss out of hand the Dannemeyer budget.

Spending is the problem, ladies and gentlemen of this House. Spending is the problem. While many Members point out that the 1992 budget resolution calls for only 2.6 percent increase in spending over 1991, a whole lot of smoke and mirrors are distorting the true picture. We use a lot of smoke and mirrors in this Congress. We should look at the increase over 1990 levels. Those are the levels from which we passed the Budget Reconciliation Act of 1990.

The 1991 budget had 12.6 percent more spending than in 1990, and that is before $77 billion in supplementals that we recently passed. That means that Congress wants to increase spending by a massive 21 percent over 2 years.

Under the budget proposed by the Democrats, 60 percent of the total receipts, 60 percent of the total receipts from individual income taxes will be consumed by the interest on the national debt.

The budget agreement does not mandate spending. It sets caps and we have heard caps for 2 days, and rubber caps at that. But yet, both the Gradison budget and the Democrat budget spend just about all that is available to them.

We must cut spending. We are not prohibited from cutting spending by the budget agreement. We cannot make last year's budget agreement a floor for spending levels. It must be a ceiling. Congress is spending every penny allowed under the agreement, and as we all know, Congress will boost those ceilings later with supplementals.

The Dannemeyer budget offers real change. It reduces the deficit by $45.8 billion in 1992 and $472 billion plus over 5 years. It does it the old fashioned way: It cuts spending, which is the only way that it works.

I must say at this point for Members of my side of the aisle, this Dannemeyer budget does not pick up the tax increases that come from the budget agreement for 1992. It does not pick up the tax increases. So in essence, we are refuting the tax increases that were implemented on this country last year.

The Dannemeyer amendment excludes from the freeze all of the issues that give us political heartache, the RTC funding, Social Security, unemployment insurance, Desert Storm, and undistributed offsetting receipts. And the Dannemeyer budget maintains the budget agreement's defense spending figures which saves $9.8 billion in 1992 and $161 billion over 5 years.

□ 1210

Under mandatory programs, excluding interest, they are allowed scheduled beneficiary and inflation increases from the 1991 base. That allows these programs to grow by 7.1 percent which saves a lot of money, and then nondefense discretionary that we talk a lot about, the spending programs are held to 4 percent annual growth from the 1990 base which saves $26 billion in 1991, and $157.5 billion over 5 years.

Mr. Chairman, we have an opportunity here, my colleagues, to actually do something to reduce spending and not continue on the devastating road that we are on if we adopt the Democrat proposal.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I oppose the Dannemeyer amendment, but I want to pay tribute to the gentleman from California [Mr. DANNEMEYER], because he has brought forward some ideas that probably could be incorporated into a solid future for our country.

I am not too crazy about all the budget, so I would not be very upset about that, my not supporting the gentleman's substitute, I say to the gentleman from California [Mr. DANNEMEYER].

My concern is basically this: I think one thing we can do in America is take a look at the limited dollars we have and take care of America first. If there is any money left over, then take a look at some of our foreign accounts.

Second of all, I know it is preaching to the choir, but I think we have to look at some fair trade programs. Mr. Chairman, we are getting our clock cleaned by countries like Japan, and I think we could put together a trade program that will gnaw away that debt. We cannot separate our budget deficits from our trade deficits. That is basically where my concern is.

My concern is on the exodus of jobs. America's No. 1 export is jobs.

Mr. Chairman, I did offer for the committee as an amendment a particular amendment that would force the respective bureaus of our Congress and the General Accounting Office to file a report with the Committee on the Budget of both the House and the Senate to set forth in detail the impacts that this budget will have on American jobs, either the growth or the further demise of American jobs.

The Committee on Rules was instructed to take basically substitutes. I am not offended by that. But I would like to engage in a colloquy with our chairman, who I think has done a tremendous job on the issue.

Mr. Chairman, my little amendment calls, in essence, for some instrument or mechanism that would create an analysis of the budget and the impact it is going to have on either the further erosion of jobs or possibly the gaining of some jobs. Being that it was not allowed, I would like to know if the gentleman, in his particular capacity, might be able to add some language or to be able to effect, in essence, such a program, if you will, or a response, that might satisfy this. I think it is important for our country.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

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

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

I understand the gentleman's concerns, and they are legitimate concerns. He discussed his possible amendment with me. I understand why it was not made in order, because it did not involve a substitute. But it addresses a legitimate area of concern which is: how do these budgets, in fact, impact with regard to jobs in this country?

It is something that I hope to look at in terms of perhaps some language directions that we can make within the conference when we engage in the conference with the other body on this issue, and if not, it would be my hope that I could write a letter to the General Accounting Office, the GAO, and ask them to look at this aspect of whatever budget is finally adopted.

Mr. TRAFICANT. Mr. Chairman, I appreciate that. I am thankful that the chairman will at least take issue with it.

Mr. DANNEMEYER. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Dannemeyer alternative budget.

The time has come to admit a mistake and make corrections. The Congress was wrong to adopt a budget which dramatically increased the American people's tax load. The Congress was wrong to label that very same tax increase as a deficit reduction package. The Congress was wrong to tax America into a recession.

We told the Democratic Party that the budget agreement they foisted upon President Bush would cripple our economy.

Last month housing starts fell 9.3 percent. There has been a broad-based drop in manufacturing output—a 9.25-

percent first-quarter plunge. Unemployment is up to almost 1.2 percent since October. We have lost 1.3 million jobs in the past 6 months.

When last year's budget was passed, we were told the 5-year deficit would be $546.5 billion. Today we are facing a 5-year projected budget deficit of $865.2 billion. Some estimate it will turn out to be closer to $1 trillion, largely because of the negative impact that new taxes have had on the economy.

We're not going to control the deficit until we control the spending juggernaut.

The Gradison budget and the committee's budget may not appear to contain outrageous spending increases. A close look, however, reveals last year's and this year's budget package balloons Federal spending by 21 percent.

We can't keep going down this road. We will have a $318 billion deficit this year. This means we will spend nearly $30 billion next year just to pay for interest on this year's increase.

Last fall's budget agreement was not a deficit reduction package—it was a sham.

Congressional spending is like a runaway freight train; our economy is on a train ride to hell.

The time has come to pull the emergency cord and bring this runaway spending to a screeching halt. The Dannemeyer budget is an effective tool to put the brakes on Government spending.

The Dannemeyer substitute will reduce the deficit by $45.8 billion for fiscal year 1992 and $472 billion over 5 years by holding the increase in nondefense discretionary spending to 4 percent.

If Congress had enacted a Dannemeyer-type approach last session, we would be well on our way to a balanced budget. But as we all know, Congress adopted a tax and spend sham package which has driven our economy into recession, closed our businesses and thrown our people out of work.

We have a chance today to make amends. I urge my colleagues to support the Dannemeyer budget and vote for fiscal responsibility.

Mr. DANNEMEYER. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I rise in strong support of the efforts by my colleague, the gentleman from California, to offer an alternative to the inside-the-beltway groupthink that now dominates our budget deliberations.

Some years ago, when I first came to Washington to work as a lawyer for President Reagan in the White House, we were in the midst of what was called the Gramm-Rudman-Hollings deficit reduction glidepath, a 5-year program of deficit reduction which eventually would bring us to a zero annual deficit.

Fiscal year 1992, under Gramm-Rudman, was to be a zero-deficit year. Instead, what we are looking at under the proposal in advance by this Congress is perhaps the largest deficit in American history.

The proposal by my colleague, the gentleman from California, does not cut spending. Instead, in some accounts, it increases spending by 7 percent, overall by more than 4 percent. There are no spending reductions even in this proposal, which is viewed as too difficult to swallow by most in Washington.

□ 1220

Not everyone, however, is sticking with the rhetoric of just last fall when we were talking about the Budget Agreement as the deficit reduction agreement, because now the facts are out.

Now that the more than 1,000 page document has been made available to the American people, and they have read it. Here is what one of the authors of the Gramm-Rudman-Hollings bill, our colleague from the other body has to say about that bipartisan agreement: "That agreement," he says, "is a lie and a fraud." I am quoting from the March 11, 1991 Washington Post. "The truth is that last fall's deal has catapulted the United States into a new era of hyperdeficits. The budget submitted February 4 by the Office of Management and Budget acknowledges that we will add $378.6 billion to the National Debt in 1991, plus another $343 billion in 1992. Expect these numbers to increase dramatically as the recession continues." My colleagues conclude, "As a blueprint for genuine deficit reduction, this plan is a sham."

What we are doing here today is voting upon a resolution that will seal that agreement, that sham. I, for one, intend not to participate, but rather to vote for the much more responsible alternate offered by my colleague from California. I should add that it is time that we look at overhauling the entire Federal budget process because the process itself, inexorably, drives the United States to this slipshod and outrageous result.

I offer H.R. 298, the Budget Process Reform Act, cosponsored by over 130 Members in the House. If adopted, it will put the United States in a different environment in which the system can be responsible, even if we individual Members feel it not possible to vote that way all the time.

Again, I compliment my colleagues for offering this responsible alternative. I intend to vote for it, and I urge my colleagues to do the same.

Mr. PANETTA. Mr. Chairman, I yield 9 minutes to the distinguished gentleman from Texas [Mr. STENHOLM], a member of the Committee on the Budget.

Mr. STENHOLM. Mr. Chairman, I listened to the debate and have found in the past that the gentleman from California, [Mr. DANNEMEYER's] amendments probably tended to support them more often than not. We have always lost by substantial margins. A few years ago it began to occur to me that we could make all the great speeches, as we have heard today, and cast all the blame we could possibly cast about who is at fault, and never get anywhere.

The budget agreement that has been much maligned that occurred last year, whether a Member wants to admit to it or not, is a small step in the right direction, at least in this Member's opinion. It is much better to take a small step in the right direction than to take a gigantic step, and not have anything happen.

Now, I have listened to many of my colleagues on this side of the aisle talking about the big spending Democratic Congress. I would like to have, perhaps, an exchange of some debate on this issue as to the numbers that we are talking about. I want to use the 8 years of the Reagan administration, which this Member as a Democrat, voted with more often than not. However, when we look at what President Reagan asked this Congress to spend every year, and compare it to what we spent, I find these results, certified by CBO, and I believe OMB would also do the same. President Reagan asked Members to spend $7,383,000,000,000; we spend $7,568,000,000,000 in actual outlays. That is $195,000,000,000 more. In discretionary spending, which is really what we are talking about today, because let there be no mistake on any Member's part, the Democratic budget is living within the same caps that the Republican budget is living within, and this one Member is dedicated to seeing that we not exceed that.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Pennsylvania.

Mr. WALKER. On the gentleman's figures, does the gentleman include in those figures the rescissions that President Reagan asked for during that same period of time, that covered some of that spending?

Mr. STENHOLM. No, we do not. We are talking about requests and actual performance.

Mr. WALKER. If the gentleman will continue to yield, that is right, but the fact is that the President did offset a number of his spending requests with significant rescissions, which the Congress did not act on, and thereby increased spending by not acting on the rescissions.

Mr. STENHOLM. That perhaps could be factual, but how many dollars would the gentleman concede that we had an actual rescission request?

Mr. WALKER. I do not know that figure, but I do know that the figures that the gentleman quotes strike me as being figures that do not include the rescissions, and that does, in fact, have an impact on the request.

Mr. STENHOLM. Without knowing the numbers exactly, I would concede that point to the gentleman, and concede that and be happy when reviewing the remarks to put the numbers in, and still make the point that I am making today, because if we are talking in terms of a $195 billion difference, I doubt that President Reagan asked Members to rescind $2 trillion in the last 8 years.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. PANETTA. The gentleman does not have to concede to anything because the fact is that the Congress provided about 90 percent of the savings that were proposed in the rescissions by the President. We did not accept the President's rescissions, but other savings were found within the appropriations bills.

So the gentleman, if he is making the comment that somehow we have rejected all the savings that the President recommended, he is wrong.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank my colleague from Texas for his contribution, and I will be the first to admit on the floor that the gentleman's contribution on the issue of budget and spending, if it were followed by the majority of the Members of the House, we would be a lot closer to a balanced budget than we are today. I want to thank the gentleman in the well for that.

However, I would make one observation about the comparison the gentleman has made, and I do not have this analysis before me, but I will put it in the CONGRESSIONAL RECORD when I revise my remarks, because I had an analysis made comparing the Reagan budget requests all the years that he was here, with what Congress responded, in the way of spending. What we have to understand is that it is interesting to compare requests to spending by Congress, but what is more important, is that once the level of Federal spending ratchets upward as it did with Congress, the President was in the position, if he wanted to reduce spending by lower levels of what Congress has appropriated, it is very difficult to do that, as the gentleman knows. Therefore, we were unable, because we did not have the votes around here in the decade of the 1980's, to restrain the growth of Federal spending, and that is the problem with this institution.

Mr. STENHOLM. Mr. Chairman, I concur with the gentleman's observations in that.

My point, and I have listened to the debate, and I have listened to Members make statements that insinuate that it is all Congress' fault. My only purpose in participating now is to suggest that there is equal fault on both ends of Pennsylvania Avenue regarding the spending question, and it is not a fair assertion to be made on the floor that it is somehow our fault. I said "our" collectively.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I say on that point, the Presidents propose and Congress dispose. A President can only spend what we appropriate. The responsibility in the Constitution is right here. We are responsible to the American people to the level of spending, not what a President does.

Mr. STENHOLM. Again, I obviously concur to that.

Let me say in concluding, with a point I wish to make, we sometimes take great liberty in casting blame. My point, if it is 90 percent, or whatever the rescissions were, it cannot be totally the Congress' fault that over the last 8 years we have added $2 trillion of new debt, when spending by Congress has come within a small percentage point of the amount that the President has asked and demanded that we spend.

Now, there is a perception by the general public out there that tend to believe Members of Congress when they stand in the well and say it is all our fault that we have literally spent ourselves into oblivion. Members cannot prove that by the spending numbers that we have had. Members cannot add up $200 billion or 10 percent more, if my chairman is correct and I assume him to be correct, Members cannot add up $200 billion more spending by the Congress and come up with $2 trillion of new debt on spending alone. Something else has had to happen. That is where I think the budget debate today is. I wished I could support the gentleman today, but I have made a decision that I would rather move Members a small step in the right direction than to continue to participate in some activities in which there is reason to believe that we cannot get anywhere. Perhaps I am wrong in that.

Again, the gentleman has been very honest with me. I would be honest with him. Some of the difficulty, and I will be parochial, agriculture last year alone in this budget that we passed in the fall that no Member liked at the time, we cut agricultural spending entitlement version 15 percent.

□ 1230

Now, that is real, 15 percent cut.

Now, the gentleman would cut us again.

Now, there is a limit to how far we can go and how fast. I would agree with the general direction, but we cannot make those kinds of cuts without a plan.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

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

Mr. DANNEMEYER. Mr. Chairman, you know, we talk about cuts and people may listen and believe we are cutting something. Let us focus on what is going on.

In 1991, the current fiscal year, we are going to spend $1.392 trillion. Under the budget proposal that I am talking about, we would spend $1.430 trillion. That is an increase of $38 billion, 1992 over 1991.

Under the proposal of the gentleman from California [Mr. PANETTA] the chairman of the Democrat Committee, the spending would go up to $1.458 trillion. That is $28 billion higher than what I am suggesting.

If you want to lower the whole base of Federal spending, here is the chance, I say to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, the gentleman makes a good point. I have difficulty counteracting that one at all at this stage.

I am just saying, let us give the appropriating process a chance to function. It is going to be interesting as we listen to the debate on this floor today, when we get into individual appropriation bills late this year, as this gentleman sticks with all my colleagues who want to live with this law that we are passing today, you say it is not good enough, but I am saying it is good enough for me this year. We will fight the battle again next fall and into next year as we make the step in the direction the gentleman wants to go; but I look particularly in the area of national defense and I will predict right here and now that this spending level that the gentleman says is too high is going to be very binding on those of us who beleive that national security is important in this country and who have not yet completely focused on the caps on defense and what it is going to be doing to us, and that is my point, the major point that I would make to the gentleman today.

Let us look at this proposal. It is not nearly as bad as some would make it. It is not perfect, but it is moving us in the right direction. I think the gentleman goes a tad too far at this stage.

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I would contend that what we are doing is making a fundamental macroeconomic decision when we decide on budgets. In

that sense, the Dannemeyer budget is a very good presentation.

I came here yesterday and spoke on the relative priorities between the Democratic budget and the budget offered by the President in the area of science, space, and technology. If you want to look at relative priorities, it seems to me that the President's budget makes more sense than the Democratic budget; but the overriding objective to get out of parochial interests, whether they be agriculture or science, space, and technology, the fundamental macroeconomic question before us is, are we going to invest dollars in this country for the future? How are we going to invest in the future?

I would suggest to you that it becomes impossible to appropriately address the future if you are coming up with massive deficits, and therefore massive debt. If that debt is in fact driving you toward massive interest payments where the interest payments are driving out our ability to make good expenditures for things that are in the national interest, be they defense, be they space, be they technology, whatever they are, there are a lot of things that we could be spending the money better on than spending it on interest. As long as we continue to pile up debt and deficit we drive out our ability to do good spending because of interest payments that we have before us. That leads to significant economic decline.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Surely, I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, the gentleman is making the point again, one of which I certainly would like to agree with, but try to answer this question for me. If spending in the last 8 years of the Reagan Presidency, and let us use that for the base, but we can say for the last 8 years or whatever, if spending by the Congress which has the constitutional obligation, if spending went up approximately $200 billion or $220 billion, if we accept a 10-percent float in here, how can it be spending alone that created $2 trillion of new debt during the same period.

Mr. WALKER. Well, in large part because we spent away much of the economic progress that the country made. We had a significant increase in the overall economic performance of the country and we spent all that away, plus some.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. STENHOLM. I thought, Mr. Chairman, we were following an economic game plan that we said was moving us in the right direction.

Mr. WALKER. But we did not.

Mr. STENHOLM. An economic game plan that was set by the administration.

Mr. WALKER. We continued to spend at rates much higher than the inflation rates. We spent vastly more than the inflation rate throughout the decades of the 1980's, be it the President who was proposing it or be it the Congress that was spending it.

The fact is that what we did was took the inflation rate, doubled the inflation rate, spent at that rate, and so we are not raising the kind of revenues out of the economic growth that covered all that spending. So therefore, we continued to massively pile up deficits.

What I am suggesting to the gentleman is that during that time, those deficits also drove up the interest payments that we have to make each year and that ultimately is going to result in an economic decline that this country can ill afford.

I think what we ought to be doing is voting for budgets that drive down debt, drive down deficits, and encourage entrepreneurial activity.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The time of the gentleman from Pennsylvania has expired.

Mr. DANNEMEYER. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman.

Mr. STENHOLM. Mr. Chairman, we are talking about a point of philosophy now and judgment regarding economic policy.

But would the gentleman concede that a President and a White House, with the Treasury and the OMB and the movement, tries to set the economic direction for a country, and would we not assume that a President, when he submits a budget to us, is taking all those things into consideration when he presents a budget to the House?

Mr. WALKER. Well, I would suggest that they do, but I would also suggest that Congress did not follow any of those budget recommendations. As a matter of fact, Congress declared most of those budget presentations of the Reagan White House dead on arrival on Capitol Hill and took off and did its own thing.

Mr. STENHOLM. On both sides of the aisle.

Mr. WALKER. And did many things detrimental to the economic performance. I think had we followed the Reagan plans in many instances, we would have ended up with greater growth activity that might have covered some of this, but the fact is that Congress did not do that and instead went its own way, and in my mind undermined some of our ability to perform.

I think some of the things we did with regard to taxes along the way, ultimately the President might have come on board, but was not in his original budget plan, probably hurt the economy and therefore hurt our ability to get the money that we needed to sustain the spending we were doing.

Mr. DANNEMEYER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, I want to take my 2 minutes to make two points. First, I want to pay special tribute to a colleague of mine from California [Mr. DANNEMEYER], who has steadfastly over the years, year in and year out, stood up for the high principles of fiscal responsibility in this country. To the gentleman from California [Mr. DANNEMEYER] and his colleagues and his staff, I want to pay special tribute.

The second point I want to make is that over the years both Republican and Democratic Presidents have failed to use a constitutional tool that we have given them, and that is the exercise of the veto. We have spent enormous amounts of time talking about balanced budget amendments and the line item veto. Obviously, you need a two-thirds vote of the House and of the Senate to accomplish those objectives. But I think the President of the United States should exercise the power that we gave him, and that is to exercise the veto on appropriation bills that exceed the bounds of fiscal responsibility.

President Reagan was usually identified as a conservative, but I think you will find that in his 8 years vetoed only 2 appropriation bills, 2 continuing resolutions, and 2 supplementals, out of about 85 appropriation bills.

Now, I ask you, was he a fiscal conservative or not?

This President is not exercising the constitutional veto. He has vetoed appropriation bills, but not for fiscal reasons.

So I suggest that we have within our grasp on the Republican side a minority who could sustain a veto both in the House and in the Senate. I have suggested to the President that if we are going to bring this fiscal dilemma under control over a period of the next 5 years, that the President of the United States must exercise that veto and the Congress must sustain that veto. Together, we can bring down these deficits.

□ 1240

The CHAIRMAN pro tempore (Mr. MAZZOLI). The Chair would advise that the gentleman from California [Mr. PANETTA] has 16 minutes remaining, and the gentleman from California [Mr. DANNEMEYER] has 4 minutes remaining.

The Chair would also advise that the gentleman from California [Mr. PANETTA] has the right to close.

Mr. DANNEMEYER. Mr. Chairman, I do not see the gentleman from Texas [Mr. ARMEY] on the floor, and I therefore yield myself such time as I may consume.

I see the gentleman from California [Mr. PANETTA], chairman of the Committee on the Budget, on the floor, and I ask his attention to these comments because they relate to what was supposed to have been done in the budget summit agreement last year.

In August of last year the projection was that if we did not do something, we would add a little over $1 trillion to the national debt over the next 5 years. That was the premise on which the reduction package was adopted last fall, which contained the tax increases of $160 billion over 5 years. That was the claim that was made. It was said to all of us that we were supposed to reduce the projected deficit by some half a billion dollars over 5 years, roughly. The package came, I think, totally to about 490 in the closing days of the session, but that was the claim.

Then, when we got back here in January of this year, what did we find? That the projected deficit over the next 5 years is still $1 trillion. Now, part of the explanation, of course, is we are spending money for the Resolution Trust Corporation which was not considered, part of it for Desert Storm. I admit that. Those total about $130 billion.

My question is: How did it come to be that we raised taxes on the American people $160 billion over 5 years and claim some savings, and yet the projected deficit over the next 5 years in January of this year is the same amount that was projected in August of last year that was used as the justification for the tax increase?

Mr. Chairman, will the gentleman from California [Mr. PANETTA], please explain that to me?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the chairman of the committee.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, obviously it is a question that ought to be addressed to the Office of Management and Budget as well as to the Congress. But it relates specifically to some of the areas that the gentleman just pointed out. The biggest contributor to the deficit that we are looking at right now in the $300 billion category is about $100 billion next year that goes for the S&L situation.

Mr. DANNEMEYER. Right, I admit that.

Mr. PANETTA. And in addition to that, you have got the recession, which resulted in reduced revenues. The combination of those——

Mr. DANNEMEYER. On that point I am going to reclaim my time. Can it not be, sir, could it not be that the cause of the recession was the tax package that this Congress adopted and inflicted on the American public?

Mr. PANETTA. Certainly, that is the gentleman's viewpoint, but it is not the viewpoint of the White House, and it is not my viewpoint. I think the basic thrust that drove the recession was essentially the Persian Gulf crisis and the spike in oil prices that took place in September.

Mr. DANNEMEYER. I thank my colleague for his response. I believe that if we want to get out of the recession, there are three taxes we should lower right now: capital gains tax rate in order to provide increased jobs for this country; we should remove the penalty on senior citizens who want to work beyond 65 and if they choose to work, they pay a huge penalty up to age 70; and we also should rescind the 1-percent increase in the Social Security tax. I do not agree with my colleague, Senator MOYNIHAN, on a lot of things, but on this he is right. It was not necessary to raise that tax on Social Security by a little over 1 percent effective January of last year, and we should rescind that.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank my colleague for yielding.

Mr. Chairman, I am stunned to hear that the recession started with the Persian Gulf crisis. The fact is that the economic indicators started down the first part of July, almost immediately after the announcement at the White House that we were going to raise taxes. So the fact is that in July the economy began to show weakening at the indicator level and by August we were actually in the recession. So that I think it is a little bit stunning to hear that we are now blaming the Persian Gulf crisis when, in fact, it was the tax policy that drove the recession.

The CHAIRMAN pro tempore. All time of the gentleman from California [Mr. DANNEMEYER] has expired.

Mr. DANNEMEYER. Mr. Chairman, the gentleman from California [Mr. PANETTA] has time remaining. Would he yield to me?

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER] and I would ask him to yield.

Mr. DANNEMEYER. I yield to the chairman.

Mr. PANETTA. Mr. Chairman, the gentleman from Pennsylvania [Mr. WALKER] is correct, there was a weakening in the economy. Dr. Boskin has often testified time and time again that the one thing that eventually threw us into a full-scale recession was the oil spike that took place during the initial Persian Gulf crisis.

Mr. DANNEMEYER. Well, since that oil spike has now been removed, one would believe if it was the cause, we should be out of it right? The gentleman from California is not saying anything in response, Mr. Chairman. I am puzzled. The gentleman from California [Mr. PANETTA] is not a man who is at a loss for words.

Mr. PANETTA. If the gentleman will yield, the gentleman is not that naive. He knows that once we get into a recession, it is not just a matter of changing oil prices, it is a matter of pulling out of a number of areas in order to try to resurrect from what is a deep recession.

Mr. DANNEMEYER. I hope my colleague will join us in reducing the taxes that I have described because I think it is the most constructive thing we can do to get this Nation out of the recession along with adopting a budget for the Federal Government which restrains spending and reforms the monetary system.

Earlier today Mr. STENHOLM of Texas and I discussed Reagan budget proposals and congressional responses. Enclosed is an analysis which shows that from 1982 to 1990, if Congress had appropriated each year what the President requested, the total level of spending in 1991 would have been $234 billion lower than what it was. Congress is responsible for the deficit mess, not the President.

FEDERAL BUDGETS—THE PRESIDENT VERSUS CONGRESS

[By fiscal year; outlays in billions of dollars]

Function	President's requests			Actual outlays		
	WED (1)	CBO (2)	OMB (3)	WED	CBO	OMB
1982						
National defense	188.9	188.8	186.8	186.3	185.3	185.3
Medicare	46.6	47.1	43.2	46.6	46.6	46.6
Social security	159.6	154.7	156.7	156.0	156.0	156.0
Net interest	82.6	82.5	68.4	85.0	85.0	85.0
Other	217.8	221.1	253.6	272.8	255.5	272.9
Total	695.5	695.3	708.1	745.1	728.1	745.7
1983						
National defense	221.1	221.1	220.0	209.9	209.9	209.9
Medicare	55.4	55.4	51.0	52.6	52.6	52.6
Social security	173.5	173.5	175.3	170.7	170.7	170.7
Net interest	112.5	112.5	97.1	89.8	89.8	89.8
Other	195.1	195.1	230.1	285.3	273.0	285.3
Total	757.6	757.6	773.3	808.3	796.0	808.3
1984						
National defense	245.3	245.3	245.0	227.4	227.4	227.4
Medicare	59.8	59.8	59.8	57.5	57.5	57.5
Social security	178.2	178.2	178.9	178.2	178.2	178.2
Net interest	103.2	103.2	106.3	111.1	111.1	111.1
Other	262.0	262.0	273.4	277.6	267.6	277.5
Total	848.5	848.5	863.3	851.8	841.8	851.8
1985						
National defense	272.0	272.0	272.0	252.7	251.5	252.7
Medicare	69.7	69.7	69.8	65.8	64.3	65.8
Social security	190.6	190.6	190.6	188.6	190.2	188.6
Net interest	116.1	116.1	116.1	129.4	129.4	129.4
Other	277.1	277.1	291.7	309.8	301.4	309.7
Total	925.5	925.5	940.3	946.3	936.8	946.3
1986						
National defense	285.7	285.7	285.7	273.4	273.4	273.4
Medicare	67.2	67.2	67.2	70.2	70.2	70.2
Social security	202.2	202.2	202.4	198.8	198.8	198.8
Net interest	142.6	142.6	142.6	136.0	136.0	136.0
Other	276.0	276.0	276.1	311.9	311.6	311.6
Total	973.7	973.7	973.9	990.3	989.8	989.8

	COM (4)			COM		
1987						
National defense	282.2			282.0		
Medicare	70.2			75.1		
Social security	212.2			207.4		
Net interest	148.0			138.6		
Other	281.4			300.7		
Total	994.0			1,003.8		
1988						
National defense	297.6			290.4		
Medicare	73.0			78.9		
Social security	219.4			219.3		
Net interest	139.0			151.7		
Other	295.3			323.7		
Total	1,024.3			1,064.0		
1989						
National defense	294.0			303.6		
Medicare	84.0			85.0		
Social security	233.8			232.5		
Net interest	151.8			169.1		
Other	330.6			352.4		
Total	1,094.2			1,142.6		
1990 (5)						
National defense	303.0			297		
Medicare	94.9			97		
Social security	246.7			249		
Net interest	170.1			179		
Other	337.1			380		
Total	1,151.8			1,202		

	Cumulative					
	WED	CBO	OMB	WED	CBO	OMB
National defense	2,389.8	2,389.7	2,385.8	2,316	2,315	2,316
Medicare	620.8	621.3	613.1	630	629	630
Social security	1,816.2	1,811.3	1,815.9	1,800	1,802	1,800
Net interest	1,165.9	1,165.8	1,139.3	1,186	1,186	1,186
Other	2,472.4	2,476.7	2,569.2	2,816	2,768	2,815
Total	8,465.1	8,464.8	8,523.3	8,749	8,700	8,749
DEVIATIONS 1982–88 (6)						
National defense	−74	−75	−70			
Medicare	+9	+8	+7			
Social security	−16	−9	−16			
Net interest	+20	−20	+47			
Other	+344	+291	+246			
Total	+284	+235	+226			

[1] Rep. W.E. Dannemeyer: President's budgets as submitted (FY 82 Reagan budget submitted in March, 1981); actual outlays as reported.
[2] Congressional Budget Office: President's budgets as submitted, excluding off-budget programs (FFB); actual outlays (updated), excluding off-budget programs.
[3] Office of Management & Budget: original budget requests adjusted for comparable accounting (defense includes imputed accruals for military retirement, Medicare includes premiums as offsetting receipts, totals include off-budget outlays).
[4] Composite: estimates have been identical beginning in FY 1987.
[5] Estimated.
[6] Actual outlays less President's requests.

Mr. PANETTA. Mr. Chairman, I yield myself 4 minutes for the purpose of closing.

Mr. Chairman, again I think there are many who respect the viewpoint of the gentleman from California [Mr. DANNEMEYER] in terms of how we confront what I think is a legitimate concern, which is the horrendous deficits that face this country.

But in addressing the deficit, it is always the same approach. Somehow when you address a problem as severe as the deficit, what you cannot do is go after some holy areas that should not be touched.

You should not touch defense spending. Interestingly enough, his proposal does not reduce below the cap, as he does in other areas, the defense number. That you should not raise any revenues of any taxes even if it is on the wealthiest individuals in the society. Somehow that is wrong.

So what you ought to do if you are really serious about going after the deficit is go after the investments that we make in people in our society; go after education, go after health care, go after nutrition, go after housing, go after science and research. Those are the areas, those are the areas where perhaps we can balance the budget if we just stick to cutting those investments within our own society.

Mr. Chairman, that does not work, and all of you know that it does not work. And the real thrust of the budget agreement last year by the President himself and by the leadership in the Congress, both sides, was to recognize the fact that if you are dealing with these horrendous deficits, you have to go after everything; you have to go after entitlements. There was a $100 billion reduction in entitlements in the budget agreement. You also have to go after discretionary savings, and there was $180 billion to $200 billion in savings in that area.

Two-thirds of that package involved spending savings. One-third involved revenue increases.

So if you are serious about the deficit, if you are honest with the American people about what has to be done, you will stop kidding them, stop kidding them.

Mr. Chairman, I will yield to the gentleman from California [Mr. DANNEMEYER] after I finish.

Mr. Chairman, let us stop kidding the American people. Do not pretend that somehow this horrendous deficit that faces us can just be solved by either restoring the gold standard or just cutting the hell out of domestic spending. It is not going to work. The gentleman knows it, and I know it.

So I think the Congress needs to recognize the statement that was made in the budget agreement, which is that the President and the Congress are going to join hands to try to stick to some firm caps on spending and we want to do it not only in 1992 but for the next 5 years, that offers the best hope within our system of trying to begin to reduce this deficit that confronts the country.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, I want to repeat again so that we do not misunderstand what is going on: The budget spending total that the gentleman is talking about today for the country for fiscal year 1992 is $1.458 trillion. That happens to be an increase of $66 billion more than we spent in 1991.

The budget total I am talking about is $1.430 trillion, which happens to be $38 billion more than we are going to spend this year. Nothing, my proposal does not cut anything; it increases spending in 1992 over 1991 by $38 billion. It spends less than your total by some $28 billion, and if you want to do something about controlling the deficit, Mr. Chairman, vote for my proposal because it will spend $28 billion less in a very responsible way and in the out years will significantly reduce this deficit that is mushrooming in this Nation.

□ 1250

Mr. PANETTA. Reclaiming my time, Mr. Chairman, the gentleman from California [Mr. DANNEMEYER] is correct. He offers reduced spending, but he offers reduced spending in the areas that he wants to reduce spending in. He does not offer it in areas across the board. He is willing to go after the most vulnerable citizens in our society. He says they do not count, they are the ones that ought to pay the sacrifice, and leave the people at the upper income levels alone. Go after the most vulnerable Americans.

Mr. Chairman, it is for that reason that I oppose this proposal.

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

Mr. KYL. Mr. Chairman, I rise in support of the Dannemeyer substitute and in opposition to the alternative budget resolution for fiscal year 1992 which was reported by the Budget Committee.

The Dannemeyer substitute provides the most dramatic deficit reduction of any of the alternatives that will come before us today, and it does so with no new taxes.

The deficit will total $49 billion less under the Dannemeyer budget than under the President's budget in fiscal year 1992. It will total $63 billion less than the Budget Committee's plan.

Unlike either of those alternatives—which start from a current services baseline and thus build a 12.6-percent increase in spending from the very start—the Dannemeyer budget freezes domestic discretionary spending at fiscal year 1990 levels with only a 4-percent adjustment for inflation. It maintains defense spending at the levels set in last year's budget agreement, saving $9.8 billion in fiscal year 1992 and $161 billion over 5 years.

Mr. Chairman, it isn't good enough just to stick with last year's budget agreement. Some of us argued then, and we all know now, that that agreement was not a deficit reduction plan at all. It was a blueprint for higher taxes and dramatically increased Federal spending, with deficits remaining at unacceptably high levels for the foreseeable future.

There was an alternative to the budget agreement last fall, an alternative which parallels the Dannemeyer substitute in many respects, but the Democratic leadership denied the members of the House the opportunity to even vote on it at that time. It would have resulted in significant reductions in the deficit, without resorting to tax increases. Well, we

have an opportunity to demonstrate to the American people today who is serious about reducing the deficit and how that should be accomplished.

I urge support for the Dannemeyer substitute.

Mr. GEPHARDT. Mr. Chairman, during the past couple of years many in the Congress have focused aggressively on U.S. efforts in basic research and development, math and sciences education, advanced defense and commercial technology and manufacturing as well as export promotion—all key components of the American competitiveness puzzle. And, many of us have worked hard to ensure that adequate funding, and not only rhetoric, is available for key programs that will make America economically stronger and healthier.

The areas I've mentioned are not new, but ones which have been overlooked and neglected by the administration. However, the need to include these basic ingredients in U.S. competitiveness policies has been enforced in report after report, ending with the most recent one entitled "Gaining New Ground: Technology Priorities for America's Future" issued by the Council on Competitiveness in March 1990.

The budget resolution's initiative on technology and competitiveness is consistent with the consensus recommendations included in the Council's report. And it is necessary, if as the report states:

America is to regain its once-commanding lead in critical technologies and establish a pragmatic plan for public and private-sector action.

Last year was the first year that the House had as part of its budget resolution, a competitiveness and economic development package. In the resolution we are considering today, there is once again an effort to enhance our country's competitiveness. This initiative, developed as a result of expertise and leadership from the Budget Committee, is our effort to establish priorities that the administration has identified but not funded in its budget.

Our serious commitments to the National Institute of Standards and Technology [NIST] and its Advanced Technology Program [ATP]; DARPA; National Science Foundation math and science education programs; the Department of Defense's manufacturing technology, science and engineering education and technology support programs; the Export-Import Bank, the Trade Development Program [TDP] and the U.S. and Foreign Commercial Service will strengthen the U.S. technology and industrial base and encourage U.S. exports to new and old markets abroad.

The direction given to U.S. technology and competitiveness policies through the important programs included in the budget resolution will no doubt help us regain the lost edge we have witnessed in these areas. By going back to the basics of American economic prosperity we will, as the Council on Competitiveness stated, "once again stand head and shoulders above other nations in the world because of our great technological strength."

Mr. YOUNG of Florida. Mr. Chairman, the American people will be shocked to know that the largest single item in the 1992 budget resolution we consider today will not provide a single dollar for the education of our children, health care or housing for families, for our national security, or for the benefits promised to our Nation's veterans and retirees.

The largest single outlay in this budget resolution is the $304 billion that our Nation will pay in interest on the national debt that will exceed $4 trillion next year.

Much has been made during this 2-day debate about the need to balance the Federal budget, and this Member has been one of the most vocal over the years in this regard. My colleagues should be aware that if not for the interest payment on the national debt, we actually would have a $23 billion surplus in fiscal year 1992. In fact, without the annual interest payment, we would have had surpluses this fiscal year and in each of the 4 prior fiscal years.

The fact is, that of the increase in the national debt during the Reagan and Bush administrations, $2.274 trillion, or 74 percent of the increase, went just to pay the interest on the national debt. The accumulated interest payment would have been even higher had President Reagan's economic policies not cut in half the interest rate during the early 1980's. Following my remarks, I will include a chart which details the growing interest payment on the national debt and its direct contribution to the national debt.

As I said in my opening remarks, these funds cannot be used to improve the quality of our children's education, the health care for young and old, the building of highways and bridges, health care and compensation for our Nation's veterans, or for the maintenance of our national security. And over the next 5 years, this payment is going nowhere but up. Between fiscal years 1992 and 1996, we will pay an additional $1.627 trillion in interest.

For more than 20 years, I have been warning my colleagues that the day of reckoning would come when they would be held accountable for their tax and spend policies in which the revenue generated by their tax increases never quite caught up with their spending on new and bigger programs. Throughout this same time, I also have urged my colleagues to face the budget head on and cast the difficult votes necessary to establish our Federal priorities.

Instead, this Congress has relied on gimmicks and phoney accounting year after year to claim to the people back home that we have discharged our fiscal responsibilities. Along came the Gramm-Rudman Act in which a computer was supposed to calculate and spit out automatic across-the-board cuts. I strongly opposed this legislation because it simply allowed Members of Congress to avoid casting the tough votes that would reduce Federal spending.

When Gramm-Rudman's spending reductions became too painful, the Congress stepped in to exempt a whole list of programs from its automatic cuts. In the end, more than two-thirds of all Federal outlays were exempted from sequestration. It soon became obvious that Gramm-Rudman would not succeed and its deficit-reduction targets were altered and its timetable for a balanced Federal budget was extended. Under the new scenario, the 1992 budget we considered today was supposed to be balanced. Instead, we are faced with the prospect of a $281 billion deficit.

With the failure of Gramm-Rudman, the Congress last year spent more than 9 months searching for a new gimmick. When it became obvious that all the gimmicks had been tried and failed and that years and years of phoney accounting and shifting of expenditures from 1 fiscal year to another had finally caught up with us, the leadership convened a series of private negotiations at an Air Force base 20 miles from the Capitol, to attempt to come to agreement on a 5-year, $500 billion budget reduction package. After weeks and weeks of these secret meetings, and the defeat of the first agreement, the leadership brought to the House and Senate a budget agreement that raised taxes, increased Federal spending, and will leave our Nation, at the end of this fiscal year, with a deficit of $318 billion—the largest in our Nation's history.

If the precariousness of our fiscal house is not already obvious, my colleagues should stop and consider the impact on our Nation of a sharp rise in interest rates. Although currently less than 10 percent, a prolonged 2-percent increase in interest rates could push our annual interest payment over $400 billion. A return of interest rates in excess of 20 percent, as they were in 1979 and 1980, would prove to be catastrophic and could dive the interest payment to more than half a trillion dollars per year.

Mr. Chairman, there should be no surprise in finding that more than 30 years of sustained deficit spending has left our Nation in fiscal chaos. Just like any individual consumer who continues to buy with a charge card without ever reducing their principal, the rising interest payment soon overwhelms the ability even to meet the finance charges. That is where we find ourselves today and why it should be evident that we need a real reform of our budget process to force this Congress to once and for all face its fiscal responsibilities head on.

We need to prohibit a repeat of last year's closed door budget negotiations, the imposition of gimmick legislation such as Gramm-Rudman, and the reliance upon accounting techniques which shift outlays between fiscal years or low-ball budget estimates with the hope that the shortage will be covered in future supplemental appropriations bills.

What we need is a new budget process which cuts away the layers of bureaucracy that have made the current process so ineffective and have actually contributed to the problem. We need to early in the year develop a simple estimate of revenues and the balancing level of outlays. Then we should allow the Appropriations Committee, and those committees responsible for mandatory entitlement programs, to bring before this House individual bill after bill, under open rules, allowing Members to have the opportunity to scrutinize every program and to debate and where appropriate amend the legislation. This is how our forefathers envisioned this process working in full view of the American people.

Finally, Mr. Chairman, I want to commend my colleague from California [Mr. DANNEMEYER] for his amendment today which provides a real solution to the ongoing burden of the annual interest payment. Included in his amendment is the authorization for the Secretary of the Treasury to issue up to $20 billion in gold-backed Treasury bonds which

could finance a portion of the national debt at less than half the current rate of interest. This is a proposal my colleague from California has brought before this House time and again and which deserves our serious review and support.

Mr. Chairman, the day of reckoning has arrived and we are now being held accountable for decades of unrestrained Federal spending. We should make a commitment to the American people today that we will begin the process of making the difficult decisions and casting the tough votes to put our fiscal house in order. That is the challenge before us in the 5 months we have before fiscal year 1992 begins October 1.

INTEREST PAID ON THE NATIONAL DEBT

[Dollar amounts in billions]

Fiscal year	Interest paid on the national debt	Fiscal year deficit	Total accumulated national debt	Total Federal outlays	Interest as a percent of total outlays
1980	$74.8	$73.8	$908.5	$590.0	12.7
1981	95.5	78.9	994.3	678.2	14.1
1982[1]	117.2	127.9	1,136.8	745.7	15.7
1983	128.6	207.8	1,371.2	808.3	15.9
1984	153.8	185.3	1,564.1	851.8	18.1
1985	178.8	212.3	1,817.0	946.3	18.9
1986	190.2	221.2	2,120.1	990.3	19.2
1987	195.3	149.7	2,345.6	1,003.8	19.5
1988	214.1	155.1	2,600.8	1,064.1	20.1
1989	240.9	153.4	2,867.5	1,144.1	21.1
1990	264.8	220.4	3,206.3	1,251.7	21.2
1991[2]	286.3	318.1	3,617.8	1,409.6	20.3
1992[2]	304.0	280.9	4,021.1	1,445.9	21.0
1993[2]	320.0	201.5	4,365.5	1,454.2	22.0
1994[2]	330.0	61.7	4,586.8	1,427.1	23.1
1995[2]	334.5	2.9	4,773.3	1,470.3	22.8
1996[2]	338.5	19.9	4,949.4	1,540.9	22.0

[1] The fiscal year 1982 budget was the first submitted by President Reagan.
[2] Estimate.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 79, noes 332, not voting 20, as follows:

[Roll No. 68]

AYES—79

Allard	Gilchrest	Nichols
Armey	Gingrich	Oxley
Ballenger	Goss	Packard
Bliley	Grandy	Petri
Broomfield	Hammerschmidt	Porter
Bunning	Hancock	Pursell
Burton	Hansen	Quillen
Callahan	Hastert	Ravenel
Coble	Hefley	Rhodes
Combest	Herger	Ritter
Cox (CA)	Holloway	Rohrabacher
Crane	Hopkins	Roth
Cunningham	Houghton	Schaefer
Dannemeyer	Hunter	Schulze
DeLay	Inhofe	Sensenbrenner
Doolittle	Ireland	Shays
Dreier	James	Shuster
Duncan	Kyl	Slaughter (VA)
Edwards (OK)	Lewis (FL)	Solomon
Emerson	Lightfoot	Spence
Fawell	Lowery (CA)	Stearns
Fields	McEwen	Stump
Franks (CT)	Miller (OH)	Taylor (MS)
Gekas	Moorhead	Taylor (NC)
Thomas (WY)	Walker	Zimmer
Upton	Weber	
Vucanovich	Young (FL)	

NOES—332

Abercrombie	Fish	McCollum
Ackerman	Flake	McCrery
Anderson	Foglietta	McCurdy
Andrews (ME)	Ford (MI)	McDade
Andrews (NJ)	Ford (TN)	McDermott
Andrews (TX)	Frank (MA)	McGrath
Annunzio	Frost	McHugh
Anthony	Gallegly	McMillan (NC)
Applegate	Gallo	McMillen (MD)
Archer	Gaydos	McNulty
Atkins	Gejdenson	Meyers
AuCoin	Geren	Mfume
Bacchus	Gibbons	Michel
Baker	Gillmor	Miller (CA)
Barnard	Gilman	Miller (WA)
Barrett	Glickman	Mineta
Barton	Gonzalez	Mink
Bateman	Goodling	Moakley
Beilenson	Gordon	Molinari
Bennett	Gradison	Mollohan
Bentley	Gray	Montgomery
Bereuter	Green	Moody
Berman	Guarini	Moran
Bilbray	Gunderson	Morella
Bilirakis	Hall (OH)	Morrison
Boehlert	Hall (TX)	Mrazek
Boehner	Hamilton	Murphy
Bonior	Harris	Murtha
Borski	Hatcher	Myers
Boucher	Hayes (IL)	Nagle
Boxer	Hayes (LA)	Natcher
Brewster	Hefner	Neal (MA)
Brooks	Henry	Neal (NC)
Browder	Hertel	Nowak
Brown	Hoagland	Nussle
Bruce	Hobson	Oakar
Bustamante	Hochbrueckner	Oberstar
Byron	Horn	Obey
Camp	Horton	Olin
Campbell (CA)	Hoyer	Ortiz
Campbell (CO)	Hubbard	Orton
Cardin	Huckaby	Owens (NY)
Carper	Hutto	Owens (UT)
Carr	Hyde	Pallone
Chandler	Jacobs	Panetta
Chapman	Jefferson	Parker
Clay	Jenkins	Patterson
Clement	Johnson (CT)	Paxon
Clinger	Johnson (SD)	Payne (NJ)
Coleman (MO)	Johnston	Payne (VA)
Coleman (TX)	Jones (GA)	Pease
Collins (IL)	Jones (NC)	Pelosi
Collins (MI)	Jontz	Penny
Condit	Kanjorski	Perkins
Conyers	Kaptur	Peterson (FL)
Cooper	Kasich	Peterson (MN)
Costello	Kennedy	Pickett
Coughlin	Kildee	Pickle
Cox (IL)	Kleczka	Poshard
Coyne	Klug	Price
Cramer	Kolbe	Rahall
Darden	Kolter	Ramstad
Davis	LaFalce	Rangel
de la Garza	Lagomarsino	Ray
DeFazio	Lancaster	Reed
DeLauro	Lantos	Regula
Dellums	LaRocco	Richardson
Derrick	Laughlin	Ridge
Dickinson	Leach	Riggs
Dicks	Lehman (CA)	Rinaldo
Dingell	Lent	Roberts
Dixon	Levin (MI)	Roe
Donnelly	Lewis (CA)	Roemer
Dooley	Lewis (GA)	Rogers
Dorgan (ND)	Lipinski	Ros-Lehtinen
Downey	Livingston	Rostenkowski
Durbin	Lloyd	Rowland
Dwyer	Long	Roybal
Early	Lowey (NY)	Russo
Eckart	Luken	Sabo
Edwards (CA)	Machtley	Sanders
Edwards (TX)	Manton	Sangmeister
Engel	Markey	Santorum
English	Martin	Sarpalius
Erdreich	Martinez	Savage
Espy	Matsui	Sawyer
Evans	Mavroules	Saxton
Fascell	Mazzoli	Scheuer
Fazio	McCandless	Schiff
Feighan	McCloskey	Schroeder
Schumer	Stark	Vento
Serrano	Stenholm	Visclosky
Sharp	Stokes	Walsh
Shaw	Studds	Washington
Sikorski	Sundquist	Waters
Sisisky	Swett	Waxman
Skaggs	Swift	Weiss
Skeen	Synar	Weldon
Skelton	Tallon	Wheat
Slattery	Tanner	Whitten
Slaughter (NY)	Tauzin	Williams
Smith (FL)	Thomas (CA)	Wilson
Smith (IA)	Thomas (GA)	Wise
Smith (NJ)	Thornton	Wolf
Smith (OR)	Torres	Wolpe
Smith (TX)	Torricelli	Wyden
Snowe	Traficant	Wylie
Solarz	Traxler	Yatron
Spratt	Unsoeld	Young (AK)
Staggers	Valentine	Zeliff
Stallings	Vander Jagt	

NOT VOTING—20

Alexander	Hughes	Rose
Aspin	Kennelly	Roukema
Bevill	Kopetski	Towns
Bryant	Kostmayer	Udall
Dornan (CA)	Lehman (FL)	Volkmer
Dymally	Levine (CA)	Yates
Gephardt	Marlenee	

□ 1313

The Clerk announced the following pair:

On this vote:

Mr. Dornan of California for, with Mr. Hughes against.

Mr. WYDEN and Mr. RIGGS changed their vote from "aye" to "no."

Mr. CUNNINGHAM and Mr. JAMES changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KASICH

Mr. KASICH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. KASICH:

Strike all after the resolving clause and insert the following:

That the budget for fiscal year 1992 is established, and the appropriate budgetary levels for fiscal years 1993, 1994, 1995, and 1996 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1992: $849,900,000,000.
Fiscal year 1993: $914,200,000,000.
Fiscal year 1994: $1,000,100,000,000.
Fiscal year 1995: $1,077,800,000,000.
Fiscal year 1996: $1,143,800,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1992: $2,800,000,000.
Fiscal year 1993: $800,000,000.
Fiscal year 1994: −$400,000,000.
Fiscal year 1995: −$600,000,000.

Fiscal year 1996: −$4,000,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1992: $82,705,000,000.
Fiscal year 1993: $90,123,000,000.
Fiscal year 1994: $96,814,000,000.
Fiscal year 1995: $103,105,000,000.
Fiscal year 1996: $110,190,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1992: $1,235,000,000,000.
Fiscal year 1993: $1,180,200,000,000.
Fiscal year 1994: $1,228,800,000,000.
Fiscal year 1995: $1,273,700,000,000.
Fiscal year 1996: $1,324,400,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1992: $1,184,600,000,000.
Fiscal year 1993: $1,175,600,000,000.
Fiscal year 1994: $1,133,700,000,000.
Fiscal year 1995: $1,165,900,000,000.
Fiscal year 1996: $1,226,200,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1992: ($334,700,000,000).
Fiscal year 1993: ($261,400,000,000).
Fiscal year 1994: ($133,600,000,000).
Fiscal year 1995: ($88,100,000,000).
Fiscal year 1996: ($82,400,000,000).

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1992: $3,978,300,000,000.
Fiscal year 1993: $4,313,900,000,000.
Fiscal year 1994: $4,529,500,000,000.
Fiscal year 1995: $4,715,700,000,000.
Fiscal year 1996: $4,889,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995, are as follows:

Fiscal year 1992:
(A) New direct loan obligations, $14,698,000,000.
(B) New primary loan guaraptee commitments, $190,235,000,000.
Fiscal year 1993:
(A) New direct loan obligations, $14,976,000,000.
(B) New primary loan guarantee commitments, $193,517,000,000.
Fiscal year 1994:
(A) New direct loan obligations, $13,581,000,000.
(B) New primary loan guarantee commitments, $196,717,000,000.
Fiscal year 1995:
(A) New direct loan obligations, $13,447,000,000.
(B) New primary loan guarantee commitments, $199,992,000,000.
Fiscal year 1996:
(A) New direct loan obligations, $13,658,000,000.
(B) New primary loan guarantee commitments, $202,539,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1992 through 1996 for each major functional category are:

(1) National Defense (050):
Fiscal year 1992:
(A) New budget authority, $290,800,000,000.
(B) Outlays, $295,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $290,900,000,000.
(B) Outlays, $291,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $291,900,000,000.
(B) Outlays, $286,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $295,100,000,000.
(B) Outlays, $288,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $297,800,000,000.
(B) Outlays, $293,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1992:
(A) New budget authority, $21,400,000,000.
(B) Outlays, $17,300,000,000.
(C) New direct loan obligations, $1,745,000,000.
(D) New primary loan guarantee commitments, $9,349,000,000.
Fiscal year 1993:
(A) New budget authority, $20,700,000,000.
(B) Outlays, $17,800,000,000.
(C) New direct loan obligations, $1,625,000,000.
(D) New primary loan guarantee commitments, $9,344,000,000.
Fiscal year 1994:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $18,000,000,000.
(C) New direct loan obligations, $1,432,000,000.
(D) New primary loan guarantee commitments, $9,305,000,000.
Fiscal year 1995:
(A) New budget authority, $20,600,000,000.
(B) Outlays, $18,000,000,000.
(C) New direct loan obligations, $1,449,000,000.
(D) New primary loan guarantee commitments, $9,360,000,000.
Fiscal year 1996:
(A) New budget authority, $19,300,000,000.
(B) Outlays, $18,100,000,000.
(C) New direct loan obligations, $1,455,000,000.
(D) New primary loan guarantee commitments, $9,406,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1992:
(A) New budget authority, $15,700,000,000.
(B) Outlays, $15,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $16,300,000,000.
(B) Outlays, $15,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $16,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $17,600,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $18,300,000,000.
(B) Outlays, $18,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1992:
(A) New budget authority, $4,500,000,000.
(B) Outlays, $3,700,000,000.
(C) New direct loan obligations, $1,197,000,000.
(D) New primary loan guarantee commitments, $1,100,000,000.
Fiscal year 1993:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $1,741,000,000.
(D) New primary loan guarantee commitments, $1,150,000,000.
Fiscal year 1994:
(A) New budget authority, $5,700,000,000.
(B) Outlays, $4,900,000,000.
(C) New direct loan obligations, $724,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1995:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,000,000,000.
(C) New direct loan obligations, $650,000,000.
(D) New primary loan guarantee commitments, $1,250,000,000.
Fiscal year 1996:
(A) New budget authority, $5,000,000,000.
(B) Outlays, $3,200,000,000.
(C) New direct loan obligations, $850,000,000.
(D) New primary loan guarantee commitments, $1,280,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 1992:
(A) New budget authority, $19,700,000,000.
(B) Outlays, $19,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $19,500,000,000.
(B) Outlays, $19,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $19,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $18,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $17,900,000,000.
(B) Outlays, $17,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):
Fiscal year 1992:
(A) New budget authority, $20,100,000,000.
(B) Outlays, $15,200,000,000.
(C) New direct loan obligations, $8,288,000,000.
(D) New primary loan guarantee commitments, $8,464,000,000.
Fiscal year 1993:
(A) New budget authority, $17,600,000,000.

(B) Outlays, $14,100,000,000.
(C) New direct loan obligations, $8,265,000,000.
(D) New primary loan guarantee commitments, $8,462,000,000.
Fiscal year 1994:
(A) New budget authority, $16,200,000,000.
(B) Outlays, $13,300,000,000.
(C) New direct loan obligations, $8,202,000,000.
(D) New primary loan guarantee commitments, $8,470,000,000.
Fiscal year 1995:
(A) New budget authority, $16,700,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $8,236,000,000.
(D) New primary loan guarantee commitments, $8,424,000,000.
Fiscal year 1996:
(A) New budget authority, $13,900,000,000.
(B) Outlays, $12,400,000,000.
(C) New direct loan obligations, $8,387,000,000.
(D) New primary loan guarantee commitments, $8,175,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1992:
(A) New budget authority, $104,000,000,000.
(B) Outlays, $93,900,000,000.
(C) New direct loan obligations, $1,380,000,000.
(D) New primary loan guarantee commitments, $142,539,000,000.
Fiscal year 1993:
(A) New budget authority, $9,900,000,000.
(B) Outlays, $49,400,000,000.
(C) New direct loan obligations, $1,355,000,000.
(D) New primary loan guarantee commitments, $147,358,000,000.
Fiscal year 1994:
(A) New budget authority, $11,900,000,000.
(B) Outlays, ($33,600,000,000).
(C) New direct loan obligations, $1,356,000,000.
(D) New primary loan guarantee commitments, $150,278,000,000.
Fiscal year 1995:
(A) New budget authority, $13,000,000,000.
(B) Outlays, ($38,200,000,000).
(C) New direct loan obligations, $1,341,000,000.
(D) New primary loan guarantee commitments, $152,915,000,000.
Fiscal year 1996:
(A) New budget authority, $13,600,000,000.
(B) Outlays, ($26,100,000,000).
(C) New direct loan obligations, $1,294,000,000.
(D) New primary loan guarantee commitments, $155,242,000,000.
(8) Transportation (400):
Fiscal year 1992:
(A) New budget authority, $33,400,000,000.
(B) Outlays, $32,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $34,300,000,000.
(B) Outlays, $33,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $35,600,000,000.
(B) Outlays, $34,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $36,900,000,000.
(B) Outlays, $34,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $34,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1992:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $6,500,000,000.
(C) New direct loan obligations, $939,000,000.
(D) New primary loan guarantee commitments, $466,000,000.
Fiscal year 1993:
(A) New budget authority, $5,600,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $953,000,000.
(D) New primary loan guarantee commitments, $464,000,000.
Fiscal year 1994:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,300,000,000.
(C) New direct loan obligations, $966,000,000.
(D) New primary loan guarantee commitments, $459,000,000.
Fiscal year 1995:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $980,000,000.
(D) New primary loan guarantee commitments, $452,000,000.
Fiscal year 1996:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $993,000,000.
(D) New primary loan guarantee commitments, $443,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1992:
(A) New budget authority, $45,000,000,000.
(B) Outlays, $45,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,281,000,000.
Fiscal year 1993:
(A) New budget authority, $44,400,000,000.
(B) Outlays, $43,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,994,000,000.
Fiscal year 1994:
(A) New budget authority, $44,900,000,000.
(B) Outlays, $43,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $14,880,000,000.
Fiscal year 1995:
(A) New budget authority, $45,400,000,000.
(B) Outlays, $44,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,572,000,000.
Fiscal year 1996:
(A) New budget authority, $45,700,000,000.
(B) Outlays, $40,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,268,000,000.
(11) Health (550):
Fiscal year 1992:
(A) New budget authority, $80,400,000,000.
(B) Outlays, $80,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $185,000,000.
Fiscal year 1993:
(A) New budget authority, $91,300,000,000.
(B) Outlays, $90,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $120,000,000.
Fiscal year 1994:
(A) New budget authority, $102,500,000,000.
(B) Outlays, $101,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $60,000,000.
Fiscal year 1995:
(A) New budget authority, $113,600,000,000.
(B) Outlays, $112,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $126,000,000.000.
(B) Outlays, $125,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1992:
(A) New budget authority, $113,800,000,000.
(B) Outlays, $113,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $124,500,000,000.
(B) Outlays, $124,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $138,500,000,000.
(B) Outlays, $138,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $154,600,000,000.
(B) Outlays, $154,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $174,600,000,000.
(B) Outlays, $174,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1992:
(A) New budget authority, $222,500,000,000.
(B) Outlays, $184,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $232,400,000,000.
(B) Outlays, $193,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $241,200,000,000.
(B) Outlays, $201,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $249,100,000,000.
(B) Outlays, $210,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $258,900,000,000.
(B) Outlays, $219,400,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1992:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $8,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $8,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $6,700,000,000.
(B) Outlays, $9,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $9,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $10,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1992:
(A) New budget authority, $32,400,000,000.
(B) Outlays, $32,300,000,000.
(C) New direct loan obligations, $1,149,000,000.
(D) New primary loan guarantee commitments, $14,851,000,000.
Fiscal year 1993:
(A) New budget authority, $32,900,000,000.
(B) Outlays, $32,800,000,000.
(C) New direct loan obligations, $1,037,000,000.
(D) New primary loan guarantee commitments, $12,625,000,000.
Fiscal year 1994:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $35,500,000,000.
(C) New direct loan obligations, $901,000,000.
(D) New primary loan guarantee commitments, $12,065,000,000.
Fiscal year 1995:
(A) New budget authority, $35,100,000,000.
(B) Outlays, $35,100,000,000.
(C) New direct loan obligations, $791,000,000.
(D) New primary loan guarantee commitments, $12,019,000,000.
Fiscal year 1996:
(A) New budget authority, $36,100,000,000.
(B) Outlays, $34,700,000,000.
(C) New direct loan obligations, $679,000,000.
(D) New primary loan guarantee commitments, $11,725,000,000.
(16) Administration of Justice (750):
Fiscal year 1992:
(A) New budget authority, $13,600,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $14,100,000,000.
(B) Outlays, $14,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $14,700,000,000.
(B) Outlays, $14,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $15,300,000,000.
(B) Outlays, $14,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $16,500,000,000.
(B) Outlays, $16,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1992:
(A) New budget authority, $11,600,000,000.
(B) Outlays, $11,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $12,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $12,400,000,000.
(B) Outlays, $12,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $13,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1992:
(A) New budget authority, $229,800,000,000.
(B) Outlays, $229,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $239,100,000,000.
(B) Outlays, $239,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $246,300,000,000.
(B) Outlays, $246,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $248,900,000,000.
(B) Outlays, $248,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $251,100,000,000.
(B) Outlays, $251,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1992:
(A) New budget authority, $100,000,000.
(B) Outlays, $200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $100,000,000.
(B) Outlays, $100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $100,000,000.
(B) Outlays, $200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $100,000,000.
(B) Outlays, $100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $100,000,000.
(B) Outlays, $100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1992:
(A) New budget authority, $34,500,000,000.
(B) Outlays, $34,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $36,900,000,000.
(B) Outlays, $36,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $34,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $34,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $36,000,000,000.
(B) Outlays, $36,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Does the gentleman from California [Mr. PANETTA] oppose the amendment?

Mr. PANETTA. Mr. Chairman, this gentleman is opposed.

The CHAIRMAN pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I watched with great interest the discussion that went along on the last amendment. I want to explain basically what I am doing, because I think this is an amendment that Members can support across the board.

Mr. Chairman, I am not involved in my amendment in gutting the operations of the Federal Government, nor involved at all in going in and doing anything different than what the administration does in the area of entitlements, or on the premium for Medicare.

Mr. Chairman, all I basically do to get the bulk of my savings is hold the rate of budget authority growth to the rate of inflation for 5 years. By doing that, I save $8.1 billion more than the administration's plan in the first year, and $85 billion over 5 years. Those numbers, as opposed to the Panetta plan, I will save $13.4 billion in the first year, and $172 billion over 5 years.

Mr. Chairman, I want all Members to focus on this chart. This is, I believe, a miniature scandal that is brewing here when it comes to the way in which we do our budget numbers. You may recall that last year we got together and said we should not use the surpluses from Social Security to mask the deficit. So we moved the Social Security calculations off budget.

Lo and behold, we are now using the S&L crisis, the calculations of the savings and loan crisis in this country, to mask the real cost of the deficit and the real glidepath of the Federal Government.

Mr. Chairman, if you look at this chart, you can see that the argument that we are only increasing spending marginally over these next 5 years as provided for under the budget agreement looks pretty well like they are right. One can see that the increases are rather small. There are no dramatic increases.

What one must understand is that under the calculations of the administration in the last 2 years, there is at least $90 billion in revenue they are projecting is going to come in from the S&L crisis.

Mr. Chairman, nobody in this country has been right, let alone in the Washington, DC area, in terms of the total revenues that are going to be generated from the S&L crisis.

What I say is let us take the S&L funding completely out of the picture and look at what happens to this budget deal. When one does that, they can see the dramatic increases in the growth of Federal spending.

Mr. Chairman, what we are doing is we are hiding that dramatic increase in Federal spending by masking it with the S&L crisis. When you strip the S&L crisis out of the calculations, you can see that the increases in Federal spending are absolutely dramatic on a year-to-year basis.

Furthermore, there was a discussion about how bad things were in the Reagan years, how spending went up so high. We happen to have a chart that reflects that as well.

What you can see in this chart is that the Reagan rate is the bottom number, and the top rate is the current spending rate. This is what I would call the deficit wedge. The deficit wedge indicates that the growth in Federal spending is up dramatically in these 5 years as opposed to the Reagan years.

Mr. Chairman, going back to the chart that has to do with the S&L crisis, whether you believe that we have done a good job or not, or what kind of chart we are setting a course on, or whether the gentleman from California [Mr. PANETTA] is right, or the gentleman from Ohio [Mr. GRADISON] is right, or whether this gentleman is right, the bottom line is over the next 5 years we are going to add $1.3 trillion to the national debt, and that is absolutely crazy.

Then we come to the floor and we applaud ourselves for the fantastic job we are doing in controlling Federal spending under the budget deal, while at the same time we add $1.3 trillion to the national debt.

□ 1320

Under the Kasich plan, all we do is hold the growth in budget authority to the rate of inflation, and we will, over a period of 5 years, save a modest $85 billion over the administration's plan, and as compared to the Democrat plan we save $172 billion.

Look, folks, nobody should be afraid to go home and tell their constituents that they voted to hold the growth of discretionary spending to the rate of inflation. No Member should be opposed to that.

This is a good plan and I ask for Members' support in vast numbers on a bipartisan basis.

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

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. JONES], chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong opposition to this amendment.

Yesterday, I testified before the Appropriations Committee and requested funding for discretionary programs within the Maritime Administration and the National Oceanic and Atmospheric Administration.

I have also requested funding for Coast Guard programs, Corps of Engineers programs, and Department of the Interior programs.

The Appropriations Committee is already facing a difficult job to fund necessary programs and projects in which committees and Members are interested. Across-the-board reductions in domestic spending allocations make its job even harder.

Any Member who has requested appropriations for any programs or projects cannot, in good conscience, support this amendment.

I urge opposition to the amendment.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding the time to me.

Mr. Chairman, I would like to take just a moment to applaud the gentleman from Ohio [Mr. KASICH] for the thoughtful work and the expensive work he has put into this process. Working virtually alone, he has come up with a very good alternative. I would also like to remind the body that what we are doing is marking up the budget beginning with a base instrument of the Democratic majority's budget from the Budget Committee, and anything we vote on will be an amendment to that. So the question Members must ask themselves is: Is this proposal before us a better alternative in budgeting than the alternative brought by the Democratic majority in the Budget Committee?

I am going to say that the Kasich alternative is a better alternative we must all vote for. Let me just talk for a quick minute about the fundamental problem with the committee mark, which is that it is based on unrealistically optimistic economic assumptions. I am going to give a quick example.

During the period of time in which the Nation is in a recession, given the assumption that the recession will be shallow and short by the Congressional Budget Office, the Democratic budget proposes cuts in unemployment insurance by $431 million, and by making that cut, by assuming those increased revenues of some $11 billion, they make it possible to increase spending in other mandatory levels of spending.

The upshot of that is that we will be back, if this budget passes and we pass legislation to conform with it, looking for special supplemental appropriation bills to cover such things as the shortfalls in unemployment insurance unless the optimistic forecast of the Congressional Budget Office holds up.

Let us take a look at the budget. Entitlement spending is 52 percent of our budget; $1 out of every $7 of that 52 percent finds its way into the hands of people at or below the poverty level of income. If six out of every seven entitlement dollars are going to people with greater than entitlement incomes, we must see the need, the opportunity, and the ways in which we can have entitlement reform. Kasich does that; the Democratic budget in report language allows that the committees ought to discuss it while Kasich does it.

We ought to try to find a way to hold down the interest on the debt, 20 percent of our budget. We ought to have real restraint in the growth on discretionary spending, and we ought to keep the tax extenders in the law as the President proposed. Kasich does that and he retains in that some vestige of

respect for the American people, their entrepreneurial talent, their creativity, their ability to spend their money on a more productive basis on behalf of themselves and their families than the Government can. Kasich understands these things, he does these things. The Democratic budget ignores them or allows for the possibility to talk about them.

I say vote for the Kasich amendment.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. BERMAN], a member of the Budget Committee.

Mr. BERMAN. Mr. Chairman, I thank the chairman of our committee for yielding the time to me.

Mr. Chairman, I rise today in opposition to the Kasich substitute and in support of the House budget resolution.

While both budgets are constrained by a pitiful lack of resources given the urgent unmet domestic needs around the country, the House budget resolution more reflects my values and priorities, and is therefore more deserving of my support.

One of the more troubling aspects of the Kasich substitute is that it is silent or ignores a number of modern day issues which, if confronted, could begin to reshape our country's future.

His substitute supports a cut in the capital gains tax, despite the fact most of the benefits would flow to the very wealthy at a time when income inequality in our country is greater today than at any time since the Great Depression.

The House budget resolution strongly rejects a cut in the capital gains tax. It opposes the economic policies advanced over the last decade by Republican administrations which have led to the top one-fifth of working Americans taking home more money than the other four-fifths together.

The substitute does not provide any funding increases over inflation for successful programs like Head Start, WIC, prenatal care or childhood immunization to help pull children out of poverty.

The House budget resolution provides for large increases above inflation for these programs. It addresses the cruel condition that in the richest country in the world, one of five children is born into poverty.

In the few minutes I have left, I would like to focus on the international affairs part of the Kasich substitute—one of the most glaring flaws of the proposal.

The Kasich substitute cuts international affairs programs by $500 million below the House budget resolution and close to $1 billion below the allowed budget cap.

Mr. Chairman, since 1985, U.S. foreign aid spending has declined by $4 billion, from $19 billion to $15 billion—in real terms by almost a third. The poorest regions of the world, principally Africa, have seen drastic declines in United States assistance. After decades of clear world leadership, the United States has now fallen behind other developed countries in foreign aid spending—at the expense of our political and economic influence worldwide.

The Kasich substitute does nothing to reverse these disturbing trends, and while perhaps, unintended, exacerbates them.

Instead, it retreats from our country's ability to seize the initiative on significant historic events taking place in Eastern Europe and poignant and tragic human disasters taking place around the world.

I know the gentleman from Ohio supports the historic political and economic transformation taking place in Eastern Europe—but his substitute does not reflect this support. Surely, the transformation of communism to capitalism and totalitarianism to democracy is worthy of more American resources that his substitute provides.

Neither does the gentleman's substitute adequately provide for the human suffering and tragedy we are witnessing among Kurdish refugees in Turkey, Iran, and Iraq. The whole refugee account totals less than the $500-million cut being proposed in the substitute.

Other desperate refugee problems are developing in the Horn of Africa, the Sudan, and South Africa. Eastern European and Southeast Asian refugees continue to overwhelm the world's ability to cope.

Does the gentleman really want to cut back our efforts in these areas?

What about programs to feed starving children and to provide much needed health care to the poorest of the poor? What about population planning and the multilateral development banks? All these programs would be cut under the gentleman's substitute.

The House budget resolution does recognize the dramatic changes taking place around the world, as well as other unprecedented worldwide demands and provides sufficient resources to address them. It rejects declining foreign aid budgets of recent years.

It recommends shifting foreign aid away from military assistance into humanitarian and development assistance.

It also provides for new initiatives in Africa and Eastern Europe. And it makes no reduction in the level for aid for Israel and Egypt.

In addition, the House budget resolution provides a large increase over last year for the Export-Import Bank. This increase reflects that American foreign aid in the 1990's must go beyond promoting democracy and stability in the world. It must be used as a strategic policy tool by the Federal Government to gain markets in the emerging democracies in Eastern Europe and around the world. Western European and Pacific rim countries have been providing this assistance to their businesses for years. The United States must be commensurately involved in this area if we are to compete with them economically.

Mr. Chairman, we must change our notion of national security for the decade ahead. The events of the past 10 years, particularly since 1989, provide historic opportunities for the United States to foster freedom, peace, and stability in a dramatically changing world. The committee's budget assumes vital assistance increases to the poorest regions of the world, and to fragile democracies. It targets the root economic causes of international conflict to make our post-cold-war world more stable and secure.

In our $5 trillion economy, I believe that the United States can and must provide substantially more in foreign aid than we have done in past years, and certainly more than the Kasich substitute. The committee budget does so in the context of obvious fiscal constraints, and I urge my colleagues to support its adoption.

□ 1330

Mr. KASICH. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want the gentleman from California who just spoke to support my amendment, and let me tell the Members why.

In the income security area, I actually provide $1.5 billion more in budget authority than the Democratic alternative and $4.3 billion more in outlays in the category of income security. So if the gentleman is worried about the programs of the poor, I am more generous to the programs of the poor in the category of income security than his alternative is.

The gentleman is criticizing me for being a skinflint there. He ought to be criticizing his own people.

We have taken care of the problem for the people who are the poorest, which are the people that we target in terms of helping them. Additionally, the numbers speak for themselves. The other point is, as the gentleman knows, it has never been my intent to take the half billion dollars a year out of the foreign aid category, aid to nations. It has been taken out of a bureaucracy that has been created that does not even serve in the area of direct aid to nations.

Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the Kasich budget substitute.

Much is going to be said this week and on this floor about how Congress is

doing its part to restore fiscal discipline to the Federal budget. Unfortunately, we have a long way to go, believe me.

Yes, there is a holding of the line in defense spending, but just look at what is called domestic discretionary spending. This year it is going up over 9 percent.

In the budget before us, in the Democratic party's budget before us, it is going to go up over 6 percent next year. What it comes down to is domestic spending is growing much faster than the rate of inflation.

Mr. Chairman, these trends cannot continue if we are going to be serious in our efforts to reduce the deficit and balance the budget.

The Kasich budget provides an alternative to runaway spending and high deficits. Simply put, it is a flexible freeze proposal which limits increases in domestic discretionary spending to the rate of inflation, thereby providing those programs with a cost-of-living adjustment.

The Kasich budget is humane, as has just been pointed out. In that area of income security that most affects the needy in our society, the Kasich budget actually spends slightly more than the majority's budget, or the majority's budget spends less. Modestly slowing the rate of spending growth, which is what the Kasich budget does, is not a cut. It is a slowing of the rate of growth while revenues rise.

Mr. Chairman, the Kasich budget achieves real savings relative to what this Congress would otherwise spend in the Democrats' or the President's proposal: $13 billion this coming year, close to a $100 billion better in deficit reduction over the next 5 years.

Mr. Chairman, these savings alone will not eliminate our huge budget deficit, but the Kasich budget, I believe, is a good first step.

For this reason, I urge its adoption.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in support of the budget alternative offered here by my good friend Mr. KASICH of Ohio.

Mr. Chairman, last year many of us argued for reduced spending and voted against the budget resolution because it raised spending and raised taxes. I worked with Mr. KASICH, my colleague from Michigan, Mr. PURSELL, and others to develop a budget alternative that provided real reductions in spending but were not allowed to bring it to the floor for a vote. The budget alternative offered here today by Mr. KASICH embodies many of the ideas we fought for last year.

Mr. KASICH's proposal brings the fairness of our progressive tax structure into the budget by applying means testing in the Medicare Program. It reduces international spending—foreign aid if we must make sacrifices at home, so should our foreign beneficiaries. It at least holds domestic spending to the rate of inflation or the President's budget request, whichever is lower. And perhaps most importantly, it does not further increase the deficit by spending all the way up to the domestic budget cap.

Mr. Chairman, regardless of the budget alternative we finally choose today, none of us should remain complacent or pretend we have solved the continuing budget crisis simply because we have met the requirements of last fall's Budget Enforcement Act. All the budget alternatives we are considering today will start fiscal 1992 with projected annual deficits of almost $300 billion. During fiscal 1992, Mr. Chairman, outstanding Federal debt will top $4 trillion. Just the interest payments alone will exceed $200 billion. Mr. Chairman, a little over a decade ago we were outraged at annual deficits of $40 billion and a Federal debt that hadn't breached the trillion dollar mark.

We have become immune to the sound of such enormous numbers as if they have very little meaning. And we have cynically turned our backs on the effect this mountain of red ink has on our ability to fund desperately needed programs. Had we not incurred this massive debt, the $200 billion we will pay as interest would go a long way toward feeding the hungry, educating our children, and maintaining a sound economy.

Our current path does little to truly stop our massive overspending and mounting debt. Future budget debates will not focus on our visions for a better world but will degenerate into contentious battles over increasingly limited resources. We will be forced to dedicate an even greater portion of those resources to fund the debt we will leave our children.

Mr. Chairman, as many of us have said time and time again, we cannot continue on this course. I look forward to the day when we face up to our fiscal responsibilities and debate budget alternatives that present real choices.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Chairman, I rise in support of the Kasich budget proposal, because it makes sense. It is the only realistic, viable proposal before us this week.

It is a live within your income approach to fiscal sanity. The people of New Hampshire, and the people of America, who paid their income taxes this week, have to live within their means. In our small businesses, we have to live within our revenues. Our cities and our towns have to live within their income. The Federal Government should do the same.

The Kasich budget proposal simply says that the U.S. Government should hold its domestic discretionary spending increases to no more than the rate of inflation. In plain English, it says let's make a start today toward living within our income. Let's operate the Federal checkbook the same way we operate our family and business checkbooks. Let's keep our rate of spending increases to our rate of income growth.

This budget proposal should be supported by all who opposed the Omnibus Budget Reconciliation Act of last fall. This budget proposal should also be supported by all of you, who campaigned for tax fairness last fall. It calls for a modest start to means testing both Medicare and farm subsidies.

The Kasich budget proposal is a good start toward a return to common sense, live within your income budgeting. That's why I shall support it, and I urge my fellow Members of Congress to do the same.

□ 1340

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, this is the fiscal year in which the Federal budget was supposed to be balanced under the original Gramm-Rudman Act. Instead, what we have is a record-setting $378 billion deficit if we include the so-called off-budget items.

Last year, last October, there was another agreement reached, and that was supposed to balance the budget by 1995. By December, it was clear by the people who reached that agreement, that that date was unrealistic. I say we should get serious about balancing the Federal budget. The way we do that is by making cuts that hurt a little bit.

Now, there are some cuts in the Kasich, and some reductions in the increase of spending, in the Kasich legislation that I do not like. However, I think we all have to share a little pain if we are going to bring our spending in line with our revenues. It is not that unreasonable to do. All we have to do it slow down the rate of growth of spending.

I believe that the debate, the argument between the two sides and the similarities between the administration's budget bill and the Democrats' budget bill are moot. Neither side should be proud that their package looks like the other. It provides for $290 billion in deficit.

Now, we are already spending 20 cents on every dollar to pay the interest on the national debt. There is no way we are going to be able to dig ourselves out of this situation if we let that debt continue to grow, and that wedge of interest payments continue to grow. What we need to balance the budget is a balanced budget constitutional amendment. We need a line item veto. However, what we need more

than anything, is for Members of Congress to say no to unnecessary spending. The time to begin is now.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, it is not lost upon me that the last three speakers, including myself, are freshmen Members of Congress. First, let me speak to the freshmen Members of Congress who were involved in campaigns last year, many against incumbents, and me being one. The budget was a big issue, the budget and fiscal responsibility was a big issue in the campaigns. This is Members' last and only chance to do something about the promises that Members made during that campaign. This is the only budget that Members will see that do anything about at least approaching the problem of deficit spending. This is the Members' opportunity.

When we go back home, this is the vote that people are going to look at. This is the chance for all Members.

Let me clear one other point if I may to the Members at large, in picking up with the gentleman from Ohio [Mr. KASICH] said, which I think is an important point, perhaps glossed over. That is, what this budget does in the area of income security. We, in the Kasich budget, put $12 billion more over the next 5 years in income security. We do more in this budget than the Democrats do in their budget for poor people in this country in the area of income security. This is a compassionate budget. This is a fair budget. This is a budget that at least starts the process of having some measure of responsibility in this body for the future of this country, and the kind of debts that we are enduring.

Mr. Chairman, $1.7 trillion. I repeat, $1.7 trillion is going to be added to the deficit under the budget cap and the budget summit that was approved last year, if we do not do something about it now. This is only a drop in the bucket, frankly, but our only chance. Please support this budget.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in support of the Kasich amendment.

Today, the House will be considering two indistinguishable budget proposals—one by the gentleman from California [Mr. PANETTA] and one by the gentleman from Ohio [Mr. GRADISON]. With all due respect, either could be called a Bart Simpson plan. Each offers more of the same old budgeting today, but promises better deficit reduction tomorrow. In that regard, both are underachievers.

The budget proposal offered by the majority would result in outlays 16.5 percent higher than those produced by the fiscal year 1990 budget while the one offered by the minority calls for only $6.8 billion less than the majority.

That means real deficit reduction is going to be put off until 1993 when the budget crunch may be even worse and the likelihood of reductions even more remote.

The difficulty can be traced back to last year's budget agreement. The summiteers agreed to do almost nothing to reduce expenditures in the short term; instead, they allowed spending to be judged against a rising baseline.

Thus, the agreement relieved all parties of the responsibility for dealing with past fiscal excesses. At the same time, it delayed the kind of spending cuts that are necessary to ever balance the budget without new taxes.

The impression given the American people was quite different, however. What they understood us to say was not "deficits happen" but "give us more taxes this year and we'll get serious about spending reduction soon after." And by "spending reductions" they hoped we meant real reductions—reductions that cut the deficit—not reductions from projected spending increases. The test of whether we really intend to reduce spending is today.

Regrettably, the budget of the distinguished gentlemen from California [Mr. PANETTA] proposes to spend almost every penny allowed by last year's agreement in the area of discretionary spending. The substitute offered by the gentleman from Ohio [Mr. GRADISON] is not much different.

The American people expect more—more financial discipline, more deficit reduction, more of the hard choices that are essential if we are ever to get our house in order.

I believe we should treat last year's agreement not as a means of doing as little as possible but as an opportunity to do as much as we can—as quickly as we can. Procrastination will only make the job more difficult.

And if you don't want to take my word for it, read the March 11 Washington Post column by a Member of the other body from South Carolina. Look in particular at how he describes the apologists for procrastination in terms that might be ruled out of order if used here on the floor.

I urge my colleagues to support the proposal by the gentleman from Ohio [Mr. KASICH]. His substitute calls for $16.5 billion less in outlays in fiscal year 1992 than the House Budget Committee proposal and $172.2 billion less over the next 5 years.

Specifically, the Kasich substitute cuts spending for foreign aid by $500 million a year, holds increases in discretionary spending to the rate of inflation—using fiscal year 1990 as a base—and initiates the task of entitlement reform. At the same time, it does not penalize the elderly by cutting Social Security; nor does it reduce veterans' benefits below last year's spending levels.

Mr. Chairman, let us not be underachievers. As my colleague from California [Mr. DANNEMEYER] has pointed out, interest payments on the national debt took up roughly 60 percent of the individual income taxes collected in fiscal year 1991. Six of ten Americans work and sweat and save to pay their taxes to do what—to pay interest on the national debt. Such a situation cannot continue. I again urge adoption of the Kasich substitute.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I rise in opposition to the Kasich budget amendment. I rise in opposition to the Democratic proposal. I rise in opposition to the President's and the Republican Party's budget proposal.

In my view, neither of the major budget proposals addresses the major crises facing this country in terms of the underfunding of education, in terms of the underfunding of nutritional programs, in terms of the underfunding of housing, in terms of the underfunding of environmental needs, and in terms of the underfunding of a host of programs that have been thoroughly neglected during the last decade.

In addition, in my view, neither of the major budget proposals addresses the very serious deficit crisis facing this country, and we are now looking at the largest deficit in the history of the United States this year. There is no reason to believe that it will be better at all next year.

□ 1350

Nor do either of the major budget proposals deal with the extremely unfair tax situation which exists in this country today in which the wealthiest people in our country who have become much wealthier over the last decade are still able under both budget proposals to pay significantly less in taxes than they did 10 years ago, while the middle class and the poor are paying more, nor in my view do either of the major budget proposals address the fact that finally the cold war is over and now we have an opportunity to significantly cut military spending, and yet neither proposal deals with that reality.

Mr. Chairman, today in the Washington Post, the distinguished Congressman, the gentleman from California [Mr. PANETTA], chairman of the Budget Committee, writes an article which is headlined, "Our Budget Is Better." In fairness to the gentleman from California [Mr. PANETTA], I agree with him. The Democratic budget is in fact better than the Republican budget.

The Republican budget proposes a $25 billion cut in Medicare over a 5-year period of time on top of the $43 billion

proposal passed by Congress and the President last year over a 5-year period of time. To cut back on Medicare and shift that burden to health care consumers all over this country when the cost of health care is now out of control is to my mind unconscionable.

The Republican proposal, as I understand it, cuts back on veterans' programs—unconscionable.

The Republican proposal talks about a reduction in capital gains taxes for the rich, when the rich are in fact enjoying huge tax breaks already—unconscionable.

The gentleman from California [Mr. PANETTA] however writes, representing the Democrats, that they are going to put $2 billion over the 1991 budget into education, but the fact of the matter is that $2 billion goes nowhere far enough to addressing the enormous educational crises facing this country, where 25 percent of our kids ar dropping out of high school, when millions of young working class kids cannot afford to go to college.

I would ask the gentleman from California [Mr. PANETTA], I would ask the Republicans, why is it in Western Europe, in Scandinavia, college education is the right of virtually all their young people? Why cannot the United States do the same?

The gentleman from California [Mr. PANETTA] talks about a $315 million increase in 1991 in terms of Head Start. We all know that Head Start is a wonderful program. It is a cost-effective program. Why are we not saying once and for all that every young child in this country, every kid, has the right to Head Start, has the right to decent child care? That should be our proposal.

The gentleman from California [Mr. PANETTA] talks about increasing funding for WIC, several hundred million dollars for that. A recent study came out which pointed out that 5 million children in the United States of America go hungry. We are not talking about the Third World. We are talking about the United States of America. A budget proposal should come before this Congress which says that hunger for children, hunger for any American, is an absolute disgrace. We are going to wipe out hunger within a year.

This is the United States of America. This is not a Third World country, an underdeveloped country.

So I say to the gentleman from California [Mr. PANETTA], yes, your program is in fact better than the Republican program, but it is not a very good program and we in the Congress deserve a budget proposal which says let the wealthy start paying their fair share of taxes so that our children do not have to go hungry. Let us cut military spending so all of our people can enjoy a decent standard of living.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, for the past 2 years now I have heard on this floor a constant chorus, and we just completed one, as a matter of fact, about the budget deficit and the national debt. I can imagine how that chorus of concern heightens as Members go home and talk to their constituents about the fact that we have maxed out our credit cards.

For the past 2 days we have heard a prolonged listing about every program in the Federal inventory, as if the world would cease to turn if we did not fully fund each of them. I reject that notion.

I support the Kasich budget. I believe it does a great job of saving more.

I want to say that I understand it is not easy to work with the budget, and I compliment the chairman and the ranking member for undertaking this really difficult job. It takes two things for us to save a little money and have a responsible budget. One is to have a discipline in this body to set priorities and work within the available resources we have. We have not shown an inclination to have that discipline.

The second, of course, we have to have taxpayers and voters who are willing to do that, and I suggest to you that many are.

Mr. Chairman, I support the Kasich budget and I urge my colleagues to do so also.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman from California [Mr. KASICH] for this time.

Mr. Chairman, it is about time that we get serious about the deficit. We have heard lots of calls today and lots of speeches about lofty goals and a heartfelt belief that our Government should have some sort of responsibility for this program or that program of this group of people that needs help or that group of people, wherever they are in the world, wherever they are in this country. How are we going to pay for that?

Yes, we hear lip service about the deficit, but we keep hearing all sorts of rhetoric about new spending proposals.

Well, we have a budget deficit right now even before all of these lofty goals are met of $350 billion to $400 billion a year. How much money will be left for meeting the basic needs of our people if we keep adding $30 billion to $40 billion a year more in spending just to pay for the interest on last year's increase in the deficit?

Yes, we do not have the Third World country, but we have some people who are willing to spend us into a Third World economy. If we keep handling our economy the way we have been doing, we will not have the money to meet any of the basic needs of our people. We will not have the money to keep the peace of the world. As our economy shrinks and the ranks of the jobless increase because we have been irresponsible today, we will hear even more heart-wrenching stories tomorrow.

The Kasich budget offers us an alternative. It is not Draconian. It is responsible. If we can just keep the level of spending down to the rate of inflation we can work our way and grow our way out of this budget challenge, but if we do not, if we are irresponsible, if we try to spend so much money that we have an ever-increasing amount of money that we have to spend each year just to pay for the interest, we are all going to live in poverty. The future will be a future of despair, of deprivation and decline.

I believe the Kasich budget puts America on the road to prosperity and to progress, and I urge a vote for the Kasich budget.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the very distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, a lot has been said about the Kasich proposal. We all know that it is the only real spending restraint that we have before us now.

We have two votes coming after the Kasich vote, and I have expressed myself on those two items.

Let me just try to appeal to my colleagues' sense of politics. If you want to go home and tell your constituents that you were for spending restraint, then vote for Kasich.

This is not a vote against the President. This is not even a vote against the proposal of the gentleman from California [Mr. PANETTA] and the Democratic proposal. This is a vote that you can hold up to your constituents and tell them that you indeed were for spending restraint. That is the very least that you can do.

□ 1400

I have been home, like many of us, over the last 3 weeks, and there is a brewing tax revolt out there. The American people are tired of paying taxes and they are tired of their Government spending too much money. At least show your constituents that when you are given the opportunity for spending restraints, you choose spending restraint and vote for the Kasich proposal.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. I thank the gentleman for yielding.

Mr. Chairman, the 5-year budget plan is working and, in my judgment, working very well. For the first time, we are having a real debate about priorities.

The President has submitted a budget which is within the spending limits and, frankly, so has the majority party of Congress when it slightly amended the President's budget.

As someone who voted for last year's 5-year spending plan, I never viewed the spending caps as the minimum, but as the maximum that could be and should be spent.

The Kasich amendment brings spending in below the spending caps and it does it responsibly. I strongly urge my colleagues to support the Kasich amendment.

Mr. PANETTA. Mr. Chairman, the gentleman from Ohio [Mr. KASICH] I understand is at the baseline here in terms of his time, and I, therefore, yield the gentleman 1 additional minute.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. PANETTA] yields 1 minute to the gentleman from Ohio [Mr. KASICH].

The gentleman from Ohio [Mr. KASICH] has 2½ minutes remaining.

Mr. KASICH. I thank the gentleman for yielding me this additional time.

Mr. Chairman, I really want to take this time to praise LEON and BILL GRADISON for their hard work. I have worked with LEON now for 3 years. I mean what a gentleman and nice guy who is, without question, committed to where this country is going.

I was hoping that last night that the ghost of future debts, wrapped with chains, would visit LEON in his sleep and today he would stand in support of my amendment. But here is the situation: I think we all have to be concerned about it. This is where I come from on my proposal.

You increase the Federal debt by $1.3 trillion over the next 5 years. My proposal is not the greatest thing since sliced bread, but it is $85 billion less than at least the administration proposal, more than that in terms of the Democratic proposal. All we do is a simple thing of holding the growth of budget authority to the rate of inflation. It is not radical surgery, we are not reducing spending. We are above, like they say, we are at least at the rate of inflation, and I think it is a very reasonable proposal, one that I believe the Democrats can vote for and still consistently—maybe you have to vote for LEON's proposal, then you go ahead and do that. But what you are saying is Congress needs to have a new direction, we have to have some restraints, and we are willing to do it in a reasonable manner. That is what this proposal represents.

To my Republican colleagues who feel as though they want to support the President, you can support the President as a substitute for what LEON is doing. Supporting my proposal basically says you want to slow the growth of Federal spending to the tune of $85 billion less than what the President spends over 5 years.

The Chamber of Commerce has strongly endorsed this proposal, as have a lot of the taxpayer-concerned groups that are in the Washington, DC, area.

If we had a national plebiscite on this vote, I promise you the American people would say, "Adopt this budget proposal," because it is very reasonable in its approach.

We are not talking about last year's cuts or anything like that, but we are talking about basically restraining the growth.

Frankly, if my proposal is adopted, it would only be the beginning for what should be our task, which is to rein in this incredible growth in Federal spending that we have seen in this country.

I appreciate the Chairman's leniency in terms of the stopwatch today, and again I thank the chairman of the committee.

The CHAIRMAN pro tempore. The Chair would once again remind Members that the rules do ask us to refer to Members as "the gentleman from" or "the gentlewoman from."

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself 3 minutes in order to close debate.

Mr. Chairman, there is really no other member of the Budget Committee who has worked as hard as the gentleman from Ohio [Mr. KASICH] in trying to develop the substitutes that he has presented, not only in the past but today as well. He has sincerely committed himself to the same goal that I think we all share, which is to try to achieve the fairest and most equitable approach to reducing the horrendous debts that face us not only now but in the future as well.

There has always been a certain attraction to his approaches because there is a certain equity, when he talks about a freeze, that I think has always attracted Members. One of the problems that I have with this particular approach that he has presented today is that it really is not a freeze. It targets certain areas for deeper cuts than others.

So it does not present the equity that we sometimes have seen in past proposals that try to freeze spending across the board. That is not the case here.

At first glance, the main problems are, again he targets Medicare with a $25 billion cut in Medicare. While I think the gentleman is legitimately interested in means testing, of that $25 billion, which is the President's number, only $1.2 billion comes from means testing. The bulk of the $25 billion is going right at the hospitals, right at the providers.

As everyone knows, we have lost almost 600 hospitals in this country because of the reductions in that area, and there is another thousand that are likely to be shut down if we impose these additional cuts on the hospitals.

Second, on discretionary spending, again it is the same basic target of most of the proposals from the other side of the aisle. This one cuts almost $20 billion below the cap with regard to discretionary. The fundamental concern I have is, I guess, again the fairness issue because every substitute has to be measured, still, on the basis of fairness.

Mr. Chairman, I was visited by a ghost last night, and it is the ghost of what I have seen happen during the 1980's, where the main burden has fallen on the elderly, on working families, on children, and on the middle class. And when you look at this proposal, again who is targeted? The $25 billion in Medicare cuts impacts on the elderly, $20 billion in cuts on discretionary that again impacts on education, on health care, on nutrition, on veterans, and many others who are vulnerable Americans.

This proposal would tax State and local employees on Medicare. That is OK to tax State and local employees with regard to Medicare. The $1 billion in user fees, it is OK to provide $1 billion in user fees that largely impact on the middle class. That is no problem. But then at the same time, he provides a 30-percent cut in the capital gains tax, from which the benefits go to the wealthiest in our society, and also add to the deficit, I might add, anywhere from $11 billion to $12 billion.

So it is fundamentally on this issue that I would ask the Members to reject the substitute.

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

Mr. WELDON. Mr. Chairman, I rise today in support of the Kasich substitute budget. I would like to commend my colleague for his tireless efforts to identify means to reduce the deficit without cutting critical Federal programs.

The Kasich substitute will reduce the deficit by $172 billion more than the Democratic alternative. It reduces bloated farm subsidies, holds down overall domestic discretionary spending below the rate of inflation, and makes significant reductions in our foreign aid budget. These are important steps and I will vote for this substitute.

There is, however, one element of this package to which I strongly object. Included in this budget are excessive cuts in the Medicare Program. Most objectionable to me are proposals that some portions of Medicare be means-tested. The notion of means testing, which is included in the President's budget, is not without some merit. Those who are better off should be less reliant on the Government for Medicare. I am afraid, however, that this proposal sets a dangerous precedent.

Since Congress implemented the prospective payment system for in-patient hospital services in 1983, reimbursement rates have failed to keep pace with rising costs. I am

afraid that the same will be true of Medicare beneficiaries. Today, we speak of means-testing for the wealthy elderly. Next year, will we include the middle class? Will 1993 see the end of subsidies for lower income senior citizens?

Congress has fallen down that slippery slope too often. I do not want to see that happen to our senior citizens. For that reason, I will have very serious reservations about any legislative proposals which implement such a means-testing scheme.

Mr. Chairman, I am pleased to support the Kasich budget, because it is the best package to be considered today. I hope, however, that the fiscal year 1992 budget debate will highlight the dangers of initiating a means-test for Medicare. Because I am unwilling to drive our seniors down that slope.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. KASICH].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 114, noes 303, not voting 14, as follows:

[Roll No. 69]

AYES—114

Allard	Hammerschmidt	Penny
Archer	Hancock	Petri
Armey	Hansen	Porter
Baker	Hastert	Pursell
Ballenger	Herger	Quillen
Bateman	Hobson	Ramstad
Bennett	Holloway	Ravenel
Bereuter	Houghton	Rhodes
Billey	Hunter	Ridge
Boehner	Inhofe	Riggs
Broomfield	Ireland	Ritter
Bunning	James	Rohrabacher
Burton	Kasich	Santorum
Callahan	Klug	Schaefer
Camp	Kolbe	Schulze
Coble	Kyl	Sensenbrenner
Condit	Lagomarsino	Shaw
Cooper	Lent	Shays
Crane	Lewis (CA)	Shuster
Cunningham	Lewis (FL)	Slattery
Dannemeyer	Lightfoot	Solomon
DeLay	Livingston	Spence
Dickinson	Lowery (CA)	Stump
Dreier	Martin	Sundquist
Duncan	McCandless	Taylor (MS)
Edwards (OK)	McCollum	Taylor (NC)
Fawell	McEwen	Thomas (CA)
Fields	McMillan (NC)	Thomas (WY)
Franks (CT)	Michel	Upton
Gallegly	Miller (OH)	Valentine
Gallo	Miller (WA)	Vander Jagt
Gekas	Moody	Walker
Gilchrest	Moorhead	Walsh
Gillmor	Myers	Weber
Gingrich	Nichols	Weldon
Goss	Oxley	Wylie
Grandy	Packard	Zeliff
Gunderson	Parker	Zimmer

NOES—303

Abercrombie	Anthony	Beilenson
Ackerman	Applegate	Bentley
Alexander	Atkins	Berman
Anderson	AuCoin	Bevill
Andrews (ME)	Bacchus	Bilbray
Andrews (NJ)	Barnard	Bilirakis
Andrews (TX)	Barrett	Boehlert
Annunzio	Barton	Bonior
Borski	Hoagland	Pelosi
Boucher	Hochbrueckner	Perkins
Boxer	Hopkins	Peterson (FL)
Brewster	Horn	Peterson (MN)
Brooks	Horton	Pickett
Browder	Hoyer	Pickle
Brown	Hubbard	Poshard
Bruce	Huckaby	Price
Bustamante	Hutto	Rahall
Byron	Hyde	Rangel
Campbell (CA)	Jacobs	Ray
Campbell (CO)	Jefferson	Reed
Cardin	Jenkins	Regula
Carper	Johnson (CT)	Richardson
Carr	Johnson (SD)	Rinaldo
Chandler	Johnston	Roberts
Chapman	Jones (GA)	Roe
Clay	Jones (NC)	Roemer
Clement	Jontz	Rogers
Clinger	Kanjorski	Ros-Lehtinen
Coleman (MO)	Kaptur	Rose
Coleman (TX)	Kennedy	Rostenkowski
Collins (IL)	Kennelly	Roth
Collins (MI)	Kildee	Rowland
Combest	Kleczka	Roybal
Conyers	Kolter	Russo
Costello	Kopetski	Sabo
Coughlin	LaFalce	Sanders
Cox (CA)	Lancaster	Sangmeister
Cox (IL)	Lantos	Sarpalius
Coyne	LaRocco	Savage
Cramer	Laughlin	Sawyer
Darden	Leach	Saxton
Davis	Lehman (CA)	Scheuer
de la Garza	Levin (MI)	Schiff
DeFazio	Lewis (GA)	Schroeder
DeLauro	Lipinski	Schumer
Dellums	Lloyd	Serrano
Derrick	Long	Sharp
Dicks	Lowey (NY)	Sikorski
Dingell	Luken	Sisisky
Dixon	Machtley	Skaggs
Donnelly	Manton	Skeen
Dooley	Markey	Skelton
Doolittle	Martinez	Slaughter (NY)
Dorgan (ND)	Matsui	Slaughter (VA)
Downey	Mavroules	Smith (FL)
Durbin	Mazzoli	Smith (IA)
Dwyer	McCloskey	Smith (NJ)
Early	McCrery	Smith (OR)
Eckart	McCurdy	Smith (TX)
Edwards (CA)	McDade	Snowe
Edwards (TX)	McDermott	Solarz
Emerson	McGrath	Spratt
Engel	McHugh	Staggers
English	McMillen (MD)	Stallings
Erdreich	McNulty	Stark
Espy	Meyers	Stearns
Evans	Mfume	Stenholm
Fascell	Miller (CA)	Stokes
Fazio	Mineta	Studds
Feighan	Mink	Swett
Fish	Moakley	Swift
Flake	Molinari	Synar
Foglietta	Mollohan	Tallon
Ford (MI)	Montgomery	Tanner
Ford (TN)	Moran	Tauzin
Frank (MA)	Morella	Thomas (GA)
Frost	Morrison	Thornton
Gaydos	Mrazek	Torres
Gejdenson	Murphy	Torricelli
Gephardt	Murtha	Traficant
Geren	Nagle	Traxler
Gibbons	Natcher	Unsoeld
Gilman	Neal (MA)	Vento
Glickman	Neal (NC)	Visclosky
Gonzalez	Nowak	Volkmer
Goodling	Nussle	Vucanovich
Gordon	Oakar	Washington
Gradison	Oberstar	Waters
Green	Obey	Waxman
Guarini	Olin	Weiss
Hall (OH)	Ortiz	Wheat
Hall (TX)	Orton	Whitten
Hamilton	Owens (NY)	Williams
Harris	Owens (UT)	Wilson
Hatcher	Pallone	Wise
Hayes (IL)	Panetta	Wolf
Hayes (LA)	Patterson	Wolpe
Hefley	Paxon	Wyden
Hefner	Payne (NJ)	Yatron
Henry	Payne (VA)	Young (AK)
Hertel	Pease	Young (FL)

NOT VOTING—14

Aspin	Hughes	Roukema
Bryant	Kostmayer	Towns
Dornan (CA)	Lehman (FL)	Udall
Dymally	Levine (CA)	Yates
Gray	Marlenee	

□ 1433

The Clerk announced the following pair:

On this vote:

Mr. Dornan of California for, with Mrs. Roukema against.

Mr. PICKLE changed his vote from "aye" to "no."

Mr. BROOMFIELD changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. KOSTMAYER. Mr. Speaker, I was unavoidably detained in my congressional district earlier today. Had I been present, I would have voted "no" on rollcall No. 68, the Dannemeyer substitute, and "no" on rollcall No. 69, the Kasich substitute.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GRADISON

Mr. GRADISON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GRADISON:

Strike all after the resolving clause and insert in lieu thereof the following:

That the budget for fiscal year 1992 is established, and the appropriate budgetary levels for fiscal years 1993, 1994, 1995, and 1996 are hereby set forth.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 2. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1992: $849,800,000,000.
Fiscal year 1993: $914,000,000,000.
Fiscal year 1994: $999,800,000,000.
Fiscal year 1995: $1,077,500,000,000.
Fiscal year 1996: $1,143,500,000,000.

and the amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1992: $2,700,000,000.
Fiscal year 1993: $600,000,000.
Fiscal year 1994: $700,000,000.
Fiscal year 1995: $900,000,000.
Fiscal year 1996: $4,300,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1992: $82,708,000,000.
Fiscal year 1993: $90,123,000,000.
Fiscal year 1994: $96,814,000,000.
Fiscal year 1995: $103,105,000,000.
Fiscal year 1996: $110,190,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1992: $1,248,900,000,000.
Fiscal year 1993: $1,192,900,000,000.
Fiscal year 1994: $1,238,700,000,000.
Fiscal year 1995: $1,286,400,000,000.
Fiscal year 1996: $1,340,500,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1992: $1,192,600,000,000.
Fiscal year 1993: $1,189,400,000,000.
Fiscal year 1994: $1,152,400,000,000.
Fiscal year 1995: $1,186,300,000,000.
Fiscal year 1996: $1,249,100,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1992: $342,800,000,000.
Fiscal year 1993: $275,400,000,000.
Fiscal year 1994: $152,600,000,000.
Fiscal year 1995: $108,800,000,000.
Fiscal year 1996: $105,600,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1992: $3,986,400,000,000.
Fiscal year 1993: $4,327,900,000,000.
Fiscal year 1994: $4,548,500,000,000.
Fiscal year 1995: $4,736,400,000,000.
Fiscal year 1996: $4,912,800,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1991, October 1, 1992, October 1, 1993, October 1, 1994, and October 1, 1995, are as follows:

Fiscal year 1992:
(A) New direct loan obligations, $14,700,000,000.
(B) New primary loan guarantee commitments, $190,200,000,000.
Fiscal year 1993:
(A) New direct loan obligations, $15,000,000,000.
(B) New primary loan guarantee commitments, $193,500,000,000.
Fiscal year 1994:
(A) New direct loan obligations, $13,600,000,000.
(B) New primary loan guarantee commitments, $196,700,000,000.
Fiscal year 1995:
(A) New direct loan obligations, $13,400,000,000.
(B) New primary loan guarantee commitments, $200,000,000,000.
Fiscal year 1996:
(A) New direct loan obligations, $13,700,000,000.
(B) New primary loan guarantee commitments, $202,500,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1992 through 1996 for each major functional category are:

(1) National Defense (050):
Fiscal year 1992:
(A) New budget authority, $290,800,000,000.
(B) Outlays, $295,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $290,900,000,000.
(B) Outlays, $291,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $291,900,000,000.
(B) Outlays, $286,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $295,100,000,000.
(B) Outlays, $288,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $297,800,000,000.
(B) Outlays, $293,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(2) International Affairs (150):
Fiscal year 1992:
(A) New budget authority, $23,500,000,000.
(B) Outlays, $17,800,000,000.
(C) New direct loan obligations, $1,700,000,000.
(D) New primary loan guarantee commitments, $9,300,000,000.
Fiscal year 1993:
(A) New budget authority, $21,800,000,000.
(B) Outlays, $18,300,000,000.
(C) New direct loan obligations, $1,600,000,000.
(D) New primary loan guarantee commitments, $9,300,000,000.
Fiscal year 1994:
(A) New budget authority, $20,600,000,000.
(B) Outlays, $18,500,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $9,300,000,000.
Fiscal year 1995:
(A) New budget authority, $20,800,000,000.
(B) Outlays, $18,500,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $9,400,000,000.
Fiscal year 1996:
(A) New budget authority, $21,200,000,000.
(B) Outlays, $18,600,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $9,400,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1992:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $20,700,000,000.
(B) Outlays, $19,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $22,200,000,000.
(B) Outlays, $20,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $23,700,000,000.
(B) Outlays, $22,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $25,100,000,000.
(B) Outlays, $23,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(4) Energy (270):
Fiscal year 1992:
(A) New budget authority, $4,100,000,000.
(B) Outlays, $3,700,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $1,100,000,000.
Fiscal year 1993:
(A) New budget authority, $5,100,000,000.
(B) Outlays, $4,800,000,000.
(C) New direct loan obligations, $1,700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1994:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1995:
(A) New budget authority, $4,800,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $1,200,000,000.
Fiscal year 1996:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $3,400,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $1,300,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 1992:
(A) New budget authority, $19,700,000,000.
(B) Outlays, $19,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $19,400,000,000.
(B) Outlays, $20,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $20,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $19,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $17,900,000,000.
(B) Outlays, $18,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):
Fiscal year 1992:
(A) New budget authority, $20,200,000,000.
(B) Outlays, $15,300,000,000.
(C) New direct loan obligations, $8,300,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
Fiscal year 1993:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $14,200,000,000.
(C) New direct loan obligations, $8,300,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
Fiscal year 1994:
(A) New budget authority, $16,400,000,000.
(B) Outlays, $13,500,000,000.
(C) New direct loan obligations, $8,200,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.

Fiscal year 1995:
(A) New budget authority, $16,900,000,000.
(B) Outlays, $12,100,000,000.
(C) New direct loan obligations, $8,200,000,000.
(D) New primary loan guarantee commitments, $8,400,000,000.
Fiscal year 1996:
(A) New budget authority, $14,000,000,000.
(B) Outlays, $12,700,000,000.
(C) New direct loan obligations, $8,400,000,000.
(D) New primary loan guarantee commitments, $8,700,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1992:
(A) New budget authority, $104,000,000,000.
(B) Outlays, $93,900,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $142,500,000,000.
Fiscal year 1993:
(A) New budget authority, $9,900,000,000.
(B) Outlays, $49,400,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $147,300,000,000.
Fiscal year 1994:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $33,500,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $150,300,000,000.
Fiscal year 1995:
(A) New budget authority, $13,000,000,000.
(B) Outlays, −$38,100,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $152,900,000,000.
Fiscal year 1996:
(A) New budget authority, $13,000,000,000.
(B) Outlays, −$26,100,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $155,200,000,000.
(8) Transportation (400):
Fiscal year 1992:
(A) New budget authority, $34,300,000,000.
(B) Outlays, $32,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $35,100,000,000.
(B) Outlays, $34,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $35,700,000,000.
(B) Outlays, $35,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $36,900,000,000.
(B) Outlays, $35,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $37,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1992:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $6,500,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $500,000,000.
Fiscal year 1993:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,800,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $500,000,000.
Fiscal year 1994:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,600,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1995:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $450,000,000.
Fiscal year 1996:
(A) New budget authority, $5,900,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1992:
(A) New budget authority, $47,000,000,000.
(B) Outlays, $45,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,300,000,000.
Fiscal year 1993:
(A) New budget authority, $46,200,000,000.
(B) Outlays, $46,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $14,000,000,000.
Fiscal year 1994:
(A) New budget authority, $45,500,000,000.
(B) Outlays, $45,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $14,900,000,000.
Fiscal year 1995:
(A) New budget authority, $45,300,000,000.
(B) Outlays, $45,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $15,600,000,000.
Fiscal year 1996:
(A) New budget authority, $45,700,000,000.
(B) Outlays, $41,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $16,300,000,000.
(11) Health (550):
Fiscal year 1992:
(A) New budget authority, $81,300,000,000.
(B) Outlays, $81,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $200,000,000.
Fiscal year 1993:
(A) New budget authority, $91,800,000,000.
(B) Outlays, $91,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 1994:
(A) New budget authority, $102,600,000,000.
(B) Outlays, $102,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
Fiscal year 1995:
(A) New budget authority, $113,600,000,000.
(B) Outlays, $112,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $126,000,000,000.
(B) Outlays, $125,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1992:
(A) New budget authority, $113,800,000,000.
(B) Outlays, $113,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $124,500,000,000.
(B) Outlays, $124,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $138,500,000,000.
(B) Outlays, $138,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $154,600,000,000.
(B) Outlays, $154,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $174,600,000,000.
(B) Outlays, $174,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1992:
(A) New budget authority, $222,700,000,000.
(B) Outlays, $184,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $232,400,000,000.
(B) Outlays, $194,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $238,200,000,000.
(B) Outlays, $204,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $249,100,000,000.
(B) Outlays, $215,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $258,800,000,000.
(B) Outlays, $223,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1992:
(A) New budget authority, $5,800,000,000.
(B) Outlays, $8,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $8,900,000,000.

(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $6,700,000,000.
(B) Outlays, $9,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $9,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $7,700,000,000.
(B) Outlays, $10,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1992:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $33,600,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $14,800,000,000.
Fiscal year 1993:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $33,900,000,000.
(C) New direct loan obligations, $1,000,000,000.
(D) New primary loan guarantee commitments, $12,600,000,000.
Fiscal year 1994:
(A) New budget authority, $35,200,000,000.
(B) Outlays, $36,600,000,000.
(C) New direct loan obligations, $900,000,000.
(D) New primary loan guarantee commitments, $12,100,000,000.
Fiscal year 1995:
(A) New budget authority, $36,200,000,000.
(B) Outlays, $36,100,000,000.
(C) New direct loan obligations, $800,000,000.
(D) New primary loan guarantee commitments, $12,000,000,000.
Fiscal year 1996:
(A) New budget authority, $31,300,000,000.
(B) Outlays, $35,700,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
(16) Administration of Justice (750):
Fiscal year 1992:
(A) New budget authority, $14,800,000,000.
(B) Outlays, $14,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $15,500,000,000.
(B) Outlays, $15,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,700,000,000.
(B) Outlays, $15,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $16,400,000,000.
(B) Outlays, $15,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $17,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1992:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $13,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $12,800,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $14,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $13,400,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $14,000,000,000.
(B) Outlays, $14,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1992:
(A) New budget authority, $230,100,000,000.
(B) Outlays, $230,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $240,100,000,000.
(B) Outlays, $240,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $248,200,000,000.
(B) Outlays, $248,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $252,100,000,000.
(B) Outlays, $252,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $255,600,000,000.
(B) Outlays, $255,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1992:
(A) New budget authority, $100,000,000.
(B) Outlays, $200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $100,000,000.
(B) Outlays, $100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $100,000,000.
(B) Outlays, $200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $100,000,000.
(B) Outlays, $100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $1,000,000.
(B) Outlays, $1,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1992:
(A) New budget authority, ($34,500,000,000).
(B) Outlays, ($34,500,000,000).
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, ($36,900,000,000).
(B) Outlays, ($36,900,000,000).
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, ($34,000,000,000).
(B) Outlays, ($34,000,000,000).
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, ($36,600,000,000).
(B) Outlays, ($36,600,000,000).
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, ($36,000,000,000).
(B) Outlays, ($36,000,000,000).
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Ohio [Mr. GRADISON] will be recognized for 1 hour and a Member opposed to the amendment will be recognized for 1 hour.

Mr. PANETTA. Mr. Chairman, this gentleman is opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to offer a substitute amendment to House Concurrent Resolution 121—which, as you all know, is the President's budget.

Presidential budgets during the Reagan administration received painfully little support, even among Republicans. There were three House votes on Reagan budgets in the 1980's. His fiscal year 1985 budget received 1 vote. His fiscal year 1987 budget garnered 12 votes. The following year he attracted 27 votes. None of these votes included even a single Democrat. Both parties instinctively recognized that it was the "loyal opposition's" proper role to set forth an alternative in response to the agenda of the Republican President.

Similarly, today, it is fitting that the President's budget be placed before the legislative branch. But this year,

President Bush's budget appears destined for a different—and better—reception than Presidents' budgets in the last decade. As I have noted on several occasions, this budget was not "dead on arrival." Even the Washington Post, hardly a bastion of support for Republican administrations, called it "the first mainly honest Presidential budget that the country has had in 10 years," and applauded its "return to basic credibility."[1]

For further evidence of the strength of the President's budget, simply look at what the loyal opposition has to offer. The Democrats propose the same defense spending as the President, the same international spending, and virtually the same total domestic discretionary spending. The real difference in discretionary domestic spending between the two plans nets out to a little less than $3 billion, or two-tenths of 1 percent of the total $1.45 trillion budget.

Democrats' "Reordered Priorities"

[Domestic discretionary account, in billions of dollars]

Added to President	$8.25
Cut from President	5.45
Net changes	2.8

Change percentage: 1.3 percent of Domestic Discretionary. 0.2 percent of Total Budget.

The differences are slight because the President's budget was a credible and balanced plan to begin with. It is a document intended to guide the activity and policies of a major world power during the upcoming year, not a political pamphlet intended for the soap box of a party trying to figure out what it stands for. It is offered by the people whose job it is to administer the Nation's policies. It is, in short, a plan designed for governing.

The Bush budget is a balanced plan: It recognizes that under the budget agreement, we have finite resources controlled by a tight discipline. But within that framework, the President makes responsible choices and tradeoffs. The result is a package with which the administration can truly govern through fiscal year 1992. I have no hesitation in offering this amendment and the administration's fiscal plan for next year.

Now, considering the many similarities between the two proposals remaining before us, why do I urge my colleagues to support the President's budget and reject the Democrats'? There are several reasons, which I would like to discuss with you.

ECONOMIC GROWTH

The Democrats talk about strengthening the economy, but they do nothing to pursue this goal. Yesterday, in fact, they completely ignored the part of the budget debate—the Humphrey-Hawkins debate—specifically set aside for discussion of economic goals and policy. Given all the attention on the other side of the aisle devoted to anti-recession, anti-unemployment policy options, it is hard to fathom why they ignored what should have been an important discussion.

The President has not ignored these issues. He encourages savings through family savings accounts. He promotes investment through extending tax provisions such as the research and experimentation credit. He seeks the capital gains tax preference to stimulate business investment. The Democrats offer no savings incentives, no growth incentives, and no tax extenders—in fact, the Ways and Means chairman expressly rejected these just the other day.

INVESTING IN THE FUTURE

The President expands our commitment to science and research—areas with a proven track record of return on Government investment. If we truly intend to remain competitive, if we want to seek and develop new technologies and remain a leader in the world, these investments are necessary.

To the Democrats, science is little more than this year's cash cow. They would cut $1.26 billion from the President's science request, representing 30 percent of all the domestic discretionary reductions they use to pay for other things. They used to do this with the defense budget, but that's no longer available to them.

The Democrats say this reduction is intended to slow down the space station, because of a few problems that have arisen. In fact, their proposal will ground the space station. It also will force us to cancel several shuttle flights, and will relegate us to second- or third-class status in the space exploration community—we, who are supposed to be the world leaders in exploring new frontiers.

FISCAL RESPONSIBILITY

The President's plan shows a budget surplus by 1996; the Democrats still have a $65 billion deficit in that year. Savings in the President's budget exceed those required by last year's budget agreement; the Democrats barely meet the maximum deficit amount for 1992, and are curiously vague about what happens after that. The President specifies where his savings would be; the Democrats resort to vague 1-percent reductions, $919 million in unspecified reductions—victims unknown—and wind up spending almost $300 billion more than the President over 5 years.

That $300 billion is half again as much as we are supposed to save in defense spending over the period. The Democrats show us that they don't save money, they just spend it elsewhere.

PRESERVING MEDICARE

The fourth issue is preserving Medicare. This is a sensitive point to many Members, and it should be—Medicare is an important program for many senior citizens, sometimes the most important program. But we must also recognize that unless we continue to wrestle down the growth in Medicare costs, we might not be able to provide Medicare 15 years from now. That's when the hospital insurance trust fund is currently projected to become bankrupt if changes are not made.[2] Medicare costs grew by more than 11 percent a year through the 1980's and in the next decade Medicare is expected to surpass even Social Security as the largest domestic item in the budget.

Medicare Spending

[In billions of dollars]

1980	$32
1986	75
1991	116
Current law 1992	129.7
President's budget 1992	126.9

The President suggests holding down Medicare costs by $25 billion over the next 5 years. This is an on-going effort, building on the progress made last year. Opponents may try to scare the elderly by saying this is an unfair cut in their benefits, but consider two things. First, annual Medicare spending will grow by $60 billion by 1996 even after this $25 billion restraint.

Second, the President's proposals are focused on cutting costs, not cutting benefits. Individual Members may disagree—as I do—with some of the specific cost restraints the President suggests, but no one who cares about securing the future of Medicare can disagree with the fact that something must be done to bring cost increases under control.

SOCIAL SECURITY/JOBLESS BENEFITS

A fifth issue has to do with Social Security and unemployment benefits. The Democrats cut $431 million from funds for administering unemployment compensation, based on a Congressional Budget Office [CBO] projection that the recession will be shorter and shallower than the Office of Management and Budget [OMB] predicts—based, in other words, on a rosy scenario. This is the party that has complained vigorously about the need for recession relief, and yet they cut funds to distribute that relief. They also cut $52 million from Social Security administrative expenses—again based principally on hope.

These two items are especially interesting considering that in the last 2 months, 52 Democratic Members have written to the President urging him to release $120 million in "emergency" Social Security administrative funds, which they now are cutting by $52 million. Furthermore, 81 Democrats have written to the President complaining

[1] "Mr. Bush's Budget," the Washington Post editorial page, Feb. 5, 1991.

[2] See the Report on Medicare Projections by the Health Technical Panel to the 1991 Advisory Council on Social Security, March 1991.

about underfunding in the administration of unemployment compensation. Now they're cutting that, too.

FAIRNESS

Finally, let's talk fairness. This is a subject on which our Democratic friends have expressed themselves early and often. But what have they really done about it?

For one thing, they have started a little bidding war. The President's budget has been on the table since February. So in the name of fairness the House Democrats added $10 million here, $15 million there so they could be more fair than the President. Then here on the floor, education was bid up yet again. Wait until next week in the Senate—they will probably raise the bid yet again.

Democrats seem to equate more spending more with more fairness. In contrast, the President equates fairness with targeting Government benefits to those most in need. He would reduce entitlement subsidies to the wealthy—subsidies that are paid for by middle-income working people. The Democrats pay lip service to the idea but shy away from commitment. The President would extend the health insurance tax deduction for self-employed people. The Democrats, who keep telling us they are so concerned about the uninsured in this country, astonishingly reject this extension. Who's fair?

Finally, the majority seems to suggest that curbing entitlement spending is unfair. They would have you think that entitlement spending goes mostly to the poor. This is not true. About 80 percent of entitlements go to the nonpoor. They would also have you think that the President's budget cuts entitlements for the poor. Again, that's simply not true. In constant 1992 dollars, entitlement spending for poor people was $13 billion in 1962, $56 billion in 1972, $84 billion in 1982 and will be $141 billion under the President's budget in 1992.

Clearly, the President's budget is not unfair in its entitlement spending for the poor.

Most entitlement spending involves the Government taking tax dollars out of some middle-income pockets and returning it to others. The President offers several proposals to make this entitlement transfer system more fair and to control runaway entitlement spending. As I mentioned earlier with regard to Medicare, he has thereby challenged the Congress at least to come up with a different alternative for entitlement savings—but the Democrats have simply backed down.

The President squarely faces the problem of runaway entitlement spending, proposing $34.5 billion in savings in this area. He has thereby challenged the Congress at least to come up with a different alternative.

But the Democratic budget looks the other way. The Democrats seem to believe the entitlement problem will take care of itself.

These are the broad outlines of the differences between the two budgets. From them, I believe it is clear who is investing in the future, trying to expand the economy, trying to be responsible with taxpayers' money, and trying to promote fairness—and it is not the Democrats.

A CLEAR CHOICE

Let me conclude, Mr. Chairman, with a few remarks aimed principally at my Republican colleagues.

The budgets we are debating here today are framed, by necessity, along the lines of last year's budget agreement. Some Members who voted against that agreement feel that supporting the President's budget now would be inconsistent.

Let me say to those Members: I, too, voted against the budget agreement. But it is now law. We are committed to following its guidelines.

Some of you supported the alternative offered by my able colleague from California, Mr. DANNEMEYER. Some supported the proposal by the gentleman from my own State of Ohio, Mr. KASICH. If you preferred those alternatives fine. But we now must recognize that neither was adopted. So we are left with the choice of the President's budget or the Democrats'.

For the reasons I have outlined, I think the choice for Republicans is very clear.

□ 1440

Mr. PANETTA. Mr. Chairman, I yield myself 5½ minutes.

Mr. Chairman, we begin the debate on the President's budget. First of all, my thanks to the ranking member of the Budget Committee, the gentleman from Ohio [Mr. GRADISON] for offering this proposal so that the House could consider it. He offered it in committee and now he offers it on the floor of the House. The President is entitled to this vote. Each year he is the first to have to proceed with a budget proposal, and it lays out his priorities for the country.

The issue we decide today by our vote on the President's budget is whether or not it represents our priorities as well. It is clear that the budget agreement that was agreed to by the President and the Congress constrains the flexibility of both the President and the Congress as we try to deal with this budget. We are both forced to adhere to the caps that have been established in defense and international aid and domestic discretionary. We are both forced to adhere to the pay-as-you-go requirements with regard to any entitlement expansions or tax reductions. And we are both, for the first time in a long time, required to be straight with the American people about the size of the deficits that we confront and the economic realities that this country confronts at the present time.

The President's budget, and I said this yesterday and I repeat it now, the President's budget is indeed the most honest budget that has been submitted by a President in the last 10 years. He has discarded the games, the smoke and mirrors, and the deceptions that we saw in the budgets presented to us during the 1980's.

But in that effort the President had the opportunity to set a new direction for this Nation, not only in terms of budget honesty, not only in terms of confronting the realities that we face on the deficit as well as the budget, but he also had the opportunity to change the priorities of the Nation as well.

□ 1450

The great failure of the budget presented by the President is that he failed to fully seize the opportunity to break with the past. Instead, the shadow of David Stockman still lurks over the President's budget.

The cuts of the 1980's are still present, and those are cuts that we have seen time and time again and rejected time and time again, not just on this side of the aisle but on both sides of the aisle, Republicans and Democrats alike.

Listen to the past repeated in this budget. Education is less than baseline. For all of the discussion about education, it is less than baseline in the President's budget. Energy is cut by $242 million. Low-income weatherization is cut by $176 million. Rural housing is cut by $189 million. Maternal and child health, nutrition, food assistance, job training, mass transit, we have seen them time and time again and rejected them time and time again.

Listen to the entitlement programs that are targeted in the President's budget. It is a page from the Gramm-Latta book of cuts.

Medicare, $25.2 billion. No question, no question that we have to look at this issue.

But is the issue to close more hospitals in this country? We have closed 600. Do we close another 1,000? Is that the way we reduce costs in Medicare? No.

We had understood in last year's agreement we were going to do $43 billion in Medicare cuts, and that was in terms of the providers and hospitals, but don't hit them again and again and again.

Veterans' cuts, $3.5 billion in pensions, and in other benefits that flow to veterans at a time when we are talking about expanding veterans' benefits for those returning from the Persian Gulf.

Student loan cuts of $1.1 billion; foster care cuts of $1.7 billion; trade agreement assistance, at a time when we are confronted with lost jobs in our

own society, wiped out, wiped out in the President's budget, $905 million cut; $1.9 billion cut from agricultural programs. Those are not the priority of this Nation in the 1990's. Maybe the 1980's, but not the 1990's.

Our priorities are working families where people are having a difficult time educating and feeding and protecting their children. Our priorities are economic security, energy security, and fairness for all, fairness for all.

We have gone through the 1980's where the haves got more and the have-nots got less. That time is over with. If we are going to share the burden, let everyone share it equally. That is the choice that faces the House today as we vote on these budgets.

Some would say that that choice is rather insignificant. My view is that it is a choice between the failures of the past and the opportunities of the future.

I would urge Members to vote for the future, reject the President's budget, and vote for the committee budget.

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

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas [Mr. ARCHER], the ranking Republican member of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, I believe it is very important to reframe the debate for a few minutes to look at important domestic and economic policy issues which the Democrat budget resolution does not address—but which the President's budget meets head on with sound initiatives.

In particular, I would like to draw your attention to a number of important tax incentives contained in the President's budget—and paid for in his budget—which are totally absent from the Democrat plan.

Do you care about low income housing? The targeted jobs tax credit? Research and development? Health insurance for small businesses? Savings and capital investment? Energy?

If you do, you had better think twice about voting for the Democrat budget. You won't find incentives there. None of them is accommodated in the Democrat budget resolution.

We are talking about core incentives for economic growth and savings, international competitiveness and concern for human resources which should enjoy bipartisan support: a permanent research tax credit, family savings accounts, changes in individual retirement accounts to allow withdrawals for first-time home buyers, enterprise zones, the 25-percent health insurance deduction for small businesses, a capital gains tax reduction, extension of the low-income housing tax credit, extension of the targeted jobs tax credit, and energy tax incentives.

The absence of these important domestic and economic policy concerns in the Democrat budget is a fatal flaw.

One of the few facts upon which economists can agree is that research and experimentation has been the single most important factor for growth in advanced countries.

The President's budget accords recognition to its importance by permanently extending the current-law 20 percent R&E credit and extending for an additional year the R&E foreign allocation rules.

In contrast, the Democrat budget resolution would eliminate both the R&E credit and the allocation rules at the end of 1991.

Similarly, the Democrat budget would eliminate at the end of 1991 the current law deduction for 25 percent of health insurance premiums paid by self-employed small businessmen and women. If you care about the plight of the uninsured, how can you eliminate that modest protection for small businessmen and women and their families?

The same thing is true of the low-income housing credit and the targeted jobs tax credit. Under the Democrat plan, they're eliminated at the end of 1991.

Many have expressed concern in recent years that our country's national savings rate is too low to sustain adequate growth and to maintain our economic standing. The Democrat budget is ominously silent in this regard.

In contrast, the President's budget addresses this concern through a series of proposals—including the creation of family savings accounts to allow nondeductible contributions of up to $2,500 per tapayer to stimulate personal savings.

The President's budget also recognizes that the purchase and buildup of equity in a home is the single most significant form of savings for the average American. His budget facilitates investing in a home by allowing first-time home buyers to withdraw penalty free up to $10,000 from an IRA.

To help economically distressed areas share in the benefits of growth, the President's budget would designate up to 50 enterprise zones which would receive specified wage credits and investment incentives. This is an important step in rebuilding and revitalizing our inner cities and economically distressed rural areas. The Democrat budget is silent on the issue.

The President's budget proposal also reduces the tax rate on capital gains. There has been a lot of abstract discussion—too much in fact—on whether cutting capital gains taxes is fair. Are lost jobs and reduced economic growth fair? Is further dependency on foreign investment fair?

There is no question that a preferential rate for capital gains will increase economic activity and speed the economy back on the road to growth. Have the politics of envy become so powerful that we are willing to forgo new jobs and economic growth because of the way someone can play with a so-called distribution table?

In conclusion, the Democrat budget resolution fails to address critical tax issues which can strengthen America's long-term future. In contrast, the President's budget proposal would promote increased savings, capital formation, infrastructure, and international competitiveness. Rather than merely paying lip service to incentives, the President's budget proposal incorporates them—and pays for them.

Mr. PANETTA. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from South Carolina [Mr. SPRATT], a member of the Committee on the Budget.

Mr. SPRATT. Mr. Chairman, I rise in favor of the Democratic budget resolution.

Like President Bush's budget, our budget hits the target set last fall; it says within the limits set for all three categories of discretionary spending: domestic, defense, and foreign aid. We likewise follow in this budget resolution the agreement of last fall by requiring that any new entitlements be funded with new taxes under the pay-go rules. But when it comes to domestic spending priorities, we part company with the President. We take money from programs like the manned space station and put it into needs that we consider more pressing, such as children, education, and the Nation's infrastructure.

In the case of children, we provide a $2 billion increase for elementary, secondary, and higher education, three times the increase sought by the President, whose education budget would not even keep pace with inflation. Our budget gives Head Start a $350 million increase, which is almost four times the increase the President sought. At this rate of increase, we can fully fund Head Start in 9 years; at the President's rate of increase, it will take 50 years to fund Head Start fully.

In the case of infrastructure, we provide increases of $1 billion for the highway program, $1 billion for aviation, $281 million for mass transit, and $26 million for Amtrak.

Finally, we commit more to the safety net. We provide increases of $2.014 billion to finance homeless and low-income housing programs and a 12 percent increase or $1.264 billion for the antidrug program. And we reject the President's proposed cuts in programs for veterans.

We also restore cuts in three other areas. First, we reject the President's request to cut $990 million from the Postal Service budget over the next 5 years by making the Postal Service pay a larger share of the costs for health benefits and cost-of-living adjustments for retired postal employees

and their survivors. Second, at a cost of $25 million, we save the postal subsidy for rural newspapers. We do, however, accede to the President's request and scale back significantly the postage subsidy for nonprofits. Third, we reject the President's proposal to cut the Rural Electrification Administration [REA] budget. During the past decade, the Reagan and Bush administrations have tried to eliminate REA, an agency that helps millions of our constituents who live in rural areas.

To pay for these selected increases, we propose a 1-percent across-the-board cut in nonpriority programs, deeper cuts in low-priority programs, and some program eliminations.

In the area of defense, this budget and the President's budget agree, at least as to total spending. In last year's budget agreement, we capped defense spending—function 050—in fiscal year 1992 at $290.8 billion in budget authority and $295.3 billion in outlays. We appropriated for fiscal year 1991 less than the ceiling, and made it clear that the cap is a ceiling but not a floor. A good part of the defense cuts that we are counting on come from downsizing our standing forces. The Persian Gulf war postponed the build-down in force levels, so Congress allowed the Defense Department a shortfall of some 16,000 off the reduction of 100,000 in end-strength legislated for in fiscal year 1991. This will have an impact on fiscal year 1992, since these 16,000 soldiers, sailors, airmen, and marines will be on the payroll when fiscal year 1992 begins. Our aim since last year has been to reduce military personnel by 25 percent over 5 years, but to accomplish the reduction with as little pain as possible, relying on early outs for those who want them, and on voluntary retirements rather than forced and arbitrary reductions in force. Certainly, in the aftermath of the war with Iraq, we want to continue that policy; we don't want to end Desert Storm by dropping arbitrarily some of the men and women who served us so well. That's one reason for budgeting to ceiling.

Another reason for budgeting to ceiling is that the ceiling isn't that high. It represents a defense spending reduction of about 3 to 4 percent in real terms. To budget at the ceiling of $290 billion, DOD had to terminate 13 programs on top of the 9 terminated last year. The terminations include the M–1 tank and the Bradley fighting vehicle, as well as the Apache helicopter and the OH–58D [AHIP] helicopter, leaving the Army with virtually no major systems in production. The Navy has terminated the top-of-the-line F–14D fighter, the A–12 attack plane, and its advanced tactical fighter, as well as the P–7A ASW airplane; and the Navy is stopping the Trident submarine at 18 rather than 20 boats as planned. The Air Force decided last year to end production of the F–15E fighter; in 2 years, the Air Force will end production of the F–16 fighter. Granted, the Pentagon still found room beneath its ceiling to ask $4.6 billion for SDI and $4.8 billion for the B–2 bomber. I don't expect either request to be fully funded by Congress, but I do think they will be changed mostly at the margins. By the time we deal in Congress with the V–22 tilt-rotor aircraft, sundry equipment for the Guard and Reserve, the F–14D fighter and the follow-on to the A–12 attack aircraft, personnel issues, and the Army's tank production line, among other things, we will be bumping the ceiling ourselves.

So, at $290 billion, we are close to the margin, but we are buying enough to maintain a strong defense. We keep defense spending on a downward path, as we should in a world in which the Warsaw Pact has disintegrated and the Soviet threat has receded. We downsize our forces, but still provide enough to keep faith with the men and women who have served us well. We terminate programs, but provide enough to hedge against change and to maintain the essentials of a defense industrial base.

By complying with last year's summit, our budget resolution represents a significant effort to cut the deficit down to size. It is not sufficient, in my opinion, but it is significant. Last year's agreement helps control spending, and I think that without its constraints, the deficit for next year would be higher than projected. Given political realities, I believe it is the best we can do this year. But the fact remains that our on-budget deficit for next year will still be $362.1 billion, virtually the same as the 1991 on-budget deficit. I think the deficit is the gravest economic threat facing our Nation. The national debt has reduced national savings, reduced productivity, and reduced our autonomy, forcing us to rely on foreign credit. Between 1950 and 1980, the national saving rate was about 7 percent of GNP. Today, the national saving rate is 2 to 3 percent of GNP, about one-third the prior rate. I am voting for this budget resolution because it upholds last fall's agreement; but next year, I think we should revisit the agreement of last fall and do more to reduce the deficit.

□ 1500

Mr. GRADISON. Mr. Chairman, I yield 5½ minutes to the gentleman from North Carolina [Mr. MCMILLAN], a member of the Committee on the Budget.

Mr. MCMILLAN of North Carolina. Mr. Chairman, 1992 is the second year under the discipline of the Budget Enforcement Act of 1990 which set spending caps, mandatory pay-go provisions and tax revenue adjustments to reduce the baseline deficit by $500 billion over 5 years. The ultimate goal is a balanced budget in 1996. The Republican proposal meets that goal using OMB estimates.

I would like to request unanimous consent to insert the following two analyses in the RECORD.

We are off to a slow start due to the essential funding of deposit insurance and the recession which together impacts the 1991 and 1992 deficits by about $150 billion. To achieve our objectives, we must hold outlay growth to half the rate of inflation with no new taxes from this point on.

The Republican budget holds outlay increases for fiscal year 1992 to 2.6 percent over fiscal year 1991. The Democratic budget is slightly higher. More importantly, it limits compound outlay growth to 1.8 percent from 1991 to 1996. The Democratic budget is slightly higher.

Proposed Democratic changes amount to only 45 additions totaling $8.252 billion and 17 decreases totaling $5.226 billion out of 1,005 discretionary accounts affecting only 0.4 percent of the President's proposal. They accept the discipline of the agreement and 99.5 percent of the President's proposals.

We've heard a lot of exaggerated rhetoric about the necessity of those changes and its impact on life in America. However, the real truth is that they are minor adjustments to play to one interest at the expense of another. In most cases, it is simply a case of one-upping the President and the Republicans with a little more money for some Energy, Housing, Education, Health and Welfare programs at the expense of a wide range of other programs. This is, after all, a zero-sum game.

We have heard about all of the great increases in the Democrat's budget but what about the cuts?

First, the Democratic budget reduces funding to the FEMA disaster relief fund by $74 million in outlays for fiscal year 1992.

The people in North and South Carolina who had to suffer through Hurricane Hugo and the people of California who suffered through the earthquake can't be too excited to hear of such priority cuts. In fact, most people believe FEMA needs more money to meet the unexpected natural disaster situations that are sure to come along each year.

Second, the Democratic budget underfunds Unemployment Insurance Administrative costs by $431 million below the President's request.

I thought their budget was a budget for working families. How can such cuts be helpful to families as we pull out of this recession?

Third, the Democratic budget calls for unspecified cuts in the following programs: education, health grants, research and development, housing, agriculture, transportation, and justice programs.

The real work of the Budget Committee, the authorizing committees, and

the Appropriations Committees lies ahead of us. It is going to be tough to live within the discipline of the Budget Enforcement Act and address the foreign and domestic challenges we face.

The Budget Enforcement Act requires a 5-year reconciliation, and the President's proposal does that with initiatives to stimulate higher economic growth and to encourage the development of cost-effective alternatives that enhance essential policy goals and Government services.

One example of success is the defense budget which is managing a reduction in real terms of close to 3 percent per year as we downsize our forces. The Persian Gulf war showed us that we can, in fact, get better results out of a shrinking budget. Suppose we did the same in the areas of education, housing, or health care?

The situation compels us to also look at reforms in entitlement programs, not to reduce essential services, nor to ignore unmet needs, but to address the causes of costs running out of control. If we fail to address runaway costs, we will fail to provide the resources required to address real needs in health care, education, the environment, and restoring our broken communities.

Health and Medicare are prime examples of where the House has an opportunity in the coming year to make substantial progress. These costs have increased at a compound annual rate of over 10 percent for the last decade and are projected to exceed that in the next.

MEDICARE

One notion that must be dispelled from this debate is the accusation that the seniors of this Nation have something to fear from the proposals in the President's budget regarding Medicare. The Democrats want to treat Medicare as some sort of politically correct speech that must be restricted on the floor of this House. They want the seniors of this Nation to think that somehow the infidels are coming to take away their Medicare benefits and only the Democrats are standing strong in their defense.

Well, if you look at the truth of the matter, the Democrats' main concern is with one of the President's proposals that would call for high-income seniors, those with singular incomes over $125,000 or couples with incomes over $150,000, to pay for 75 percent of their premiums, up from the current 25 percent that everyone currently pays now. That means if you are a billionaire senior citizen retiree, the Democrats want to protect your full subsidy of 75 percent of the Medicare premium which will be $1,113 in fiscal year 1992. And they want to make sure that everyone else is forced to pay more than their fair share in taxes to make sure that billionaire continues to get that full $1,113 subsidy in 1992. So much for looking out for the working family.

Amid all of the posturing and gesticulation over there, the Democrats fail to mention that the committee language unanimously endorsed the President's concept of income-relating the Medicare part B premium in their own report language adopted April 9. So when you hear the protestations over there on Medicare, just remember that fact.

The other thing that the Democrats fail to mention is that in their desire to make political hay out of Medicare once again, they are in effect saying that nothing is wrong with the system as it is and that we should continue to operate Medicare like we have done in the past. By doing that, they are implicitly saying that we should continue to let the question of defensive medical practices go unchecked in Medicare which drives up costs to patients, providers, and the Federal Government.

I have one rural county in my district where there is only one doctor who is currently taking any new Medicare patients. Why? The administrative headaches of complying with all of the Medicare directives coupled with the low reimbursement rates and the increased liability exposure for treating Medicare patients have made it prohibitive in terms of costs and time to extend health care to new patients. These are the realities the Democrats are trying to sweep under the rug by failing to even mention Medicare in their budget other than to pump it up with more money.

We have to look at the fundamental causes that are driving up Medicare costs, Medicaid costs, and privately provided health care costs in this Congress before any more people are priced out of the health care delivery system. And to do that, we must start talking honestly and openly about Medicare and take it off of the politically correct pedestal.

They are being driven by defensive medical procedures which Secretary Louis Sullivan estimates to be about $150 billion per year out of our total annual national health care expenditure of $650 billion or about 23 percent. Defensive medical costs really serve no other purpose than to provide doctors and hospitals with evidence they have done everything conceivable to a patient as a protection against litigation even if those procedures are not necessary. We also have the problems of duplication of capacity and excessive overhead in the health care system often imposed by Government.

We have financial resources already to resolve the issues of lack of access and affordability of health care if we take the bull by the horns in this session of Congress. We need to address issues of defensive medicine, liability, duplication, and excessive overhead. Payments for defensive medicine by Government could be as high as $75 billion by 1996 if we don't act now.

My hope and expectation is that the Budget Committee will begin to work in a bipartisan way to develop guidelines for cost-effective alternatives for authorizing committees to pursue fields for fiscal year 1993 and beyond. This is the only committee in the House with a global perspective. If we do not do so, we will once again find ourselves in the box of budgeting for appearance rather than for results.

I urge my colleagues to support the President's proposal, but more importantly, let's start debating performance and cost-effective alternatives instead of add-on one-upmanship. That is the real way to help working Americans and bring this budget to balance.

Mr. Chairman, at this point I insert a chart for the RECORD.

TOTAL BUDGET

	Fiscal year—						
	1990	1991	1992	1993	1994	1995	1996
Democrats budget:							
Budget authority	1,358.5	1,490.3	1,590.1	1,816.5	1,866.3	1,732.0	1,827.2
Outlays	1,251.7	1,392.7	1,458.8	1,470.9	1,499.9	1,483.7	1,561.8
Revenues	1,031.3	1,092.8	1,169.2	1,250.7	1,331.5	1,415.4	1,495.4
Deficit	(220.4)	(299.9)	(289.5)	(220.2)	(168.4)	(68.3)	(66.4)
Social Security surplus	.....	62.8	72.0	83.9	98.4	113.7	130.9
Deposit insurance	58.0	103.0	87.0	47.0	25.0	(47.0)	(43.0)
On-Budget (without Social Security):							
Budget authority	1,083.8	1,187.5	1,269.4	1,272.6	1,300.9	1,341.6	1,407.3
Outlays	1,026.6	1,155.2	1,212.5	1,212.1	1,234.4	1,209.1	1,276.9
Revenues	749.7	793.0	550.4	808.8	966.3	1,025.7	1,079.8
Deficit	(276.9)	(362.2)	(362.1)	(302.3)	(258.1)	(183.4)	(197.1)
President's budget (OMB scoring):							
Budget authority	1,368.5	1,520.0	1,577.8	1,533.7	1,605.8	1,677.5	1,759.6
Outlays	1,251.7	1,408.6	1,445.8	1,454.2	1,427.1	1,470.3	1,540.8
Revenues	1,031.3	1,091.4	1,165.0	1,252.7	1,365.3	1,467.3	1,560.7
Deficit	(220.4)	(318.2)	(280.9)	(201.5)	(61.8)	(3.0)	19.9
Social Security surplus	.....	60.4	82.4	73.3	89.3	103.9	121.8
Deposit insurance	.....	111.8	88.1	44.2	(38.1)	(42.3)	(29.9)

TOTAL BUDGET—Continued

	Fiscal year—						
	1990	1991	1992	1993	1994	1995	1996
On-budget (without Social Security):							
Budget authority	1,083.8	1,218.9	1,260.7	1,193.1	1,239.0	1,286.6	1,340.7
Outlays	1,026.6	1,171.7	1,194.2	1,187.8	1,150.2	1,183.8	1,246.1
Revenues	749.7	793.2	849.8	914.0	999.8	1,077.5	1,143.5
Deficit	(276.9)	(378.5)	(344.4)	(273.8)	(150.4)	(108.3)	(102.8)
President's budget (CBO scoring):							
Budget authority	1,368.5	1,507.1	1,590.8	1,598.2	1,547.4	1,710.8	1,794.2
Outlays	1,251.7	1,401.7	1,461.9	1,466.9	1,498.9	1,479.5	1,542.3
Revenues	1,031.3	1,093.5	1,172.2	1,246.3	1,325.5	1,408.8	1,486.2
Deficit	(220.4)	(308.1)	(289.7)	(220.8)	(173.4)	(70.7)	(56.1)
Social Security surplus		60.4	69.0	79.0	97.0	112.0	128.0
Deposit insurance		103.0	97.0	47.0	25.0	(47.0)	(43.0)
On-budget (without Social Security):							
Budget authority	1,083.8	1,204.2	1,269.9	1,254.7	1,282.6	1,321.4	1,375.4
Outlays	1,026.8	1,182.0	1,212.7	1,205.3	1,230.7	1,202.0	1,254.8
Revenues	748.7	793.8	853.4	905.3	960.3	1,019.1	1,070.6
Deficit	(276.9)	(368.2)	(359.3)	(300.0)	(270.4)	(182.9)	(184.2)

BUDGET PROJECTIONS AND UNDERLYING ASSUMPTIONS

[In billions of dollars]

	fiscal year—					
	1991	1992	1993	1994	1995	1996
Budget projections:						
Baseline total deficit	298	298	239	211	128	135
Deficit assuming compliance with discretionary caps [1]	298	284	215	160	57	56
Deficit assuming caps and excluding deposit insurance	194	186	167	135	103	99
As a percentage of GNP:						
Baseline Total Deficit	5.3	5.0	3.7	3.1	1.8	1.8
Deficit assuming compliance with discretionary caps [1]	5.3	4.7	3.4	2.4	.8	.7
Deficit assuming caps and excluding deposit insurance	3.5	3.1	2.6	2.0	1.4	1.3
Economic assumptions (by calendar year):						
Nominal GNP (billions of dollars)	5,700	6,107	6,505	6,919	7,358	7,824
Real GNP	0	3.3	2.9	2.8	2.7	2.7
Fixed-weighted GNP price index (percentage change)	4.6	3.8	3.8	3.8	3.8	3.8
CPI–U (percentage change) [2]	4.9	3.5	3.6	3.6	3.6	3.6
Unemployment rate (percent)	6.8	6.4	6.2	6.0	5.8	5.6
3-month Treasury bill rate (percent)	6.6	7.0	6.7	6.3	5.9	5.7
10-year Government note rate (percent)	7.9	7.7	7.6	7.4	7.3	7.2

[1] Include savings in defense and nondefense discretionary spending that remain to be enacted in future appropriation bills, along with associated debt service savings.
[2] CPI–U is the consumer price index for all urban consumers.

Notes.—Projections include Social Security and the Postal Service, which are off-budget. Projections assume the provision of additional resources to the Resolution Trust Corporation and the Bank Insurance Fund beyond those available under current law.

Source: Congressional Budget Office.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER], who is also chairman of the Select Committee on Children, Youth and Families.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from California for yielding time to me.

I want to say that I think this is very important, to back the committee's budget and turn down the President's budget. When we get into a budget debate, most people's eyes glaze over. They think, "Oh, boy, this'll be exciting." All Members are throwing numbers around and trying to say it is not that different, it is not that different. It is big time different. It is big time different.

There are 93 percent of the accounts that are different in the House Committee on the Budget's budget versus the President's budget. That is a very substantial difference. Let me say what I think is so critical. If we take every single American family, and they go through some economic downturn, my guess is when they are sitting at the kitchen table trying to figure out how to make ends meet, in a very difficult family budget, the last thing they are going to do is to not give the children shots this year, or not to send the children to school this year, or not to give the children much milk this year. They will try to hold the children in their family harmless from the budget cutbacks as long as possible. I do not think there is an American family anywhere that would not agree with those priorities.

Therefore, I want to say that the Committee on the Budget's priorities are much more like the American family's kitchen table priorities. This country truly is in an economic downturn. We have all sorts of problems.

□ 1510

I am very pleased that the Ford amendment passed today so we have more focus on youth, in particular this bill much more fully funds the WIC Program, the Women's, Infants and Children Feeding Program.

My goodness, even the CEO's from the Fortune 500 companies are back there saying that is the best investment portfolio America has.

The Budget Committee also puts money into funding Head Start. The way they have it in, it would fully fund it in 10 years. The way it is in the President's budget, we would wait 50 years. Boy, there is a big difference.

You know, we have seen the future. It is wearing diapers. It is going to inherit this national debt and we are not doing well in getting them prepared to inherit the national debt.

Now, children did not cause this debt. Children did not cause this recession. They did not even vote for anyone who caused the recession and they did not have anything to do with all the special interest groups who would rather have this or have that.

I think we ought to be holding children harmless from this economic downturn, and that is exactly what the Budget Committee's budget does.

So I really hope that if you are truly interested in the future of this country, which are its children and its young people, there is absolutely no question how these two budgets line up.

Here we are making real commitments. We are putting dollars behind it.

We have had so much rhetoric, we have had more rhetoric on families than we have ever seen, but it is now time that we really produce. The Budget Committee has produced it. It has produced even better with the Ford amendment today, and I heartily endorse it and I hope everyone votes for it, for our children's sake.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there are a lot of ways to decide whether a budget resolution is any good. New proposals and proposals to substantially change spending priorities are bound to get a lot of attention in this House and have a big influence on how we vote; but how about the little proposals that seriously damage longstanding programs. I know to some of you this may be boring stuff compared to all the discussion of changing domestic spending priorities. But boring as it may be, it is not unimportant.

As Members on both sides of the aisle are well aware, the Republican Party has done everything possible in the last several years to protect the orderly function of the Nation's unemployment insurance program. As money for administration of the program by States declined because of declining unemployment, both the Reagan and the Bush administration did everything during those years to keep the States funded so they could continue to run good programs.

This year the administration even went so far as to seek an emergency supplemental appropriation of $150 million just so States could continue to effectively run their unemployment insurance programs.

Now, after all this fine work by Republicans and Democrats, too, the Democrat budget proposes to remove almost one-half billion dollars from the administration's $2.3 billion proposal to pay for effective administration of this program.

In a time of recession when many States are having trouble just getting the unemployment checks out the door, I find it incredible that the party of Franklin Delano Roosevelt would brazenly undercut a critical part of the domestic safety net in this fashion.

So Mr. Chairman and my colleagues, if you want long lines of unemployed, if you want your unemployed workers to wait a month or two to get the money to pay their mortgage, if you want hungry children on your conscience, support the Democrat budget. If not, I urge my colleagues to support the budget of the President.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The Committee will rise informally in order that the House may receive a message

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. SPRATT) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting

CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1992

The Committee resumed its sitting.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself 10 seconds to respond to the last Speaker.

Mr. Chairman, we treat the Unemployment Compensation Program exactly the way the President treated it this year, which is that when he provided a supplemental, he declared it an emergency and that is exactly the way we treated it in the budget we proposed to the House.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. It surprises me, Mr. Chairman, that the Republicans see very little difference between the President's budget and the Democratic budget.

Let us ask a little child who gets fed from the WIC Program if there is a difference between eating and not eating.

Let us ask the child who gets into Head Start.

Let us ask the worker who builds the highway that gets funded under the Democrats' budget, the AIDS patient and the veteran who needs health care.

Let us ask the senior citizens who would have to pay laboratory fees under the President's Medicare cuts, but does not under the Democratic budget.

Let us ask a foster care parent who can barely make it and who would be cut under the President's budget.

Education, job training, immunization, drug abuse programs, transit, energy assistance, solar and alternative energy research, the National Institutes of Health to find a cure for cancer and Alzheimer's disease. Is there a difference? You bet there is a difference.

The difference is that the Democratic budget starts to look at the needs of our people. I look forward to the day when NATO and Japan pay for their own defense. We spend almost $200 billion a year on them, 15 percent of our budget. Then we will really be able to make a difference in deficit reduction and investments in America.

But until that day, this Democratic budget is a step in the right direction. There is a difference. The difference is the Democrats stand up for the people.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE], a member of the Budget Committee.

Mr. WISE. Mr. Chairman, two headliners or two occurrences sometimes bring meaning to a budget debate. Today in the paper our Government is going to press Japan to allow more American contractors to build Japan's infrastructure. In another setting, our office in Charleston, WV, has people calling by the score wanting jobs in Kuwait to rebuild the Kuwaiti infrastructure.

Mr. Chairman, do you realize that today following Operation Desert Storm there is a nation where half the highways are substandard, where half the bridges are deficient, where a major airport has not been built since 1974, and every one of them is hopelessly clogged. That is not Iraq. That is the United States of America.

Let us look at what the Democratic budget does versus the President's budget.

Federal aid to highways. The resolution's $1 billion increase in the Democratic budget is nearly 150 percent more than the President's requested increase. That is in the first year.

Check the second year, where we up it to $2 billion, double that.

Mass transit. The resolution's $281 million increase is three times, or 300 percent greater than the President's requested increase.

Aviation. The Democratic budget matches the President's budget on a $1 billion increase.

Waste water treatment grants, $80 billion worth of sewer treatment needs in this country. The President proposed cutting that $200 million. The Democratic budget rejected that.

Community development block grants, the last program really left since revenue sharing for many of our counties and cities, the resolution rejects the President's request for almost a $200 million reduction and instead increases funding by $70 million, or a 266-percent increase above the President's request.

I think it is great that we are fighting to build Japan's infrastructure. I am sure it is nice and it is important that we rebuild Kuwait's infrastructure. This budget needs to undertake and the Democratic budget does undertake more substantively rebuilding the infrastructure of the United States, and that is where we need to start.

Mr. GRADISON. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman it has been enjoyable the last day and a half or so listening to the debate. I know it is hard for our colleagues on this side of the aisle when your theme song is more and it has been more and you are attempting to continue to use that theme song, but really what you have is a little bit more and a little bit less.

In today's Washington Post was a taking exception article from the chairman of the Budget Committee entitled, "Our Budget Is Better." If you will notice in terms of the quote he

says, "Budgets are not just numbers and dollar signs. They express the priorities of a nation."

That is clear when it is finally passed, but when it is presented by the Democrats or it is presented by the Republicans in terms of the President's budget, it is also the political priorities of a particular party.

□ 1520

I was pleased to note that the chairman of the committee indicated that the President's budget did away with smoke, did away with mirrors, and did away with deceptions. Those actually were discarded.

Unfortunately, the Democrats are heavily into recycling, and those very same items show up as part of the so-called Democrat budget. I say "so-called" because the budget was supposed to be a 5-year plan. The President addressed 1992, 1993, 1994, 1995, and 1996 in a 5-year plan. the Democrats' budget does not. It addresses the years 1992 and 1993 in terms of real choices as to where money is going to be spent. But for 1994, 1995, and 1996 they simply baseline it. They do not go into the policies they want to make there. Why would they do that? Because under the 5-year argument, after 1993 you do have the distinct categories where you have got to even out the numbers. You can rob from one to put it in another. They will not tip off where they are going to take money in the out years where they have the ability to do it. They could not come to an argument under the budget procedure on their side of the aisle. So they simply baselined the numbers. In fact, the Democrats do not have a budget, what they have is a manifesto. Half of this article is the plea, "Our budget is better," and it is wrapped up in me-tooism. Women, Infants, and Children has been commented on. No one has noticed that the President put over $220 million more into that program. It is a good program. Two months later the Democrats put in $350 million more. They say, "We support women, infants, and children." Everybody supports women, infants, and children. As a matter of fact, the Democrats' political manifesto seems to be women, infants, and children, of America, unite, "You have a couple of bucks to gain."

In program after program, the Democrats look like a supermarket captive brand with a yellow slash across them, "10 percent more, buy me." In fact, the rhetoric is so canned in these areas that if the President, I firmly believe, had put in $350 million for Women, Infants, and Children, you would have put in $360 million just to be $10 million better, and used exactly the same rhetoric.

The Democrat manifesto plays up winners, their song is "More." But under this agreement, as everybody understands, if you are going to reward some, you have got to deny others, if you are going to pay Paul, you got to rob Peter, but you must at least have the decency to identify Peter. You do not. You hide it in terms of unspecified cuts. As a matter of fact, when the President talked about where he would make adjustments in the real budget, in a budget designed to govern, he offered changes that cry out to be made.

For example, it was mentioned in the veterans area, do you know what the President has suggested in part of those cuts for veterans? He said, "Look, you support, I support, we all support funding veterans getting that first home." Nothing down, guaranteed loan program. "But should we do that for the second home when they move up or the third home or their fourth home or their fifth home?" Let us give them that helping hand, but do you know, just 10 percent down cuts the default rate by 30 percent. Let us give them that first helping hand, but let us adjust it down in the out years.

Democrats' response: No. The President said, "Look, in Medicare part B, it is voluntary. Why is there almost 100 percent subscription in that area?" It is very simple: It is an $1,100-plus subsidy to every individual who signs up for Medicare B.

The President said, "Hey, how about those people making more than $125,000 who are retired, should we give them a 75-percent subsidy? Should those very same working women with infants subsidize a wealthy American for his Medicare Program at 75 percent?" The President said, "No. How about giving them only a $300 subsidy, make them pay 75 percent and the Government subsidize?" And when you say the Government, it is working men and women subsidizing these wealthy individuals at only a 25-percent level. Democrats said "No."

The President's budget can be criticized because he is honest in terms of where he pays money. But the Democrat manifesto ducks the out years. It is really telling that the heart of the Democrat program is the same old song, "More, more, more."

Finally, when you ask them where do the cuts come from, they do not have the courage to show them; they hide in the shadows of unspecified or across-the-board cuts.

The President's budget is responsible across the board. It is a product of governance, it is a product for all of us. The Democrat manifesto is not better for all of us, and even the Washington Post knows it.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE], a member of the Committee on the Budget.

Mr. KILDEE. I thank the chairman for yielding.

Mr. Chairman, those who say that there is not much difference between the committee's budget and the President's budget have not spent much time in a Head Start Program where 3, 4, and 5 year-olds learn some of the basic skills they need to keep up with their more advanced peers. Nor have they visited a compensatory education classroom where elementary school children work to improve their literacy and math skills that could make a difference between staying in school or dropping out before graduation, or watched secondary school students in vocational education classes learning the computer and high-technology skills they will need to find a job in a competitive market, or visited clinics providing low-income mothers and infants the food and formula they need to stay healthy and out of the hospital, or talked with senior citizens who face the terrible choice between heating or eating.

Mr. Chairman, the budget which Chairman PANETTA brings to this House contains a vastly different set of domestic priorities from those of the President's budget.

The committee budget makes significant investments in Federal programs which have proven their effectiveness over the years.

The $2.4 billion increase for education, including compensatory education, vocational education, and Pell grants.

That is 3½ times the President's proposed increase for education.

Also $350 million for Head Start, again, 3½ times the President's proposal.

And we put the Head Start Program on track to reach full funding by the end of the decade.

Another $350 million increase for the WIC Feeding Program, and we assume full funding by fiscal year 1996.

We reject the administration's cut in job training funds and instead, provide a $266 million increase for these crucial programs.

We also reject the President's $600 million cut in the Low-Income Home Energy Assistance Program and provide funds sufficient to keep pace with inflation.

Mr. Chairman, those who say that there is little or no difference between the Democrats' budget and the President's budget must be looking at two different documents than what we have before us today.

Because the two budgets before us have crystal clear and critical differences in priorities.

Mr. Chairman, now is the time to invest in our childrens' education, in their health, in their nutrition, and above all, in their future.

We owe it to them and to our Nation's future.

I urge my colleagues to reject the Gradison amendment.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, the President's budget would reduce Federal support to the States for foster care services by $1.7 billion over 5 years.

It is widely acknowledged that the State programs which handle child abuse and neglect, and foster care, are under severe stress

The National Committee for the Prevention of Child Abuse reported just yesterday that there were 2.5 million reports of child abuse and neglect in 1990, a 31-percent increase over 1985, and a 167-percent increase over 1980.

Two out of 3 workers handling these reports claim that resources are inadequate to investigate all cases needing investigation, much less to provide services to the families to prevent the need for expensive foster care.

Is it any surprise that the foster care caseload rose 30 percent between 1986 and 1989?

The President would solve this problem by reducing Federal support to the States for some basic, yet important, activities, which are designed to reduce the need for the placement of children into foster care. For example, the referral of families to services, and the development of case plans for children who may enter foster care.

The Department has tried to cut this funding stream before. In 1987, the Departmental Appeals Board at HHS rejected the Department's claim that these activities are not allowable under the Federal statute. In fact, the Board found that limiting Federal reimbursement for these activities would work against the purpose of Federal law—which seeks to prevent the need for removing a child from his home and placing him in foster care.

Families that come to the child welfare system have fallen through many cracks—cracks which are getting wider and wider. But our President isn't concerned. His budget fails to address the plight of children and families in America today. Thus, he fails to pave the way for our country's future economic success.

A few selected facts:

Families face growing economic stress. The real income of the poorest 20 percent of Americans living in families declined 21 percent between 1973 and 1988. Today, one out of five children lives in poverty. Middle class families have felt the pinch too: real family incomes for the bottom 50 percent of families stagnated or declined between 1973 and 1988.

Single-parent families are becoming the norm. Over 24 percent of children lived in 1-parent families in 1989, compared with 9 percent in 1960. Based on current trends, it is estimated that 70 percent of white children and 94 percent of black children born in 1980 will spend part of their childhood living in a single parent family.

In 1987, the United States ranked 22d among industrialized nations for infant mortality rates. About 32 percent of all women nationally do not receive adequate prenatal care.

In today's economy, a high school education makes you or breaks you. Yet many of our youth drop out. High school dropouts are at risk for unemployment and welfare. But even those youth who stay in school aren't learning enough. One study reports that 50 percent of high school seniors have inadequate reading skills, and 80 percent inadequate writing skills.

□ 1530

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Ohio [Mr. GRADISON], my friend.

Mr. GRADISON. Mr. Chairman, it is generous of the gentleman from New York [Mr. DOWNEY] to yield.

Let me just point out that in the debate earlier in the day that the gentleman from Ohio [Mr. SMITH], from the gentleman's side of the aisle, criticized the amendment of the gentleman from Michigan [Mr. FORD] which was under consideration because it would in its across-the-board cuts have reduced funds for child abuse enforcement.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. MILLER], the former chairman of the Select Committee on Children, Youth, and Families.

Mr. MILLER of California. Mr. Speaker, Members of the House, tomorrow, with great fanfare, the President and his new Secretary of Education will launch a national education initiative. But what we ought to understand is that in that effort to educate the children of this Nation the President's budget destroys the basic building blocks of children in this Nation. In his effort to try and increase funding for the Women's, Infants and Children's Program, for the Head Start Program, in fact he misses the mark. He misses the mark of getting children who need to be prepared ready for school, and so his answer is to come back in the 12th grade and to test them to see how they are doing. Children who will be denied nutrition supplements so that they can learn will be denied the participation in Head Start Programs. Only one-third of the children in this Nation qualify, so they will not be school ready.

So, Mr. Chairman, the answer will be: "We will spend billions of dollars at the end of the process to try and make up for the inadequacies that the President's budget provides to those children." These are the most fundamental things we can do on behalf of children. We can feed them, we can educate them, and we can protect them from abuse, and the President's budget fails on all three grounds to provide the kinds of protections, the kinds of nutrition, and the kinds of education that very young children in this Nation need.

Now there is an alternative to the President's budget. It is the budget proposed by the chairman of the Committee on the Budget, the Democratic alternative, which in fact addresses these. Yes, it is more money, but it also speeds up the timetable by which more children can get the benefits of Head Start, more children can get the benefits of nutrition, more pregnant women can get the benefits of decent nutrition so that we do not have low birth weight babies, so we do not continue to syndrome in this country of low income children being born with less brain capabilities than children in middle income and high income families. We have got to understand that that is a road to the destruction of thousands of children in this country.

Mr. Chairman, that is addressed in the Democratic budget. It is about the building blocks of a society, it is about the building blocks of an education system, it is about the building blocks of a work force that almost every business organization that has looked at these proposals and has suggested that this country invest more, be on the Democratic proposal. This is the business organizations of this country that are saying that, if we do not make the kind of investments on the kind of timetable outlined in the Democratic budget, that they will not be able to assemble the work force necessary for this country to compete.

That is difference in this budget. The difference in the budget is about caring for children and not accepting that some children, through no fault of their own, under no control of their own, will just simply fall through the cracks and miss an opportunity to participate in American society.

Mr. Chairman, the Democrats repudiate that approach.

When the President introduced his 1992 budget, he told the Congress and the American people that the time had finally come "to reserve the long-term trend of underinvestment in children."

That's comforting and familiar rhetoric. But the President's budget reneges on the President's promises.

The Democratic budget proposal protects our investments in children and their families.

The Democratic budget rejects the administration's plan to pilfer money from community health centers and the maternal and child health block grant to fund a narrowly targeted infant mortality initiative.

We have made progress in reducing infant deaths, but that success is tempered by the fact that critically ill newborns are being saved with costly high technology rather than cost-effective preventive care. Congress rejected the President's proposal, and our budget restores funding to the critical prenatal care programs

that have proven to reduce low birthweight and infant mortality.

The Democratic budget proposal rejects the President's cuts in the child nutrition program and includes sufficient funds to move us toward full funding for WIC—also proven to ensure healthy births and to save money.

It rejects the President's 50-year timetable to fully fund Head Start and includes enough funds to make sure all eligible low-income preschoolers will be in Head Start by the end of the decade instead of the one-fifth participation rate today.

The Democratic budget triples the President's proposal for education with a $2 billion increase for elementary, secondary, and higher education, and substantial increases for student aid, math/science programs, compensatory and special education, and education for homeless children.

The President uses smoke and mirrors in his child welfare proposal, at a time when children are at greater risk than ever before. Just yesterday, the National Committee for the Prevention of Child Abuse and Neglect released 1990 data: 2.5 million reports of child abuse—a 31-percent increase since 1985. And over 1,200 child-abuse-related deaths—a 38-percent increase in the same time period—were documented in 1990.

The President's 33-percent increase for child welfare would be negated by his proposal to eliminate the existing $250 million program to support State efforts to prevent placement of children in foster homes. The Democratic proposal rejects this sham.

The Democratic budget proposal recognizes the urgency of the day, for our children and families and for the work force of the 21st century.

The budget we are considering today also protects other vulnerable groups. The President's budget unconscionably requested a $154 million decrease from the fiscal year 1991 appropriation for the Indian Health Service. This at a time when 17 of the 50 existing IHS hospitals are older than 50 years compared with the average age of 7 years for private hospitals. The President also calls for a 92-percent reduction in funding for construction of health and sanitation facilities at a time when more than 20 percent of native American homes lack toilets. The Indian Health Service itself reports a backlog of $572 million for sanitation facilities including water wells, septic tanks, and water purification systems for Indian homes, yet the President asks for no new funding in this area.

The President proposed that his small increase be funded from third party insurance collections. The assumption is that $129 million would be collected. In 1990, the IHS was only able to realize $3.7 million in insurance collections. A jump to collecting $129 million in 1992 is completely unrealistic. Mr. Chairman, the Budget Committee has recommended that the Indian Health Service funding level be restored and instead of the 9.7-percent decrease proposed by the President, has asked for a modest increase of 5.8 percent over last year's funding level.

I urge my colleagues to join me in supporting this recommendation as well.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. SCHUMER], a former member of the Committee on the Budget.

Mr. SCHUMER. Mr. Chairman, I rise today in opposition to the President's budget and ask my colleagues to support the budget resolution developed by the Budget Committee. First, I would like to take this opportunity to congratulate the distinguished Chairman of the Budget Committee for his leadership in this difficult area. He has produced a budget resolution with the proper priorities, children, education, and crime. It is the last of these, the funding provisions for antidrug and anticrime programs, that I particularly want to discuss today.

Mr. Chairman, we have just completed a war in the Persian Gulf. If is now time to turn our full attention and resources to the war that is raging here at home—the war on drugs and crime. Just as we ensured that our troops in the gulf with sufficient supplies of the very best equipment to wage that war, we must also ensure that our troops on the front lines of the war on crime have the resources they need to fight that battle.

The committee budget provides the funding to wage the war on crime and it puts the resources in those areas where they are needed most. The committee budget exceeds the President's in funding of both antidrug law enforcement efforts as well as antidrug health, education, and treatment programs. The committee budget also matches or exceeds the President's in every significant anticrime area. For example, the committee budget exceeds the President's in such vital areas as the FBI, the U.S. attorneys, and prison construction. It also restores unconscionable cuts proposed by the President in the Juvenile Justice Programs and in Federal aid to State and local drug enforcement efforts.

Over the past decade we have witnessed a tenfold increase in drug control spending from $1.5 billion in 1981 to $10.5 billion in 1991. Despite this infusion of resources, drug abuse and drug-related crime remains one of this country's most serious problems. Clearly, the need for maximum funding of these efforts has never been greater.

The Budget Committee's resolution does just that. The Budget Committee resolution calls for an outlay increase of $1.2 billion for antidrug and anticrime funding. That is the largest outlay increase in the whole budget. In addition, the proposed increase of $1.5 billion in budget authority represents the third largest authority increase in the budget. The 12-percent increase in discretionary antidrug and anticrime programs represents the second largest percentage increase in the budget. Without doubt, this budget makes fighting crime one of its highest priorities.

Antidrug funding must be a top priority and the Budget Committee resolution exceeds the President's budget in funding antidrug programs. The Budget Committee resolution provides for $142 million more in budget authority than the President's budget and $74 million more in outlays. This brings the total antidrug funding for fiscal year 1992 to $11.8 billion, an increase of 12 percent over the freeze level. This funding restores cuts the President's budget would make in drug-related portions of the Secret Service and Office of Justice programs, the office within the Department of Justice that helps States and local drug enforcement efforts. This is no time to be weakening our commitment to antidrug law enforcement efforts. Nor is it time to avoid full Federal support of drug abuse prevention and treatment programs. The committee budget includes $179 million in budget authority above freeze level for health-related drug prevention and treatment. This is $62 million, over 50 percent, more than the President's budget provides for this vital area.

In the area on nondrug, anticrime funding, the committee bill is again far tougher and preferable to the President's. The committee bill increases funding for the FBI's anticrime efforts by $311 million over last year. This is $22 million above the President's recommendation. The committee budget increases funding for the U.S. attorneys by $112 million, $25 million above the President. The committee budget responds to the crisis of overcrowding in our Federal prisons—now operating at 160 percent of capacity—by increasing funding for prison construction by $61 million over last year. This is $50 million above the President's recommendation in this area. Finally, the committee budget calls for a $3 million increase in funding for juvenile justice programs. This is $70 million more than the President's budget which would cut juvenile justice funding by 90 percent.

In sum, the Budget Committee's resolution provides the funds needed to wage the war on crime and targets those resources in the areas where they are needed most, antidrug funding, the FBI, the U.S. attorneys, Juvenile Justice, and prison construction. I urge you to reject the President's bill and support the committee resolution.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Chairman, I thank the gentleman from Ohio [Mr. GRADISON] for yielding me this time.

Mr. Chairman, all of this grand rhetoric we are hearing this afternoon, as the distinguished chairman of the Committee on the Budget knows and as everyone else in this room knows, runs totally into the realities of the Budget

Act. The fact of the matter is that there is nothing that the gentleman from California [Mr. PANETTA] or anyone else in this room can do to build up one discretionary program without taking it from another discretionary program, but they are very silent on the other side of the aisle as to those programs they are reducing.

Mr. Chairman, I am here today just to make it clear to my colleagues that 1.2 billion of those dollars they shower on certain objectives come out of the 250 function, which is the science function in the budget. If there is ever a case of consuming our seed corn, it seems to me that cutting the science function is a perfect case of it. What is it we are going to cut? The Democrats say they want more for education. Yet a cut of the size that they propose almost certainly means a cut in the education functions in the National Science Foundation.

□ 1540

Or shall we cut the research NSF is doing to make America more productive? Or should we cut "Mission to Planet Earth" in the NASA budget, a program designed to give us some hard data so we will know whether or not we are facing a terrible crisis and an expensive crisis in global warming? About that they are very silent.

They tell us all the wonderful things they are going to do with the money they have stolen from the science account, but they do not tell us the loss they would impose upon that account.

Fortunately, the second reason the rhetoric is so faulty this afternoon is that it makes no difference anyway what they do with all these puts and takes in the domestic discretionary program, because under the Budget Act we cannot appropriate money for one program and take it from another program in the budget resolution. We can only do that in an appropriation bill, so all the puts and takes in their budget, as compared with the President's, are simply, in the end, a phantasm.

They are not binding on the Appropriations Committee, they are not binding on this House, and they are not binding on the Congress. They are binding on no one. That is the reality of what we are doing this afternoon.

Mr. MCMILLAN of North Carolina. Mr. Chairman, will the gentleman yield.

Mr. GREEN of New York. I yield to the gentleman from North Carolina.

Mr. MCMILLAN of North Carolina. Just on that point, Mr. Chairman, in response to the gentleman's comments about Justice, I think in the aggregate the Democratic resolution increases funds for Justice by $204 million, but they make unspecified cuts of $769 million.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The time of the gentleman from New York [Mr. GREEN] has expired .

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. MILLER], a member of the Budget Committee.

Mr. MILLER of Washington. Mr. Chairman, I have enjoyed working with the chairman, ranking minority member, and other members of the Budget Committee. Many people have said before me that the differences between the Democrats' budget and the President's budget are small. That is true, but I agree the differences are significant. Yes, they both had to meet certain spending caps under last year's budget agreement, but there are significant differences.

When you look at the differences, the President's budget comes out ahead. Let us look at the tax side.

The Democrats claim that they support research and development as a way to promote economic growth in job creation. But then they ignore the President's proposal to extend the tax credit for research and experimentation.

The Democrats claim they are concerned about health care for working Americans, but they they ignore the President's proposal to extend the health insurance deduction for the self-employed.

Let us look at the spending side. The Democrats claim they are concerned about rising unemployment. Then they cut funds from the President's budget needed to administer unemployment compensation.

The Democrats claim they are concerned about investments, but they cut drastically funds from the President's budget for science and research. And, finally, the Democrats claim they are concerned about the environment, but you would not know it based on their budget, since they cut from the President's budget critical funding needed to protect endangered species, conserve and restore wetlands, protect wildlife refuges, and achieve reforestation.

Yes, there are spending increases in education in the Democratic budget, although without any educational reform. But they do it by cutting in the areas of administration of unemployment compensation, conservation and environment, and science and research.

When you look at these differences between the two budgets, they are small, but they are significant. And the differences favor our voting for the President's budget.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. PEASE], who is also a member of the Budget Committee.

Mr. PEASE. Mr. Chairman, I rise in support of the Budget Committee's budget and opposed to the Gradison substitute. I would like to begin by congratulating our chairman, the gentleman from California [Mr. PANETTA] for an excellent job. This is my first year on the Budget Committee. I have been very impressed with the job that he has done in leading the committee.

I would also like to congratulate President Bush for using real numbers, honest numbers, in his budget for the first time in 8 years under Republican administrations. And I would like to congratulate the President for coming up with a budget which is reasonable enough that the Republican Members of the House do not feel they have to run away from it. That is real step forward.

Last fall we spent a lot of time talking about fairness in trying to put together a budget summit agreement. I think it is a real achievement of last October's agreement that we insisted, especially in the area of taxes, on fairness across the income spectrum.

This year there are not huge differences between the President's budget and the Democratic one, but there are real differences and they speak to fairness.

The Bush-Gradison plan would cut back on Medicare, veterans' programs, guaranteed student loans, foster care, maternal and child health programs, community development block grant programs, community services block grant programs, low-income energy assistance and, yes, trade adjustment assistance, the only program to help workers who lose their jobs because of trade.

Let us look especially at the area of taxation. No one has mentioned it on the floor today, but the Gradison substitute picks up the President's recommendation for a lower rate on capital gains, a rate proposal that provides $11 billion in benefits, almost exclusively to high-income Americans.

That is not consistent with the fairness doctrine they adopted last fall. We ought to reject the Gradison substitute.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. ESPY], another distinguished member of the Budget Committee.

Mr. ESPY. Mr. Chairman, I am here at this moment to speak on behalf of rural Americans and the 27 percent of our population who still proudly live in America's small cities and towns. And in that regard, I am happy to rise and I have to rise in opposition to the President's budget and in support of the committee resolution. But I am proud that we are having this debate because it serves to highlight the differences between the President's budget and the committee resolution, and, oh, there are so many deep differences.

Mr. Chairman, rural America is drowning in a sea of troubles, and that is certainly no exaggeration. So the question quite simply for this national ship of state is whether we will throw

out a life preserver or a millstone. Quite simply, in my opinion, the President's budget constitutes a millstone around the neck of rural America. Why do I say that?

I think that these reductions are severe and very deep. There is a $500 million reduction for the discretionary programs serving rural America. There is a $400 million reduction in rural housing loans. There is a huge reduction in farm ownership and operating loans. There is a 25-percent reduction in rural water and waste disposal grants, when we have communities around our Nation where folks still live without running water and indoor plumbing.

There is a $125 million reduction in rural development direct loans for water and waste, for community facilities and business and industry projects. The President, in his proposal, tried to means test certain agricultural programs which in my opinion, Mr. Chairman, will serve to drive farmers off the land, into bankruptcy, and will severely impact the degree to which they can repay their farm loans.

In addition, the President proposes to terminate the Economic Development Administration and the Appalachian Regional Commission. Quite simply, Mr. Chairman, I would say that the President's proposal is really a millstone. We ought to defeat it and pass the committee resolution.

The CHAIRMAN pro tempore. The Chair wishes to state that the gentleman from California [Mr. PANETTA] has 29 minutes remaining, and the gentleman from Ohio [Mr. GRADISON] has 28 minutes remaining.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], a member of the Budget Committee.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, let us take a moment to examine what it is we are asking the Members of this House to choose between today.

This is the President's budget. It was submitted in compliance with the law on February 4. It is a very detailed budget, full of hard choices, tough decisions, and real numbers. In fact, the realism of the President's budget has been applauded by everybody today, and it has been applauded by the Washington Post, I am told. This is a real budget proposal, with real numbers and a real analysis. It is concrete, it is detailed, and it exists. It has been here since February 4.

This is the Democrat majority's budget. It is built on false economic assumptions and on optimistic economic assumptions and faulty methodology. It represents a system of priorities and values. It was based on a specious analysis of inequity or alleged inequity of income distribution in America. It depends on the Congressional Budget Office, which shows itself to be incapable of even the most rudimentary economic analysis. In fact, it is mysticism.

□ 1550

That is it, pure and simple. Now, we have been hearing an awful lot about who is being fair to who around here in this budgetary process. Surely it is true when you take 25 percent of the Nation's GNP away from the American people who built it, who earn the money in making it, and put it in the hands of Government, that is not fair. That is not fair to anybody.

Then when you reallocate, redistribute that 25 percent of the GNP from these people instead of these people, somebody gets hurt and somebody gets helped. We are all bleeding our hearts with somebody else's money over who gets hurt around here, and nobody has spoken for the beleaguered taxpayer.

I know about that man and that woman who are working to support their children that the gentlewoman from Colorado [Mrs. SCHROEDER] talked about so passionately earlier. I am that man, and I am married to that woman, and we have five children in college. Times get tough. We sit down and we work through our budget, just as the gentlewoman from Colorado [Mrs. SCHROEDER] said. We do not ask what are we going to get from the Government. We ask what will the Government leave us of the money we worked so hard to earn?

That is compassion. Is it fair for the working men and women in this country to be left a greater share of the money they earn on behalf of their children and a greater degree of freedom and privilege and responsibility as parents to decide what is best for our children and for ourselves? Is that fair? I think that is fair. Or would we rather turn our money and our children's destiny over to the Government? I think not.

Mr. Chairman, I say vote for the Gradison substitute.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE], a distinguished member of the Committee on the Budget who has worked on veterans issues for the committee.

Mr. PAYNE of Virginia. Mr. Chairman, I rise in opposition to the Gradison substitute and in support of House Concurrent Resolution 121, as passed by the Budget Committee.

As a veteran and a former member of the Veterans' Affairs Committee, I would like to share with you some things I have learned about veterans' medical care.

The veterans population is aging as our World War II and Korean War veterans have reached or are approaching retirement age. As a result, the demand for VA medical services has increased. The number of outpatients treated by the VA has risen 25 percent over the last 10 years, and the number of veterans receiving nursing home care has risen 41 percent. Yet, the veterans medical care budget has declined relative to the growth of general medical costs. In constant dollars, the veterans medical care budget has increased by 6 percent over the last decade, while general per capita medical costs have grown 48 percent.

When I go back to my district, the veterans I have spoken with are worried about long waits for outpatient treatment, a shortage of hospital beds, and the closing of parts of hospitals. I am sure many of you have heard similar stories.

Yet the President's budget does not include adequate funds to address this problem. The 4-percent increase given for veterans' medical care is still $23 million less than what is needed to cover general inflation and is even more inadequate when you consider that medical costs are rising roughly 11 percent this year. We cannot continue this 10-year trend of not allowing veterans medical care spending to keep up with the needs of our veterans.

The committee budget begins to address this problem. Funding for veterans medical care is increased above the amount necessary to cover general inflation. These funds are needed to address the growing medical needs of our veterans.

Our veterans did not turn their backs on us when we needed them. We should not turn our backs on our veterans when they need us. If you want to make a real, tangible commitment to all of our veterans who have sacrificed for us, reject the Gradison substitute and vote for the committee budget.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I come to the well today with gifts for my Republican colleagues. There is a great propensity to wear yellow buttons, as all Members know, celebrating victories. Here is an opportunity for my Republican colleagues to celebrate another victory today, a yellow button that says, "I voted for the President's budget."

Mr. Chairman, we are hopeful that all Republicans who have spoken so eloquently for it today will proudly put that button on and follow their dictates when we have an opportunity an hour from now to register the priorities of the two political parties. Because the gentleman from Texas [Mr. ARMEY] is correct: the budget is the ultimate political document. It expresses the priorities and values of the people who submit them.

The red, white, and blue document we are about to vote on is the President's priority. Soon we will have a chance to vote on the beginning of a

blueprint for America's budget that will be offered by the Democrats.

Mr. GRADISON. Mr. Chairman, if the gentleman would yield, I just wanted to thank the gentleman.

Mr. FAZIO. Mr. Chairman, I am happy to be thanked. I will yield for that purpose alone.

Mr. GRADISON. Mr. Chairman, we are going to need a lot of those buttons.

Mr. FAZIO. We do have a lot of them. They are all going to be worn, I am sure. We look forward to the Republicans validating the fact that they want to cut $25 billion out of Medicare over the next 5 years.

Mr. Chairman, the Republicans came to the budget negotiations last year suggesting we cut $90 billion out of the Medicare budget. They were prevented from doing that, of course. But this is nothing new, because over the last 15 years proposals from Presidents Reagan and Bush, from 1981 through 1995, would have cut almost $200 billion out of the Medicare Program.

Mr. Chairman, this is part of a tradition. We think the votes today will validate their historic lack of commitment to the needs of middle income elderly in this country, low-income elderly, and even, frankly, some who might be able to afford a little more.

Mr. Chairman, veterans will appreciate noticing those wearing yellow buttons. For those who want to get on with the business of bringing Head Start to every young American child, they have an opportunity to see which side Republicans and Democrats are on. The yellow buttons are a signal, a beacon, which I think will be very indicative of the personal values that we bring to this budget debate.

Mr. Chairman, I look forward to being clear about who cares about America's elderly and America's children. This debate is all about that, and these buttons will indicate which side one is on.

Mr. GRADISON. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. KOLBE], who appears to be having some trouble getting one of those buttons. We very sincerely would like to wear them on our side. I just hope there are enough of them to go around.

Mr. KOLBE. Mr. Chairman, I would yield to the ranking Republican on the committee, the gentleman from Ohio [Mr. GRADISON], for a response.

Mr. GRADISON. Mr. Chairman, seriously looking at this budget, I did not see the union bug on it. I will not dwell on that. Maybe the gentleman from Texas [Mr. STENHOLM] would want to say something about the subject

Mr. Chairman, I do want to comment very briefly about the Medicare Program. Of course, we are concerned about Medicare, because if the hospital insurance trust fund stays on autopilot, it is going to go bankrupt within 15 years. We are concerned enough to ensure the elderly that there is going to be money in the future to pay for their hospital bills under Medicare.

The changes which have been made in recent years, including those made last year, with the broad support, I might add, on the Democrat side of the aisle, were directed at the providers, not at the beneficiaries, who are protected. That is also true with regard to the proposals made by the President, the $25 billion we are hearing so much about. That is virtually all directed at providers. The beneficiaries are not only protected, but we are as anxious to protect them as you are.

□ 1600

Mr. KOLBE. Mr. Chairman, I want to thank the gentleman for his comments in that regard.

Mr. Chairman, I do rise in support of the President's budget proposal, the Gradison substitute. Since I do, I am very proud to be sporting the button. Thank you, Mr. FAZIO, for bringing the buttons to us here today.

Let me make it clear at the outset that both budget proposals that we are considering here today have more spending in them than I would like to see. But that was an issue we decided last fall in the budget summit agreement. The Congress agreed to the caps in defense and the domestic discretionary and international affairs accounts. While those caps may have been higher than I would have liked to have seen, that is the reality of what we are dealing with today.

At the outset we can say both of these budget proposals come within those budget caps. So within those constraints what we must examine are the differences between these proposals. People watching this debate might be excused for being a little bit confused. We have heard that the differences are large, we have heard that the differences are small; we have heard that the differences are significant, and we have heard that the differences are insignificant. I guess it is all a matter of whether you look at the glass as being half full or half empty, because I guess you could see it both ways. The differences are small in one sense, but they are also significant.

Candidly, and this is the first point I would like to make, quite candidly on the numbers side the differences are small. There is no way of getting around it, they are really ridiculously small in terms of the dollar amounts. In fact, there is a $3 billion net difference between the President's and the majority's budgets, and that is less than two-tenths of a percent of the total spending that is proposed this year. And the Democratic majority's budget changes only 62 of the 1,005 domestic discretionary accounts.

The second point is that there are some differences in priorities. First of all, the cuts, where there are cuts on the majority's budget, they are unspecified. People are always griping in this body about the Appropriations Committee being given too much latitude, and yet here we are telling the appropriators: "You decide where you are going to make these cuts because we are not going to do it."

The third point that I would like to make is that the cuts, where we do see them specified, are as the gentleman from New York [Mr. GREEN] said, very much the seed corn of the United States. The cuts are in our science and R&D accounts. The increases are applied kind of across-the-board to a whole series of accounts that we all would agree are good, to alcohol, drug abuse, mental health programs, Head Start. Take the alcohol and drug abuse and mental health programs. There it goes from $3,079,000,000 to $3,099,000,000 or less than a third of a percent of an increase. But the cuts, the cuts in the R&D and science, those are significant.

The fourth point I would like to make is that the Democrats have relied on a rosy scenario. Surprise, surprise. In the past we have always accused the Office of Management and Budget of relying on too rosy a scenario. Here it is the other way around, and the result is $431 million less for the Unemployment Compensation Administration than is going to be necessary if their projections and assumptions are wrong.

The bottom line, Mr. Chairman, is that none of us should issue any laudatory press releases about either of these budget proposals, but on balance I think the President's budget is more realistic, and it is more fair.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. OBERSTAR], a member of the Budget Committee.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the House Budget Committee offers the House a reinvest-in-America budget, an opportunity to renew and rebuild the basic transportation structures that support the great engine of growth that is our national economy.

On the eve of consideration by the Surface Transportation Subcommittee of the Committee on Public Works and Transportation, chaired by our colleague, the gentleman from California [Mr. MINETA], the committee is prepared to reauthorize the Nation's highway, bridge and mass transit programs for the next 5 years. This Democrat budget gives the Public Works and Transportation Committee the budget authority and outlay figures needed to fulfill some $80 billion in construction requirements to keep our transportation portfolio modernized and competitive and progressive.

The President's budget shortchanges the highway program and actually cuts mass transit. It will not lift us beyond gridlock. It will not lift us into a more progressive future of growth and economic expansion. Only in aviation does the President's budget match the House Budget Committee's resolution and keep pace with the system's users and with the legislation Congress enacted last year to draw down the surplus in the aviation trust fund and invest those moneys in safety and system capacity expansion and enhancement.

If Members want to move forward, if they want to move beyond gridlock, beyond decay and decline of our Nation's basic infrastructure facilities, if they want to lift this country forward and into progress and growth over the next 5 years and into the latter part of this decade, then defeat the President's budget and vote for the House Budget Committee's resolution which moves us on the right path and keeps us in the direction of rebuilding the Nation's portfolio of major infrastructure requirements.

Mr. GRADISON. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. HOUGHTON], a member of the Budget Committee.

Mr. HOUGHTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, lots of Members have been speaking on the budget today. It has really consumed the whole day and it goes the way of all budget discussions. I never knew a budget that was a happy affair. It is just like taking castor oil. You do what you have to do although you do not like it.

But in the process, the budgeting really is to determine the room in which we can operate during any set given time, and that is this next year. That room really was designed for us last year by the budget summit.

So what we can say is we are really putting our finishing touches on it. And what does that mean in terms of numbers? Let us not talk about Medicare, let us not talk about health, let us not talk about education. That was all decided. We are talking about sixtenths of 1 percent as far as the expenses are concerned, so really our work is done.

But is it? I wonder. Frankly, I do not think so.

You see, we have only decided to talk about the expense side of the budget. What about the revenues? I bet there are only a handful of people in this entire city who know what the revenues are expected to be in the latest forecast. Let me tell Members what they are.

Last year in January, the revenue estimate was about $1,200 billion. That is the income coming in under which our expenses rest. Then when the budget summit was agreed on, and this is by the CBO figures, those revenues had risen to $1,220 billion roughly. Then in January, the latest cut at this thing, the CBO says that they are now $1,170 billion, which means that since the budget summit was agreed upon, and we are only talking about the fringes now, the expense side, our revenues have fallen $50 billion.

So what do we do when revenues fall? If anyone has set up a budget over the year, they know you do two things. You either cut the expenses or you try to increase the revenues.

This House has decided today not to try to cut the expenses. It had two opportunities to do that and it decided not to. So the only thing left to do is to try to stimulate the budget and the economy with the money that we do already have, and try to boost the economy, boost jobs, boost business, and therefore boost our revenues.

We just cannot say the work was done. Certain things have to be done now. As everyone knows, the devil is in the details, and I submit the Gradison substitute budget does just this.

Let me add that frankly the only businesses that are growing in this country, to my knowledge, are businesses which have an edge, and they are the businesses which export. Those are the businesses which have a technological advantage.

What does the Gradison substitute do? It increases research and development, it improves competitiveness, it helps the National Science Foundation. There is not much room, but there is some, and we must use it wisely, and frankly, the Gradison substitute does that.

I urge Members' support for the Gradison substitute.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in strong opposition to the President's budget which is before us today in the form of the Gradison amendment.

Last year was a difficult one for the Congress and the President. We struggled with a host of complicated, contentious issues, the most important of which was finding a multiyear response to our Nation's deficit problem. In the end, on a bipartisan basis, Congress and the President made a deal that will produce real deficit reduction over the next 5 years and—we thought at the time—eliminate for this year, another contentious and counterproductive budget debate.

That is why I am especially disturbed by the President's budget proposal. In my view, it breaches the 5-year budget deal we negotiated last year. The cuts to Medicare and foster care would be particularly devastating. The President achieves deficit reduction by proposing yet again items that have been soundly rejected by the Congress on a bipartisan basis in the past. He and his advisers know full well that these warmed-over proposals are unlikely to be passed this year. His budget also unnecessarily reignites the tax fairness debate and plays favorites with certain of the expiring tax provisions.

Let me highlight the most serious shortcomings of the President's budget and the Gradison amendment.

MEDICARE

Our budget agreement last fall included specific, painful reductions in Medicare, totaling $43 billion over the 5-year period. We met those targets in the reconciliation bill and understood that no further Medicare reductions would be necessary for deficit reduction purposes in fiscal years 1992 and 1993. That was the deal we all supported.

Now the President and his budget advisers ask us to cut another $25 billion out of Medicare. Let me be clear: I will not agree to an additional $25 billion of Medicare reductions this year. They are unfair to millions of Americans who rely on Medicare for their health coverage and to the providers of those services who have assumed that last year's budget deal set the rules of the game for the immediate future. I have two specific concerns:

First, the President's budget proposes over $20 billion in Medicare provider reductions over the next 5 years. These cuts would be in addition to the $34 billion in provider reductions adopted as part of last year's budget deal. Of particular concern is the $8 billion cut in funds for indirect medical education. This cut would hit hardest inner-city hospitals that have the highest rates of bad debt and charity care in the Nation because they serve so many uninsured patients. America's hospitals are providing $10 billion in charity care and deserve better treatment.

Second, the President's budget is replete with the usual array of tired old proposals for raising revenues and reducing Medicare costs that have been rejected time and again by Congress, often on a bipartisan basis. Proposals like requiring State and local employees to pay Medicare taxes are nonstarters. They have been rejected repeatedly in the past. They will be rejected again this year. When we brought State and local employees into the Medicare system in 1986, we made a compact by grandfathering all existing employees. In the interest of fundamental fairness, the Congress has rejected the administration's repeated attempts to break that deal. It is time for the administration to get the message—a deal is a deal.

FOSTER CARE

The President's policies for helping abused and neglected children are also disappointing.

Over the past 10 years, America's children have been getting a raw deal from Uncle Sam. This is especially true of abused or neglected children. We've all read stories about the lives these children lead. Crack cocaine is just the most recent of the many burdens we have asked them to shoulder. It doesn't take any great imagination to realize that the deck is stacked against these kids. The only consistent support they can count on is the support they get from foster parents. Take away $2 billion from foster care programs, as the President has proposed, and you take away the last bit of hope for a lot of troubled kids.

This proposed funding cut is not only unjust; it is foolishly shortsighted. Money spent on these kids today is an investment in the future, not a handout. It means that they have a better chance of leading productive adult lives. Without this chance, it's safe to say that the money saved today will be lost many times over tomorrow.

On this score, the budget resolution reported by the House Budget Committee is far superior. It shifts priorities from the President's budget, investing more in education and other programs of critical importance to children. By contrast, the President's budget offers no solid proposals for preparing poor kids for school, stemming the flow of abused kids into our foster care system, or improving the nutrition of America's children. The answer this administration offers is unresponsive, not kinder and gentler.

By rejecting the Gradison amendment, investing carefully now, and paying for those investments today, we will improve the country that our children and grandchildren will inherit from us.

OTHER ISSUES

Finally, Mr. Chairman, let me make a few general comments about the President's revenue proposals and other issues raised by the budget resolution.

By again proposing to reduce the capital gains tax rate, the President has chosen to reignite the tax fairness debate and other distributional issues. Reducing the capital gains tax rate will cost the Treasury money without enhancing economic growth or productivity. It primarily helps the rich who had a pretty good 10 years and don't need the additional help.

I would also note that the President has played favorites with the list of tax provisions scheduled to expire at the end of this year. For example, he has proposed to make permanent the R&D tax credit but has suggested 1-year extensions of other popular provisions like the low-income housing credit. If we are going to walk down this road of selectivity, we best have good reasons for our decision to treat one expiring provision more favorably than another. It is not clear to me what the President's reasons are.

For instance, I recently wrote Treasury Secretary Brady inquiring about the administration's official position on the current exception from the alternative minimum tax under section 57(a)(6) of the Internal Revenue Code for gifts of appreciated tangible personal property which is due to expire at the end of this year. I specifically asked whether the exception should be broadened to include charitable contributions of other appreciated property, such as the gift of appreciated stock or real estate to educational institutions. Last year, the administration took the position during the House-Senate conference on the budget reconciliation bill that the limited exception contained in the Senate bill for gifts of appreciated tangible personal property should be expanded to a broader universe of appreciated property.

Thus, it came as quite a surprise to me that the President's budget for fiscal year 1992 did not contain any recommendation for an extension or expansion of the current limited exception beyond this year. Since the administration specifically recommended the permanent extension of the R&D tax credit, and the temporary extension of five other expiring provisions, I hope that the Secretary will clarify for me whether the omission from the President's budget of the current exception means that the administration has changed its position from last year or the omission is an oversight.

With regard to funding of the Internal Revenue Service, I would note that the budget resolution reported by the House Budget Committee provides $179 million more for fiscal year 1992 than is available this year. The resolution also assumes that, in accordance with the Budget Enforcement Act of 1990, an additional $172 million in budget authority can be added in fiscal year 1992 for any compliance initiative, making the total additional funds equal to $351 million. The President's budget would have provided an extra $622 million in budget authority for fiscal year 1992.

I am concerned that the budget resolution reported by the House Budget Committee does not authorize adequate funding for the Internal Revenue Service and may impair the Service's ability to improve tax administration in fiscal year 1992. I have three specific concerns: modernization of IRS information systems, audits of high-income taxpayers and corporations, and reduction of the accounts receivable inventory.

One-quarter of the President's requested increase in IRS funding would be dedicated to modernization of antiquated and inadequate information systems. Without these funds, the IRS and taxpayers will be forced to rely on a labor-intensive and paper-driven Federal tax system designed for the 1950's.

Further, at funding levels below the President's request, needed improvements in the IRS's audit program are unlikely. Today, the IRS examines 50 percent fewer upper income taxpayers and 30 percent fewer corporations than it did a decade ago. Meanwhile, IRS expects to question 50 percent more working men and women about their tax returns. This is neither balanced nor fair and is unacceptable to me.

In addition, at funding levels below the President's request, it is doubtful that the IRS will undertake additional efforts to reduce its $100 billion accounts receivable inventory. That, quite simply, translates to lost revenues that we can ill afford to forgo. For all these reasons, I hope that our House conferees on the budget resolution will return with additional budget authority for IRS administration. It's an investment well made.

On the issue of Social Security administrative expenses, I am pleased that the budget resolution reported by the House Budget Committee accepts the President's full request of $2.54 billion for the old-age, survivors, and disability insurance programs. This amount, which is $246 million above the freeze level, will help the agency deal with a rising backlog of unprocessed disability claims and ease the financial pressure on thousands of disabled children and adults who are waiting for benefits across the country.

Mr. Chairman, I am profoundly disappointed in the President's budget proposal. I expected better: More recognition of the difficult task we achieved by approving last year's budget compromise and more creative solutions to the problems that remain before us. I hope we see better from this administration in the weeks and months ahead.

I urge my colleagues to vote "no" on the Gradison amendment. We can and will do better.

□ 1610

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, the President this year has put back on the national agenda a critical issue with respect to energy. Regrettably, his budget advisers have not listened to his energy advisers, and the Committee on the Budget here in the House has wisely come forth with a far more important and realistic proposal when it comes to how we are going to invest our money on these critical issues.

First and foremost, let me indicate that we are taking a step here in contrast to what the administration is advocating to see to it that we continue to build our strategic petroleum reserve, which is the most important protection for jobs and consumers when

there are oil crises. The President used it in January and helped rescue us from a clear and dramatic price increase that started the night before when the war started. Regrettably, he did not use it last fall when we might have protected our economy from a higher price that we paid for several months. Mr. Chairman, we are going to fill that reserve to have it available for future crises.

Mr. Chairman, second, we have a situation in which this country is losing its edge technologically, and throughout the energy budget proposed by the House of Representatives Committee on the Budget, we will begin back on the track of advancing that cause. We are going to do it in the area of renewable energy resources which we need desperately in this country and around the world. We are going to do it in upgrading our fossil fuel energy uses, our production facilities, and how we use fossil fuels. We are going to do it by promoting alternative-fuel vehicles that the President wants to have happen but this budget takes seriously and will help make happen.

Mr. Chairman, over and over again we are going to face in the future the problems of addressing how to have prosperity without poisoning ourselves, and that requires a skillful energy policy that helps advance technology for that purpose.

We can, and this budget helps us, move forward on the goals of making us economically competitive for the next century, making sure we are protecting our health in the next century and making sure we advance American technology.

Mr. GRADISON. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I rise in support of the Gradison amendment in the nature of a substitute.

Mr. Chairman, last year Congress agreed to a budget reconciliation package that would reduce the deficit, realizing, of course, that this goal is only achievable if spending is brought under control. I supported the agreement last year, and I commend the Gradison budget for living within that agreement.

The goals of the Gradison amendment are commendable as well as realistic. While the committee budget stresses fairness for all Americans and appears to target working families, it fails to identify where the unspecified reductions will come from or to include growth-oriented tax proposals. The Gradison amendment, on the other hand, rightfully extends tax credits which stimulate the economy and encourage savings and investment at a time when we need it most.

Such critical tax provisions include the extension of the research and experimentation credit and health insurance deduction for the self-employed. The extension of these and other tax provisions are important public policy, and the budget of the United States should include them.

It is easy in a debate like this to criticize specifics, and that has been going on on both sides. However, I must say that the Gradison amendment, representing the President's budget, is honest. It is consistent, and it is fair, and it will, if enacted, lead toward a balanced budget.

Mr. PANETTA. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in opposition to the Gradison amendment because of the cuts in veterans' benefits, Medicare, and education.

Mr. Chairman, I would like to turn to another topic, the NASA budget. I really believe the space station is critical to our Nation's ability to lead the world in high technology and our ability to compete economically against other nations.

My understanding is that the budget resolution before us today contains funding for function 250 programs including NASA-related activities which totals approximately $17.7 billion. This amount is approximately an 8-percent increase over last year, but more than $1 billion less than the President believes is needed to maintain America's all-important leadership in space, science, technology, and industry.

Mr. Chairman, I would ask the chairman, the gentleman from California [Mr. PANETTA], are these figures correct?

Mr. PANETTA. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I am happy to yield to the gentleman from California.

Mr. PANETTA. They are correct.

Ms. OAKAR. In the gentleman's opinion, would America profit scientifically, educationally, industrially, from increased funding for function 250 programs beyond the committee's proposed level of funding?

Mr. PANETTA. If the gentlewoman will yield further, obviously, this is an area where we were faced with constraint within the priorities that were established, and clearly we want to make these investments. We have made about $1.1 billion above the President in science and technology and about another $200 million in R&D energy, but this is also an area for concern.

□ 1620

This is also an area for concern.

Ms. OAKAR. Would it be the gentleman from California, Mr. PANETTA's, intention to seek to achieve sufficient funding for Function 250 and NASA to maintain our leadership in space, science, technology, and industry when this budget resolution is taken to conference with the Senate? I always worry about the Senate, as the chairman of the committee knows.

Mr. PANETTA. If the gentlewoman will continue to yield, my intention is obviously to try to find sufficient funding for this whole area, in the total area of space, science, and technology based on requirements with other priorities.

Ms. OAKAR. Mr. Chairman, I want to thank the chairman of the Committee on the Budget. I am proud to represent a NASA site at Lewis Research Center in Cleveland.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. GRADISON].

Mr. Chairman, it is true that the President's budget proposal supports the high performance computing initiative and includes modest funding increases for important programs such as the Defense Advanced Research Projects Agency, and the National Institute of Standards and Technology.

However, President Bush's proposal fails to support other critical areas such as job training and vocational education that are vital to the world's transition from an era of military confrontation to one of economic competition.

SCIENCE, SPACE, AND TECHNOLOGY

Some have argued that this budget resolution does not make explicit tough choices. Many of the same Members have then complained that this budget cuts space spending. Well, that is but one of the explicit tough choices that this budget resolution makes.

However, this budget does not provide less funding for science, space, and technology. It provides less funding than the President in space, but it provides more for science and technology here on Earth.

Mr. Chairman, the Budget Committee proposal is exceptional for the attention it devotes to enhancing international competitiveness.

The United States must promote such emerging technologies as semiconductors, x-ray lithography, and high definition systems that will form the backbone of every conceivable industry.

The committee resolution provides significantly more than the President for research in the Defense Advanced Research Projects Agency [DARPA], for DOD Manufacturing Technology, Science and Engineering Education, and Engineering Support Technology—Defense Department programs that work. The committee provides more for the Advanced Technology Program and the Competitiveness Council in the Commerce Department. The committee provides more for Department of Education math and science education and vocational education programs. And

the committee provides more for research at the National Institutes of Health, and for research in alternative fuels, fuel conservation, and environmental protection. These increases, coupled with increases equal to the President for the National Science Foundation and the important technology and manufacturing programs within the National Institute of Standards and Technology [NIST], including increased funding and loan authority for the Advanced Technology Program within NIST, leaving the committee resolution way ahead of the President in science and technology.

Space spending gets a full increase for inflation—not a cut. If we had more money to spend, we might well choose to increase space spending even more. But space exploration can wait—our children can't.

Mr. Chairman, I urge my colleagues to oppose the amendment offered by the gentleman from Ohio and to support the Budget Committee resolution. Despite the budgetary constrictions facing the Congress and the Nation, the Budget Committee has developed a proposal that will provide businesses with the atmosphere and confidence to make decisions for the future.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I rise in opposition to the President's budget and in support of the committee's budget. I think that both the President's budget and the committee budget are thoughtful efforts, neither of which contain tax increases. However, the committee effort prevails as a fairer budget for most Americans, and I also believe for American businesses, in the long run.

First, the priorities contained in the committee resolution really make more sense and provide for a fairer treatment of this Nation's elderly, veterans, farmers, and average Americans. The resolution places a greater commitment to health programs, to education, to drug enforcement, energy, transportation, and competitiveness.

Second, it is better for American business because the committee resolution places a greater priority on improving our work force through job training which will increase U.S. competitiveness internationally and it places an emphasis on basic research in the education of the maths and sciences.

Finally, it will assist business because it places a strong emphasis on rebuilding the critically needed infrastructure and transportation systems of this Nation to prepare us for the 21st century.

The President's budget is a good effort but I have to conclude that the committee resolution makes more sense for our country.

The CHAIRMAN pro tempore. (Mr. MAZZOLI). The gentleman from Ohio [Mr. GRADISON] has 16 minutes remaining, and the gentleman from California [Mr. PANETTA] has 10½ minutes remaining.

Mr. GRADISON. Mr. Chairman, I would like to advise the Chair that I am reserving most of my time for the closing statement by our leader, the gentleman from Illinois [Mr MICHEL].

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, if the issue on this budget resolution is whether or not a Member should vote for it, I ask them to apply this criterion, this guideline. If the No. 1 issue in the minds of America today is health care, the yardstick to be applied to this budget offered by President Bush, as opposed to the Democratic alternative, makes a very clear choice. On the issue of health, the Democratic budget does the following: Where President Bush cuts $25 billion from Medicare over the next 5 years, the Democratic budget does not. The net impact of that means, for hundreds of thousands of senior citizens across America, they will continue to have access to quality, affordable health care. Furthermore, if a person lives in the part of rural America as I do, it means that those hospitals which are struggling to survive will have a chance. Under the President's budget, they will not. Under the Democratic budget, they will.

However, the assistance for health care does not end with senior citizens. The Democratic budget also puts money into the WIC Program. We have heard about it on the floor. The WIC Program is a nutrition program for children and young mothers, an effort to make certain that as the mothers are pregnant, and in the early years of the lives of the children, they receive appropriate nutrition so that they can grow up healthy. Our budget, of course, targets full funding for WIC by 1996. The President's budget does not.

Childhood immunizations: There is no more cost-effective way to improve the health of America today than to make certain that every child, every infant, is immunized against major diseases. Most middle American families take it for granted their children will get these shots. If a person happens to live in a poor family, or in a remote rural area, they may not have a chance to get the shots. When the child presents himself to kindergarten, it is the first time that they get a chance to be immunized. This bill introduced on the Democratic side puts $50 million more into child immunization. It means for 350,000 children in America, they will get this protection.

If the issue is health care, the vote is clear. Vote no on President Bush's budget, vote yes on the Democratic alternative.

Mr. PANETTA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM], a member of the Committee on the Budget.

Mr. STENHOLM. Mr. Chairman, it is no secret that there have been a number of House budgets in the past, which this Member has not been able to warmly embrace. Back in my office, I have a drawer full of alternative budget proposals which I and other members of conservative Democrat forums have offered during the 1980's.

No such alternative emerged from the file drawer during this year's budget debate for one primary reason: The gentleman from California [Mr. PANETTA], chairman of the committee and the Committee on the Budget successfully crafted a document which begins to reaffirm what the entire Democratic Party is all about. We have created a budget which is both caring and responsible. In doing so, we have shown the inclusiveness of our party.

This year in the Committee on the Budget we learned a new word: "prioritization." We recognized that if we were able to achieve full funding for programs which have proven themselves as worthwhile and cost effective, we must decide at the same time which programs will receive smaller increases or be eliminated.

We are beginning to learn that we cannot do everything for everybody.

□ 1630

We must resolve to do even more and to do certain things as well as possible. For example, experts tell us that the earliest influences on a child's life makes some of the biggest differences in his or her successes. That is why I believe in targeting money for Head Start and WIC.

Furthermore, when it comes to fairness, there were two areas in which I felt it was particularly important to reject the President's budget.

First, I opposed the President's cut of $25.2 billion additional in Medicare. My colleague earlier stated that the Democratic budget does nothing for economic growth. In rural areas which depend fully on their hospitals for any economic growth, an additional cut of $25 billion without a plan would have been devastating.

Now, I agree we need to make cuts in this area, but we need a plan that cuts, not another cut with no plan.

The second area had to do with infant mortality. To his credit, the President proposed increased funding to address this issue, but focused that money on urban areas alone. In the Budget Committee, we affirmed that rural infants are just as precious as urban infants and we increased infant mortality programs without geographical or other prejudice. We also refused

to pay for this funding by cutting from effective programs such as community and migrant health centers or maternal and child health care.

I make this point specifically, because as you look around for solutions to the health care problems of this country, when we look around the country whether it is urban or rural, we find that one of the most successful programs are community and migrant health centers. They deliver the health care cost efficiently, and yet the President suggested taking money from that and moving it into another area, and I think that is a legitimate area of difference.

I urge rejection of the President's budget and support of the Democratic alternative package.

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, Harry Truman made famous the fact that "the buck stops here" on a President's desk—what President Truman did not say is that the buck starts here in Congress. And these days there are entirely too many bucks involved. I think most would agree that managing the national budget—or should I say bringing it under control—is the most important task that the American people sent us here to do. I take my hat off to the Budget Committee and its leadership for the job they are trying to do—provide for all the needs and wants while still balancing the budget and erasing the deficit. We all know this cannot be done unless Congress makes some fundamental changes. People in my district were not favorably impressed with our budget effort last year. They were even less impressed with the results. They know there is still tremendous waste in government—waste which the GAO estimates at $180 billion per annum. I am asked, "Is this Congress also going to dance to Lawrence Welk?" I fear that many think it does, and not many are ready to buy into the proposition that this year's Congress will really meet its challenges head on—that this year Congress will cut out the deficit, strip out the pork, stamp out the redundancies. There are not many believers—and rightly so—because nothing we are going to vote on today comes close to those goals. But at least the President's budget attempts to shift focus and prioritize spending within some limits. It begins to make some of the hard choices. I urge support for the President's budget because it is the safest port for the American economy in the fiscal storm that is blowing. But it is not enough. We cannot pass any of the budget choices available this year and go away satisfied that our work is well done. The taxpayers—the people we work for—are asking for less waste, less spending, and a balanced budget. Why can we not do better?

Mr. GRADISON. Mr. Chairman, I yield such time as he may consume for a closing statement to be made by the distinguished gentleman from Illinois [Mr. MICHEL], our Republican leader.

Mr. MICHEL. Mr. Chairman, I obviously rise in support of the President's budget. While this pin I hold which states "I voted for the President's budget," is in the past tense; we will vote for the President's budget and be mighty proud to wear it for the balance of the day and well into next week.

May I at the very outset pay my compliments and thanks and appreciation to the distinguished gentleman from Ohio [Mr. GRADISON] who this year took over the reins as our ranking member on the Budget Committee from the gentleman from Minnesota [Mr. FRENZEL] who left the Congress after serving with such distinction. And then, too, I would like to thank my leadership appointee, the gentleman from North Carolina [Mr. MCMILLAN]. I thank these gentlemen for the great job they have done, and all the Members, particularly on our side of the aisle, who serve on the Budget Committee.

The gentleman from California [Mr. DANNEMEYER] had his own substitute.

The gentleman from Ohio [Mr. KASICH] had his own substitute.

They are very conscientious, hardworking Members, and frankly, probably there are several others who have some reservations about the President's budget because they are hardliners when it comes to spending. They have proposed spending levels less than what the President had proposed. The point is they do it in good sincerity because when the roll is called on appropriation bills, you are going to find those two gentlemen also voting against increased spending. They do it with good conscience and I respect those Members. I voted for one substitute, voted against the other, because I thought it was a bit too extreme.

I am most happy to rise at this time in support of the President's budget, because it possesses three cardinal virtues of a good budget: It is inclusive in scope, specific in detail, and honest in its assumptions.

The President's tax policy encourages competitiveness, encourages savings, although not as much as some of us would like because it is limited under our given set of circumstances, and then aids first-time homebuyers and stimulates economic growth.

In the work last year on that torturous budget trail when we had so much dissension within our ranks and so much controversy, we did at least establish specific budget caps.

The committee this year was under some wraps, no question about it, because we all wanted to hold fast to what we had agreed to last year. That was a 5-year agreement and I think we can conclude that 3 years of that agreement is solid; the other 2 may be open to conjecture. I applaud everyone for having held to the general principles of that agreement.

Now, the President's budget provides us with specifics, such as a permanent extension of the research and experimentation credit. Here is a proposal that some can say is inappropriate for these times. I happen to think the extension of the R&E credit is good even in a recessionary period so that we keep on the front edge of research and development. We never want to be second best.

I think having concluded, for example, the recent war in the Persian Gulf as expeditiously as we did is due in no small measure to the fact that we have been out on the cutting edge of scientific research and development. We do not want to lose that advantage. The R&E credit is one of the most effective tools in allowing U.S. companies to compete in the world market.

The President has the courage to confront the crucial and politically sensitive question of Medicare cost containment.

A recent report by the Advisory Council on Social Security states the hospital insurance fund will be out of funds by the year 2006.

We all know that Medicare is projected to grow by nearly 12 percent this coming year.

I am reminded of a recent conference in my home community with representatives from the Canadian plan, the American Medical Association, the Chrysler plan, and several other business plans and labor plans. The conference was held by an organization called the Peoria Area Labor-Management Group, in which we were all trying to come to grips with the crisis of rising medical costs.

If we do not make some adjustment Medicare costs will continue to skyrocket.

So we cannot put it off to another day or simply sweep it under the rug.

The President's proposal would save about $3 billion in this area. These cuts do not add to the burden of needy beneficiaries. Those earning more than $125,000 annually would be required under the President's budget to pay higher premiums.

I have to ask Members, those of us in that salary bracket, is there any good reason for the Federal Government to be subsidizing our Medicare premiums? Of course not. If we would just face up to this fact we could do so much more for those less fortunate.

The Medicare system is self-destructing before our very eyes. Unfortunately, the majority in its budget has chosen to ignore the clear danger signals about the health of Medicare.

Let us look at the Democrat budget for a moment. It is incomplete and very mysterious when it comes to telling us where money for new programs will come from. In fact, it deserves the title the "Agatha Christie Budget," since it contains so many mysteries about funding levels.

We hear of expanded unemployment benefits, of the Mickey Leland nutrition bill and an expanded Medicad Program. But how will all these new spending programs be paid for?

The majority's answer, a nice smile, a shrug, silence, giving the phrase "silent majority" quite frankly a richer, deeper meaning.

□ 1640

Defense spending and international affairs numbers are treated by the Democrats the same as in the President's budget.

But the Democrats tell us, as they always tell us, that they are more compassionate than all the rest of us. Do you want to know what their vaunted compassion amounts to in this budget? I think the distinguished gentleman from Ohio and others on our side have pointed out that of the $1.4 trillion budget they are moving around somewhere between $3 billion to $10 billion. That is big money, even back in Peoria, believe me, no question about that. But it is less than 1 percent of the total budget we are talking about here.

Now, if that is compassion, I would hate to see what neglect looks like.

And even here they fail. The Committee on Appropriations will reshuffle these priorities when they begin work on the annual appropriations bills. The committee is not bound by the priorities assumed in the budget resolution.

The Democrats' budget only gives us the good news, the programs which increase, telling everybody what we are going to do for them. Not what it is going to cost or what they might have to take away. These increases are paid for by freezes or across-the-board cuts in programs, frankly affecting the environment, the administration of justice, general Government functions, as well as large cuts in the area of space, science, and technology.

Mr. Chairman, the President's budget complies with last fall's budget enforcement procedures. I am grateful for that, because it was a tortuous trail with which we ended the session last year. Many of us were disillustioned because of the trauma that resulted from those negotiations.

But I will tell you the one thing that we did really preserve out of that experience was a set of meaningful spending caps. While some would say they are too high, nevertheless there ought to be a ceiling. If we can do less than that, well and good. But I want to be calling the roll on appropriations bills, the 13 general appropriations bills, and just see who antes up at that time on levels of spending below those spending caps.

There is increased funding in the President's budget for education, Head Start, the WIC Program, drug prevention programs, the National Institutes of Health, the National Science Foundation, aviation, highways, law enforcement programs.

You can always argue, "Oh, there ought to be more." Sure, shoot the moon. You know, there are no inhibitions on the part of some. But I say that the President's budget is a good budget.

It provides funding for space programs where the United States can seize the initiative in the race for the future.

These programs keep us on that sharp cutting edge and push out the frontiers of knowledge and science, and I think we all benefit from that.

So I would urge my colleagues to vote for the President's sensible, responsible, and, yes, responsive budget.

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

The CHAIRMAN pro tempore (Mr. MAZZOLI). The gentleman from Ohio [Mr. GRADISON] has 5 minutes remaining.

Mr. GRADISON. Mr. Chairman, I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Chairman, I rise in opposition to the Gradison amendment.

Mr. Chairman, the time has now come for tax fairness. For almost 11 years, working Americans have been cast aside as the wealthy and the powerful have been given greater means to accumulate wealth.

But now, as we prepare to vote on this budget, we must stand prepared to restore budget fairness to the American people: To American working people, senior citizens, our children, to our veterans, our farmers—to every American.

The administration's budget does not restore fairness. The President's budget cuts Medicare; it cuts veterans programs; it cuts guaranteed student loans, and foster care and maternal and child health care. It cuts community development block grants and community services block grants. The President's budget cuts low-income energy assistance and rural development, and cuts child nutrition and Pell grants for families with incomes as low as $23,500.

It is obvious then, that those of us here in the House of Representatives, the House of the people, must reject the President's budget because it is not fair. It does not help America.

We must reject the $25 billion in Medicare cuts the administration proposes and support increases for Social Security and Medicare.

We must reject the administration's call for veterans cuts and support a $1.1-billion increase for veterans medical care, veterans research, and claims processing.

Surely if we can fund war, if we can fund smart weapons, if we can fund foreign rebuilding efforts, then we can bear the financial burden to care for those men and women who put their lives on the line in the recent war in the Persian Gulf and in our past conflicts. Smart weapons will not operate without men and women operators. Smart tanks must be manned with smart personnel.

We must support our men and women coming home from the Persian Gulf. We must support our troops now with this budget.

We cannot turn our backs on our veterans any more than we can turn our backs on our farmers.

The spending plan of the House Budget Committee, which I support, includes $704 million more than the President's budget does for rural programs. This plan includes $239 million more than the President proposes for rural housing loans. If this country cannot help rural working families and farmers obtain housing, then what is it we can afford?

In addition, the Budget Committee has earmarked a $2-billion increase in low-income housing and homeless programs, with increases in low-income energy assistance and other community services.

In closing, Mr. Chairman, we must return fairness to the budget. We must end tax cuts for the rich. We must level the playing field in America. We must help those Americans who have not benefited from large inheritances or sweetheart deals.

To restore fairness we must end the economic aristocracy in America. If this is the people's House, then we must begin the 1990's with this budget. Vote here and now for fairness: Fairness to America's working families, farmers, seniors, and veterans. I ask my colleagues to support the House Budget Committee proposal and reject the administration's hurtful budget.

Mr. PANETTA. Mr. Chairman, I yield the balance of my time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

The CHAIRMAN pro tempore. The distinguished majority leader is recognized for 6 minutes.

Mr. GEPHARDT. Mr. Chairman, first I want to congratulate the chairman of our Budget Committee and all of the members of the committee for all of the hard work that was done to put this budget together. I want to congratulate them for their timely work. This is a budget that comes almost exactly on time, which is something that we have not always been able to do. For that I appreciate the efforts that everyone made.

I want to pay special homage to the chairman of the committee, who is one of my close friends and, I think, one of the most able Members of this House. He performed ably when we had the budget summit last fall, and he has continued to do that on behalf of the committee and on behalf of the Democratic Party in the House of Representatives. I do not think we could have a better chairman of the Committee on the Budget than the gentleman from California [Mr. PANETTA].

I think he has performed with excellence and with a real sensitivity toward the needs of our country. I congratulate him for the product that the committee produced.

Mr. Chairman, most of the time in the past we have not had a discussion between the merits of two plans. In some of the years past we just had one

plan and the Members only got to vote on one plan, maybe with some amendments, but essentially there was not a debate between the two parties, between two visions of where the country should go.

I understand that the differences in terms of dollars may not be as large as sometimes in the past, because we had a budget summit and we have caps and we have targets, and obviously the differences may not be that great in terms of dollars. But I submit that the difference between these two budgets, these two visions of where the country should go in the next year, is great and that Members will be casting in the next few minutes perhaps the most important vote that you will cast for the rest of this Congress because you will be voting on a blueprint, a roadmap that we will be following in the appropriations process for the next 3, 4, and 5 months.

To me there are two major differences between these proposals. The first major difference has to do with what the President's proposal does to middle-income Americans. There are three things that, if you vote for the President's proposal, you are voting to do to middle-income working families.

The first thing, of course, is Medicare. The President's proposal cuts an additional $25 billion out of the Medicare Program. It affects 34 million people. And, yes, it can be said, it is only cuts in hospitals and physicians. But everybody here knows that those cuts on hospitals and physicians wind up being borne by the Medicare recipients, the senior citizens who get the benefits of that program.

We had this debate last fall. The budget summit agreement that we came back with had heavier cuts in Medicare. Many of us voted for that budget summit agreement. It was the will of the Congress and ultimately the President last fall that we would not cut Medicare to that level; that was the decision we made. And now, a few short months later, the President and many Members on the other side are coming back with the proposal that goes back to the levels that the Congress and the country refused last fall. I think we should stick with the decision that we made. It was tough to make it; we made it. How can we justify to the Medicare recipients now that we want another $25 billion back and we are going to cut out of their reimbursement for hospitals and doctors?

Yesterday I talked to a senior citizen who said she has to worry every day whether she has enough money to eat. It seems to me those are not the people that we should be trying to cut.

Second, student loans; if you adopt the President's proposal, you are going to cut 200,000 student loans for families that are middle-income families. In fact, arguably they are even falling out of the middle-income category.

□ 1650

If there is anything we know, we need to educate our youngsters to compete in the world economy which we are going to be competing in. The last thing in the world we need to be doing is making it harder for middle-income kids to get a college education, but that is what the President's budget does.

Third and finally, there is the renewed call for a cut in the capital gains tax. I do not think we need to go back through this argument, but I am just going to take one more minute to do it.

We had this argument at the budget summit. We decided, as a Congress and as a people, we were not going to cut the taxes of the wealthiest of Americans, that, if we are going to have a tax cut in the future, and I hope someday we can, that it should be focused at middle-income families that are squeezed in this country that are experiencing economic pain and difficulty. But yet, in light of that, the President comes back with the proposal that says, "Let's give a tax cut, not to middle income America, but to the top one in five and 10 percent of taxpayers."

Mr. Chairman, I say to my colleagues, "If you vote for the President's proposal, you're voting to put that proposal in place. If you vote for the Democratic proposal, you're not voting to put that proposal in place."

Finally, I want to talk about the priorities that are in this budget. It may not be huge dollars, however, as my colleagues know; only in Washington would we say that $3 billion or $10 billion is not a lot of money. To everyone else in America, to everyone else in the world, it is a heck of a lot of money, and what the approach of the committee does, and the reason it is better, is that it recognizes what I think we have got to be recognizing in this country about where we want this country to go, and what we want it to be, and what we want it to do.

At every town hall meeting I have, someone in the back stands up and says, "Congressman, how am I going to compete against somebody in Mexico or Malaysia who is willing to work at a job like the one I'm doing for 50 cents an hour, and I'm being paid $12 or $15 an hour?" I call it the $64 question of the 1990's.

We are going to have a Mexican free trade issue in front of us in a few days, and the issue there will be: How do we compete against countries that have a much lower standard of living? The answer I give my constituents is, the only honest answer we can give is, "If you're going to be paid $15 an hour, you've really got to produce $15 an hour more than the person you're competing against."

How in the world, if that is what we want to do, and I think that is what we want to do as a people, we want a high-wage/high-skilled society, but we will never achieve it unless we are willing, in a budget like this as our Committee on the Budget did, to make a change in priorities, even if it is $10 billion or $5 billion, and say, "Yes, we're going to put more money in Head Start so that kids are ready to go to school to get the education, to be competitive with the Japanese and the Europeans instead of being competitive with Third World countries."

Yes, we are going to realize the President's national education goal. We are not just going to talk about it. We are going to do it. We are going to make it happen. Yes, we are going to put more money into job training. Yes, we are going to put money into nutrition programs and programs for women and infants so we can have the healthy people to compete. Yes, we want a high-wage/high-skilled society. That is the kind of country that we want it to be 10 and 20 years from now.

Mr. Chairman, that is what this decision is about, and so I come today to say, "Vote for a budget that helps average, ordinary, middle-income, working families and help the future citizens of this country have the ability to compete, not against people that are working for 50 cents and a dollar an hour, but are competing against people who work for $20, and $30, and $50 an hour. We can do it if we have the courage today to vote for a budget that will make it happen."

Mr. MATSUI. Mr. Chairman, before us today is the President's budget proposal, which is being offered by the Republicans as a substitute for the resolution agreed to by the Budget Committee. I think it is significant that the Republicans are willing to offer the President's budget this year. It is significant, I believe, because it shows us how similar the two resolutions before us today are.

I will vote against the Republican substitute and for the Budget Committee resolution, but this is not a great test of wills and values. The budget agreement enacted last year does not allow us to make great decisions regarding spending priorities—whether to increase domestic spending and decrease defense expenditures. Those decisions were set for the next few years for us by the 1990 budget resolution.

As Members of Congress, we should step back and consider how we have come to be in this position. During the 1980's, Congress failed to live up to efforts to restrain Federal spending. We went through two incarnations of the Gramm-Rudman-Hollings balanced budget law before we realized that threats of across-the-board cuts alone would not reduce the size of the deficit. Gramm-Rudman did not work. Every time it got tough, every time Congress was faced with choosing between priorities, we backed off.

Now we are faced with truly hard choices. Defense spending is coming down because the specter of international relations has changed. We are no longer concerned with building up arms to defeat the Soviet threat. As Members of Congress the decisions we must now make are not between guns and

butter, but rather how we will divide up the stick of butter. We must now decide whether the importance of funding infant mortality prevention outweighs the importance of building highways and bridges. We must choose between biomedical research that could save lives and space research. These are truly hard decisions, yet last year's budget resolution lets us largely abdicate the responsibility for making these decisions until 1993.

Many speakers over the last 2 days have exhorted us as to how these two resolutions differ. They do differ, but the margin of flexibility allowed by the 1990 budget resolution does not really allow us to develop a sweeping blueprint of national priorities. The Democratic budget resolution does target areas that I believe should receive funding priority, such as education, infant mortality prevention, medical research, and nutrition programs. And while there is a difference in how the Democrats and the Republicans have enunciated their priorities, there is not that much to distinguish these two proposals.

What stands out in the Democratic budget is that we have rejected the cuts in entitlement programs put forth by the President in his resolution. These cuts in Medicare, child welfare, and other programs would be devastating to both the integrity of the programs and those they serve. The President's recommendation for cuts of $25.2 billion in Medicare over 5 years would have had a catastrophic effect on a program that had seen dramatic cutbacks over the past 10 years.

I think the committee took the right step in rejecting the President's request to take money from programs such as the maternal and child health block grant and community and migrant health centers—programs that designed to stem the growth in infant mortality—and use those funds to pay for a new infant mortality initiative. Instead, the committee rightly restored funds for these two programs, and used funds from the President's request to supplement them.

I am pleased to see increases in programs that I view as priorities, such as Head Start, maternal and child health care, and education. But shifting these few funds from one domestic program to another does not solve the bigger problems that lie before us.

Mr. Chairman, choosing one budget resolution over another today will not solve these problems. We must stick to our resolve to observe the limits of last year's budget agreement and commit to making solid and lasting deficit reduction during the 1990's. I urge my colleagues to vote against the Gradison amendment and to support the budget resolution put forth by the House Budget Committee.

Mr. KYL. Mr. Chairman, I rise in opposition to both the Gradison substitute and the budget resolution reported by the Budget Committee. Both alternatives are based upon last year's budget agreement, which was nothing more than a blueprint for higher taxes and higher Government spending.

I voted against the budget agreement last fall because I didn't believe it would in fact reduce the deficit, and we all know now it hasn't.

In its fiscal year 1991 budget submission, the administration projected total deficit spending over the next 5 years at $62.5 billion. By contrast, the administration's fiscal year 1992 budget submission, which was made after last fall's budget agreement, and which is embodied in the Gradison substitute, projects total deficit spending over the next 5 years at $865.2 billion. The budget agreement is no deficit reduction plan at all. Federal spending is soaring out of control.

If the Budget Committee and Gradison plans are adopted, and Federal spending is left unchecked, there will no doubt be another drive this fall to increase taxes under the guise of deficit reduction. That may well be the death knell for an economy already inrecession. The American people are already feeling the pinch of excessive taxation, and cannot bear any more.

This House had an opportunity to adopt effective deficit reduction plans earlier today when it took up the Dannemeyer and Kasich alternatives. I supported both of those plans. They were defeated.

I urge my colleagues to reject these two approaches so that we can go back and redraft an effective deficit reduction plan. We can do better. The American people deserve better.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the President's budget proposal that recognizes the critical need to preserve our national security while focusing on the most important domestic needs of our country.

Recent events in the Persian Gulf have forced Americans to realize the importance of continuing an effective long-term strategy for our national defense. While I was encouraged by last year's great reforms in Eastern Europe, I cautioned then, as I do now, against drastic reductions in defense spending. Saddam Hussein has reaffirmed our need for a strong and effective defense system to protect the interests and ideals of the United States, and I urge my colleagues to recognize this critical national need.

I am also strongly in support of the President's recognition of the importance of a strong, healthy American economy. The President's budget provides for the establishment of family savings accounts, encouraging all American families to open long-term, tax-free savings accounts. I also continue to support proposals that would lower the cost of capital for American businesses. A cut in the tax rate on capital gains means more capital available to businesses, and that means more jobs available to Americans.

I am especially pleased that the President's budget includes my proposal to permit first-time homebuyers to make penalty-free withdrawals from their individual retirement accounts [IRA's] to help cover the cost of a downpayment. This proposal, which I have introduced as H.R. 352 in this Congress, encourages increased IRA savings while helping to combat the skyrocketing cost of housing and the growing inability for many Americans to own their own piece of the American dream.

Keeping within the strict budget limitations needed to reduce the Federal deficit, the President's budget sets education, affordable housing, and the war on crime and drugs as domestic priorities for 1992. I support these priorities, along with the implementation of a comprehensive national energy strategy that focuses on all aspects of our Nation's energy needs, and our need to save energy.

I urge my colleagues to support President Bush's budget as it is contained in Mr. GRADISON's amendment.

Mr. PENNY. Mr. Chairman, budget resolutions are more than sets of numbers; budget resolutions are statements of priority. The budget resolution presented by the House Budget Committee not only stays clearly within the budget caps established by last year's reconciliation act, it allows for increased spending for education, training, infrastructure, and energy security. It deserves our support.

The President's budget which is also before us today as the Gradison amendment provides for less than an inflation increase for education, zeroes out funding for important and needed energy conservation programs, and orders draconian reductions in Medicare—even though it was agreed in last year's budget agreement that Medicare would not be the subject of further reductions.

The President's budget this year also provides for an explosion of spending for space, even though the latest studies show the space station may not be feasible for several years, and orders the Ways and Means Committee to reduce capital gains and to increase taxes by $3 billion next year. The priorities in the Gradison budget neither reflect the budget agreement nor the needs of the Nation for repair of our education and physical infrastructure and should be rejected by the House.

The new budget process, with spending caps and a pay-as-you-go process for tax expenditures and entitlement spending is not a perfect process, but it is all we have. The committee has been diligent in balancing the requests for new spending with the requirements for fiscal restraint established by the new process, and I urge an aye vote on passage and a nay vote on the Gradison-Bush budget.

The CHAIRMAN pro tempore (Mr. MAZZOLI). All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. GRADISON].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRADISON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 335, not voting 7, as follows:

[Roll No. 70]

AYES—89

Archer	Franks (CT)	Hunter
Armey	Gallegly	Hyde
Baker	Gallo	Ireland
Barton	Gekas	Kasich
Bateman	Gilchrest	Klug
Bereuter	Gillmor	Kolbe
Bliley	Gingrich	Lagomarsino
Broomfield	Goss	Lent
Chandler	Gradison	Lewis (CA)
Clinger	Grandy	Lewis (FL)
Coble	Gunderson	Livingston
Coleman (MO)	Hammerschmidt	Lowery (CA)
Coughlin	Hastert	McCollum
Crane	Henry	McCrery
Dickinson	Hobson	McDade
Edwards (OK)	Holloway	McEwen
Fish	Houghton	McMillan (NC)

Michel	Ridge	Thomas (CA)
Miller (OH)	Ritter	Thomas (WY)
Miller (WA)	Rogers	Upton
Moorhead	Roth	Vander Jagt
Myers	Schulze	Vucanovich
Oxley	Shaw	Walker
Petri	Shuster	Walsh
Porter	Slaughter (VA)	Weber
Pursell	Smith (TX)	Wolf
Quillen	Solomon	Wylie
Ramstad	Spence	Young (AK)
Regula	Sundquist	Young (FL)
Rhodes	Taylor (NC)	

NOES—335

Abercrombie	Downey	Kostmayer
Ackerman	Dreier	Kyl
Alexander	Duncan	LaFalce
Allard	Durbin	Lancaster
Anderson	Dwyer	Lantos
Andrews (ME)	Early	LaRocco
Andrews (NJ)	Eckart	Laughlin
Andrews (TX)	Edwards (CA)	Leach
Annunzio	Edwards (TX)	Lehman (CA)
Anthony	Emerson	Levin (MI)
Applegate	Engel	Lewis (GA)
Aspin	English	Lightfoot
Atkins	Erdreich	Lipinski
AuCoin	Espy	Lloyd
Bacchus	Evans	Long
Ballenger	Fascell	Lowey (NY)
Barnard	Fawell	Luken
Barrett	Fazio	Machtley
Bellenson	Feighan	Manton
Bennett	Fields	Markey
Bentley	Flake	Marlenee
Berman	Foglietta	Martin
Bevill	Ford (MI)	Martinez
Bilbray	Ford (TN)	Matsui
Bilirakis	Frank (MA)	Mavroules
Boehlert	Frost	Mazzoli
Boehner	Gaydos	McCandless
Bonior	Gejdenson	McCloskey
Borski	Gephardt	McCurdy
Boucher	Geren	McDermott
Boxer	Gibbons	McGrath
Brewster	Gilman	McHugh
Brooks	Glickman	McMillen (MD)
Browder	Gonzalez	McNulty
Brown	Goodling	Meyers
Bruce	Gordon	Mfume
Bryant	Gray	Miller (CA)
Bunning	Green	Mineta
Burton	Guarini	Mink
Bustamante	Hall (OH)	Moakley
Byron	Hall (TX)	Molinari
Callahan	Hamilton	Mollohan
Camp	Hancock	Montgomery
Campbell (CA)	Hansen	Moody
Campbell (CO)	Harris	Moran
Cardin	Hatcher	Morella
Carper	Hayes (IL)	Morrison
Carr	Hayes (LA)	Mrazek
Chapman	Hefley	Murphy
Clay	Hefner	Murtha
Clement	Herger	Nagle
Coleman (TX)	Hertel	Natcher
Collins (IL)	Hoagland	Neal (MA)
Collins (MI)	Hochbrueckner	Neal (NC)
Combest	Hopkins	Nichols
Condit	Horn	Nowak
Conyers	Horton	Nussle
Cooper	Hoyer	Oakar
Costello	Hubbard	Oberstar
Cox (CA)	Huckaby	Obey
Cox (IL)	Hutto	Olin
Coyne	Inhofe	Ortiz
Cramer	Jacobs	Orton
Cunningham	James	Owens (NY)
Dannemeyer	Jefferson	Owens (UT)
Darden	Jenkins	Packard
Davis	Johnson (CT)	Pallone
de la Garza	Johnson (SD)	Panetta
DeFazio	Johnston	Parker
DeLauro	Jones (GA)	Patterson
DeLay	Jones (NC)	Paxon
Dellums	Jontz	Payne (NJ)
Derrick	Kanjorski	Payne (VA)
Dicks	Kaptur	Pease
Dingell	Kennedy	Pelosi
Dixon	Kennelly	Penny
Donnelly	Kildee	Perkins
Dooley	Kleczka	Peterson (FL)
Doolittle	Kolter	Peterson (MN)
Dorgan (ND)	Kopetski	Pickett
Pickle	Schiff	Tallon
Poshard	Schroeder	Tanner
Price	Schumer	Tauzin
Rahall	Sensenbrenner	Taylor (MS)
Rangel	Serrano	Thomas (GA)
Ravenel	Sharp	Thornton
Ray	Shays	Torres
Reed	Sikorski	Torricelli
Richardson	Sisisky	Towns
Riggs	Skaggs	Traficant
Rinaldo	Skeen	Traxler
Roberts	Skelton	Unsoeld
Roe	Slattery	Valentine
Roemer	Slaughter (NY)	Vento
Rohrabacher	Smith (FL)	Visclosky
Ros-Lehtinen	Smith (IA)	Volkmer
Rose	Smith (NJ)	Washington
Rostenkowski	Smith (OR)	Waters
Roukema	Snowe	Waxman
Rowland	Solarz	Weiss
Roybal	Spratt	Weldon
Russo	Staggers	Wheat
Sabo	Stallings	Whitten
Sanders	Stark	Williams
Sangmeister	Stearns	Wilson
Santorum	Stenholm	Wise
Sarpalius	Stokes	Wolpe
Savage	Studds	Wyden
Sawyer	Stump	Yatron
Saxton	Swett	Zeliff
Schaefer	Swift	Zimmer
Scheuer	Synar	

NOT VOTING—7

Dornan (CA)	Lehman (FL)	Yates
Dymally	Levine (CA)	
Hughes	Udall	

□ 1716

Messrs. SKEEN, SENSENBRENNER, and SWETT changed their vote from "aye" to "no."

Mrs. VUCANOVICH, Mr. COBLE, and Mr. SLAUGHTER of Virginia changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. BORSKI. Mr. Chairman, I rise in support of House Concurrent Resolution 121, the congressional budget resolution for fiscal year 1992. In particular, I am pleased to see that this legislation rejects President Bush's proposed 5-year, $25 billion Medicare reductions.

Last year, Congress approved a budget that cut Medicare by $43 billion over a 5-year period. These cuts were painful to both Medicare beneficiaries and providers, but were necessary to achieve the deficit reduction targets mandated by law.

Despite these reductions, the President's fiscal year 1992 budget calls for an additional $25 billion reduction for Medicare, over and above those mandated last year. While these proposed cuts would come mostly from providers, their impact upon our elderly population would be severe.

Mr. Chairman, I represent a district with a high proportion of elderly individuals, many of whom rely on Medicare to meet the rising costs of health care. Many of the hospitals in my district rely on Medicare reimbursements to provide these individuals with quality health care services. Like many urban hospitals across the Nation, these hospitals would be devastated by further reductions in these payments.

Nevertheless, the President has proposed reducing reimbursements to hospitals by an additional $15.9 billion over the next 5 years. The President claims that these cuts are designed to reduce waste in the Medicare hospital reimbursement system, and would not directly affect beneficiaries. But in the last 2 years, 500 of our Nation's hospitals have shut down, in part because of reduced reimbursements. The senior citizens in my district simply cannot afford to see any of the few hospitals in their community close their doors.

Fortunately, Mr. Chairman, the Budget Committee has drafted a budget resolution that rejects the President's Medicare cuts and instead focuses on improving the quality of Medicare services to the elderly. House Concurrent Resolution 121 assumes full funding for Medicare, as well as $177 million in additional funding to meet Medicare administrative expenses. This increase will allow faster and more accurate payment of Medicare claims, thereby reducing Medicare program costs in the long run.

Mr. Chairman, we should not unfairly and disproportionately single out older Americans for enormous domestic spending cuts. I urge my colleagues to support House Concurrent Resolution 121 because it reduces the deficit without jeopardizing the benefits and services that our Nation's 35 million Medicare beneficiaries rely on the most.

Mr. COYNE. Mr. Chairman, earlier this year, I stated my strong concern that the administration's budget for fiscal year 1992 leaves our country unprepared for the future. Our quest for budget discipline has left us with a zero sum game where for someone to win, others must lose. We are playing this game at a time when our economy remains in recession and the world is experiencing great turmoil, from the Middle East to Eastern Europe and the Soviet Union.

My concerns over our misplaced priorities has only grown as the full impact of the administration's budget, if enacted becomes more evident. With a majority of states facing budget deficits which must erased through program cuts or tax increases, the administration's budget would increase these States' fiscal woes by, for example, reducing funding for community development block grants and eliminating mass transit operating assistance for most large metropolitan areas.

Last week, the House Budget Committee reported an alternative to the administration's budget which far better meets the real needs of the American people. The House budget resolution stays within the spending caps enacted last year for discretionary spending and reaffirms the pay as you go principle for all new entitlement programs. At the same time, this resolution focuses limited resources on programs that affect most directly the quality of life for millions of Americans.

America's children definitely emerge as winners under the House budget resolution. This resolution calls for an increase of $2 billion over current levels—an increase three times greater than the administration's—for elementary and secondary education, Pell grants, and other basic educational programs.

We cannot compete in the future if our children are not prepared for the future programs like Head Start prepare children to succeed in school, and deserve our support. While the administration would wait 50 years before fully funding the Head Start Program, the House budget would achieve this goal by the end of the decade.

America's families and working men and women clearly benefit from the House priorities for the Federal budget. We all want to live safely in our homes and in our communities, and the House budget addresses this concern by increasing anticrime funding above the administration's request in a number of areas, including support for the FBI and the U.S. criminal justice system. The House budget rejects the administration's attempt to eliminate access to Pell grants and child nutrition programs for many middle-class families. The House budget protects job training benefits for workers who lose their job due to unfair foreign competition.

America's cities and States are dealt with more fairly. The House budget calls for new investments in highways, airports, and mass transit—with a $1 billion increase for highway obligations, a $1 billion increase for aviation and $281 million for mass transit. The House budget rejects the adminstration's attempt to cut community development block grants by $288 million and instead increases funding for this program by $100 million.

In addition, communities combating the growth of illegal drug activity will benefit from an increase of $1.3 billion in Federal antidrug spending, with increases for both law enforcement and drug treatment at levels above those included in the administration's budget request.

The House budget protects our Nation's senior citizens from being among the biggest losers under the administration's budget plan. The House budget rejects the administration's proposal to cut Medicare by $25 billion over the next 5 years, and contains increased funding for Social Security and Medicare administration to ensure that seniors receive the benefits they deserve.

There are simply limits to the levels of cuts that programs like Medicare can absorb. Last year's Budget Reconciliation Act provides for $42.5 billion in Medicare cuts over 5 years, but this is not enough for the administration. The administration shows its lack of concern over protecting the health of seniors by requesting an additional $25 billion in Medicare cuts.

Compared to the administration budget, the House budget plan makes the American people the overall big winners. Still, in today's zero sum game, there are still losers. Among the losers under both the administration budget and unfortunately the House budget resolution are those Americans whose needs will likely go unmet because national leaders seem afraid to confront the need for new revenues.

Among those losers in the budget are the approximately 35 million Americans who have no health insurance. The House budget points to the need but doesn't follow through by providing hope for millions of Americans who are afraid they can't afford to be ill. Neither the administration nor the House budget offers much hope for these Americans.

The House budget notes that the current recession will likely create a need for extended unemployment benefits. In the current economic climate, it is unfortunate but true that an unemployed worker will often exhaust his or her benefits before ever finding a new job. Still, American workers risk losing in both the job market and in the Federal budget process because neither the administration nor House budget provides a specific plan to provide extended benefits.

The House budget notes the possibility of acting to meet these needs and others under the pay as you go principle, but does not endorse any specific action toward that end. That decision is left for each Member to consider.

I support the principle of pay as you go. Under the Budget Reconciliation Act of 1990, pay as you go requires that new entitlements be funded either through budget cuts or new revenues. The administration has shown its interest in continuing to cut programs like Medicare which have already suffered serious cuts.

If the administration can revisit programs like Medicare for additional cuts, I believe Congress should be willing to revisit the question of additional revenues. There are a number of revenue options the House should consider to address the needs of the uninsured, the unemployed and other Americans who find themselves losers in the current budget debate.

Among these options that should be considered is a surtax on incomes above $1 million. During last year's debate over budget reconciliation, the Joint Committee on Taxation estimated that a 10 percent surtax on incomes above $1 million would raise $7.6 billion over 5 years.

Another revenue raising option with a large revenue potential is the value added tax [VAT]. Even a VAT which exempted food, housing, and medical care would generate $310 billion over the next 4 fiscal years, according to the Congressional Budget Office. CBO has estimated that adding a 38 percent bracket would provide $101 billion worth of deficit reduction over 5 years while levying a 5 percent surtax would shrink the deficit by $129 billion. Various energy taxes could raise substantial amounts of new revenue while also encouraging conservation and a decrease in foreign oil imports.

These and other revenue sources deserve serious debate in the House. While that debate will unfortunately not take place in the context of action on the House Budget Resolution, we should remember that the needs of our country will not be met until we confront our fears over the issue of new revenues. As long as we give into the urge to sidestep this issue, budget debates will continue to leave our Nation unprepared to face the future.

Mr. WEISS. Mr. Chairman, by now, I hope my colleagues are familiar with the sting that Americans feel from the effects of the recession.

Housing starts are down. Unemployment is up to 6.8 percent and so are the claims for unemployment insurance. Industrial production has also fallen. Businesses are closing and credit is tightening.

These economic indicators bode ill for the country when one takes into account the Nation's chronic problems, like a failing education system, a poor national infrastructure and an increasingly expensive health care system. In short, the Federal Government's neglect in the 1980s of these domestic problems has come back to haunt us.

My constituents are asking what I and the rest of Congress are doing to ease the pain experienced by families across the country.

Today, by voting on a House budget resolution, we begin to establish what the Federal Government's priorities should be in the midst of a recession.

In general, I support the priorities set forth in the Democratic budget resolution.

Democrats are correct to oppose the $25 billion in additional cuts to Medicare that President Bush requested. Democrats are right to increase education spending above the rate of inflation and to support the Trade Adjustment Act, particularly at a time when workers face stiff overseas competition.

But I have reservations too.

In a strange twist of what President Nixon once proclaimed—"We are all Keynesians now"—Congress and the President are now saying, "We are only Keynesians in time of economic growth." In essence, that attitude abandons, even adulterates, Keynesian economic principles. Instead of increasing Federal spending during times of recessions, Congress and the President are bending over backwards to cut Federal spending.

In an economic recession, Federal spending should be used to spur further economic growth and to keep money in the pockets of consumers to maintain demand in the economy.

What's worse, the President wants not only to cut spending but to shift the financial burden of Federal programs to local and State government. Called the "States-as-lab" experiment, it is particularly detrimental to many local governments, whose budgets are already being stretched beyond their limits. This proposal is incredulous given the following: Two-thirds of the 50 States have revenue shortfalls, and dozens of cities, like New York, Philadelphia, and Hartford, are running huge budget deficits.

For instance in New York City, the government is running a record $1 billion budget deficit and, with further Federal cutbacks, it struggles to provide the basic services to New Yorkers, much less pay for extra financial burdens. What experiments does President Bush expect from New York City?

What's more, I suspect President Bush's "New Federalism" is a partisan attempt to embarrass Democratic legislatures and mayors across the country. By withdrawing Federal support for Federal programs, the President has put the burden on these elected officials, who are largely from urban Democratic areas, to pay more for Federal programs as well as pay for much-needed local services, like roads, fire safety, police protection, garbage collection and education.

I also am disappointed that Congress has not tried to alter the budget agreement that forbids the transfer of savings from defense spending to domestic programs. This effectively disposes of any so-called peace dividend, which could help cities and States cope with their budget problems, in spite of the fact that over $100 billion of the defense budget is intended to counter a now, non-existent Warsaw pact.

This aspect of the agreement is even more egregious and insensitive during a recession. No wonder the American people are becoming

disillusioned with government. We hesitate little to committing hundreds of billions of dollars for the S&L bailout and for the war in the Persian Gulf, but we balk at spending money to meet the desperate needs of the American people.

I raise these concerns in hopes that the Congress can act quickly to ease the pain of the recession and make the Federal Government more responsive to the immediate needs of Americans.

I will support the Democratic budget resolution, but I have an eerie feeling that this is the way it was in 1931 and 1932 under Herbert Hoover.

Mr. TOWNS. Mr. Chairman, for 8 years, the Congressional Black Caucus has brought before this body an alternative view of the fiscal priorities of this Nation, in most recent years in the form of the CBC quality of life budget. Perhaps the most extraordinary testimony to the value of this effort has come in the hundreds of inquiries that we have received regarding our position on the fiscal year 1992 budget resolution and many colleagues in the House and constituents around the country looking to support a CBC alternative.

Mr. Chairman, the members of this caucus believe that America has the capacity to provide for our national security, and to reduce the Federal deficit while supporting crucial social programs. In our view it is wholly possible to achieve these objectives without destroying the fabric of the Federal budget process.

We believe that any budget resolution must begin with an unyielding commitment to the preservation and enhancement of the human and physical resources of this Nation, particularly our children. We must advance priorities for spending which will expand available health care; increase resources for student aid and extend teacher training from preschool to professional. We must create an adequate supply of affordable housing and safe and accessible transportation. We must continue to expand our job training programs with skills upgrading initiatives and retaining incentives to increase workforce diversity and competitiveness. The Congressional Black Caucus believes that such a commitment will meet the moral test of Government and builds a fiscal foundation which would support those most in need of our help.

We have had to make very difficult decisions. Because of the limitations posed by the 5-year budget package in relation to spending caps and walls which restrict the transferral of savings between categories, we have sought to reach agreements with the House Budget Committee to pursue broad goals and increases over baseline for programs consistent with the historic positions taken by the caucus in previous alternative budgets. Because of the truncated nature of the present budget process, and the abbreviated timetable associated with these deliberations, we have elected to offer a statement of spending priorities to the House Budget Committee. By this action, we are placing a mandate before the Congress which demands that we mend the holes in the safety net for the poor, the elderly, the young, the physically disadvantaged and the jobless.

The House Budget Committee has embarked upon a course which makes "fairness" and "economic investment in the future of this Nation" the focal points of our fiscal agenda. There is much to be done. For those who assume our labors have ended, be on notice that the members of the Congressional Black Caucus have redefined their venue of battle. We shall engage in these deliberations over the long term, in every committee of jurisdiction. We ask only that you join in fulfilling our responsibilities to these goals by carrying forward our budgetary commitments through the appropriations process. The only ceilings and walls which will exist for those we serve will be created by our capacity to meet the needs of the American people through compassion.

Mr. ZIMMER. Mr. Chairman, this is the fiscal year in which the Federal budget was supposed to be balanced under the initial Gramm-Rudman Act. Instead, what we have is a record-setting $378 billion deficit, if you inlcude the so-called off-budget items.

Last October, there was another agreement reached that was supposed to balance the budget by 1995. By December, it was clear to the people who had reached the agreement that their projected date was unrealistic.

I say we should get serious about balancing the Federal buget, and the way we do that is by making cuts that hurt a little bit.

I am voting for some reductions that I don't like, but I think we all have to share a little pain if we are to bring our spending in line with our revenues. And it isn't that unreasonable to accomplish. All we have to do is slow down the growth of spending.

I believe that the arguments between the two sides on the similarities between the administration budget bill and the Democrat's budget bill are moot. Neither side should be proud that their package looks like the other's. Both provide for a $290 billion deficit. We are already spending 20 cents of every Federal dollar to pay the interest on the national debt. There is no way that we are going to be able to dig ourselves out of this situation if we let that debt continue to grow and allow interest payments to continue to grow.

We need a balanced budget constitutional amendment; we need a line item veto; and we need to reform the congressional budgeting process; but what we need more than anything is for Members of Congress to say no to unnecessary spending, and the time to begin is now.

Ms. HORN. Mr. Chairman, we are addressing a topic that is part of every decision that we make here in Congress—the Federal budget.

Last year's budget agreement put Congress and the administration in a tough—yet responsible—spot with regard to spending policies. When a proposal is presented for a much-needed energy policy, we must first ask "How much will it cost?" When a proposal is presented for programs to fulfill basic needs for food, housing and health care for American families and the elderly, we must first ask "How much will it cost?" The costs, if we accept the proposal, must be offset by revenues or cuts in other programs. As the distinguished chairman of the Budget Committee, Mr. PANETTA, emphasized in his comments, these restrictions require us to make some tough spending choices.

In making these choices, the House Budget Committee worked with themes of fiscal discipline, fairness in spending, and investments in the future for families and the economy. These are important themes. The chairman should be commended for emphasizing a working families budget.

I think, more and more, we are finding ourselves at a crossroads, Mr. Chairman. President Bush talks about the need for a new world order. I clearly agree with the President that we must build a new international cooperation through competitiveness, trade, and diplomatic relations. We must, at the same time, strengthen our domestic competitiveness through education, worker training, infrastructure, and research and development. I hope that the Congress will work closely with the administration, in a bipartisan manner, to pursue these objectives in a fair and open process.

Mr. Chairman, the term "working family" in itself is a crossroads for this society. It is not beyond any of our memories to reincarnate a time when the family did not have to work two jobs to keep food on the table, a roof over their heads, and adequate health care for their children. My district is comprised of many such families. It is made up of communities that spread outward as population shifted. Families moved to these communities so they could afford a little bigger home, with a little more room for their children.

Good jobs and good education are primary concerns for these families. I strongly support the committee's focus on education that includes a shift of $2 billion to learning programs. The resolution provides direction in elementary, secondary, and higher education through increases in chapter 1 Compensatory Education Programs—which emphasize math and science—such as Head Start, and adult and vocational programs. Both programs are important to prepare workers for the technology-based jobs that are a growing part of the St. Louis economy.

We must recognize that the most vital component of a successful company is the quality of its work force. If our companies are expected to compete, and essentially regain our edge in high technology and biotechnology internationally, we must prepare our students and our workers as professionals and technicians in those areas. We must get our educators and businesses together.

I have met a number of times with Monsanto Corp. which is headquartered in my district, and these meetings emphasized the need for scientists and engineers to fill jobs. Monsanto works closely with schools in St. Louis on science fairs, scholarships, and research grants. These efforts help, but they are not enough.

The budget resolution matches the President's request for the National Science Foundation for basic research in universities, and exceeds the request for funding the Commerce Department's National Institute for Standards and Technology [NIST] and Advanced Technology Program. Basic research in manufacturing technology and technology transfer will be an important part of our ability to compete with Japan and Germany in the international high-technology market. This

commitment will help prepare our businesses for these challenges.

An additional $100 million for economic conversion is included in the resolution. The St. Louis Economic Council, comprised of government, industry, and community leaders, was organized last summer when Chrysler threatened to close one of two plants in Fenton—just outside my district. The council was again overwhelmed with more than 9,000 layoffs—since last June—by McDonnell Douglas because of work force shrinkage and then the A–12 contract cancellation. Economic conversion funds are necessary to retrain workers and provide community assistance as unemployment continues to rise.

Mr. Chairman, the resolution puts a priority on programs to combat the declining order of our domestic environment. The United States continues to rank 19th among industrialized nations in infant mortality. My own State of Missouri ranks 30th in the United States, which means that for every 1,000 babies born in Missouri in 1988, 10.1 died as infants. Twelve million American children live in households with incomes below the poverty line—268,000 of these children live in Missouri. More than 488,000 babies are born to teenagers annually. Of all the babies born in Missouri during 1988, 13.7 percent—10,456 babies—were born to teen mothers. Twenty-four percent of all mothers received no early prenatal care. These are astounding numbers for a country as wealthy as ours.

Mr. Chairman, our children deserve the chance to live and grow in a healthy family through investments in maternal and child health, WIC, Head Start, and veterans programs. It seeks a hopeful family through investments in education, child care, job training, and fairness for all Americans in nutrition and energy assistance programs.

Finally, I want to recognize that the resolution also supports investment in the environment, through sound programs for energy conservation, economic development, and infrastructure included in the committee budget. It rejects the administration's proposal to reduced spending for energy conservation, infrastructure, and mass transit. It accepts the administration's proposal to fund airport improvement projects through the aviation trust fund.

Businesses cannot be expected to operate efficiently without sound infrastructure. Both mass transit and airport improvement programs are vital to the economy in the St. Louis area. Last month I attended the groundbreaking for a new Metro-Link system for the metropolitan region. This system will ease traffic congestion and conserve energy consumption significantly. It will get workers to their jobs wisely. Decreases in infrastructure programs, proposed by the President, would negatively impact the growth potential of St. Louis. I am pleased the resolution rejects those cuts.

I urge my colleagues to consider the needs and future of the entire community as we work to balance expenditures with cuts required to meet them. Making cuts is not easy, but if we consider the burdens our Federal debt places on our children, they make sense for the future.

Mr. VENTO. Mr. Chairman, I rise in support of House Concurrent Resolution 121 as reported by the House Budget Committee.

Despite the renowned budget summit agreement, the choices we make here today are real and they are tough. They are reflective of differences in priorities between the Congress and the administration, and they are reflective of the differences that cross the vast interests of the membership of the House. This budget resolution, and the decisions we must make as a part of considering it, are not easy—and they were not meant to be.

As we are all so painfully aware, the budget summit agreement has locked in many of the parameters of the national budget and eliminated significant discretion in realigning our overall priorities for the next 2 fiscal years. We are not allowed to choose between guns and butter, but instead must pit domestic program against domestic program. As the debate has shown, this is a difficult process.

We have heard some Member's views during this debate. They have attempted to suggest little differences between the budget approved by the House Budget Committee and the budget presented by the President in February. I disagree with that assessment.

Try and sell that view of no difference to the people who would be cut from the Medicare Program or the Trade Adjustment Assistance Program or the Guaranteed Student Loan Program as a result of the Bush budget cuts and reductions of domestic programs. Contrast that to the product of the House Budget Committee: More children will be served by an additional increase of $127 million in our WIC budget, and more folks will be served by the real and currently functioning empowerment program of the community services block grant [CSBG] that is being rescued from the Bush budget doldrums, and more new kids will be provided a Head Start with an additional $250 million over the President's budget, and countless others, from the homeless, to people who need and use mass transit, who will have better lives as a result of the House budget resolution.

I would say to my colleagues who paint everything cloudy gray: You are $13 billion in reprioritization of the President's funding proposal incorrect.

Frankly, I do share the concerns of many of my colleagues regarding the limitations of the budget summit agreement in terms of really addressing domestic priorities. Yet, I also think that Chairman PANETTA and his committee have done a good job, despite the limited flexibility, at providing a clear blueprint for our spending in fiscal year 1992 and the following 4 years that better reflects domestic needs.

We must now take this blueprint and apply more than a dose of the rhetoric of Desert Storm to the domestic front. This budget, replete with the corrections made here, barely begins to allow us to put money where our promises to people are. Yes, defense spending is within the caps set by the agreement. But the resolution provides $290.8 billion in budget authority for defense spending in fiscal year 1992. Yes, international spending is within its cap. And the resolution provides $21.9 billion in international spending in fiscal year 1992. I remain unconvinced that we are appropriately weighing our true national security priorities with the compromise parameters of October 1990. I am skeptical that this budget process within which we work serves the American people fairly and equitably.

The bottom line of this budget resolution, and the programs that would be funded by it, is that it move the process forward on the basis of compromise with the October 1990 agreement, therefore promoting our national security through strengthening its people, our greatest resource, and through its support of our vital economic strengths. The resolution rejects the politically deep, and in many cases fatal, cuts to programs that serve the impoverished elderly, hungry children, and the working poor. I would add, those proposed cuts were a continuation of the Republican theme of the 1990's. The resolution would increase funding for housing programs, drug treatment programs, environmental cleanup programs, and education and nutrition programs. It will help reduce our reliance on foreign energy supplies, enhance our crumbling infrastructure, and promote equity in applying some of the necessary cuts we must make in Federal spending.

Mr. Chairman, this is the budget today that should achieve consensus agreement and should be supported. I thank Chairman PANETTA for his leadership and his committee for doing their job by bringing this forward to the House. I ask my colleagues to vote "aye."

Mr. FRANKS of Connecticut. Mr. Chairman, this week the House began debating the budget resolution for fiscal year 1992. Last year's budget agreement set rigid parameters for this year's discussion. It is my understanding that all the proposed budget alternatives have met the required spending caps established by last year's agreement. It appears that there is little difference between the Democratic proposal and the President's budget and all we have to do now is decide on funding levels for some domestic spending accounts and decide if this body has the courage to place real restraints on spending for the next 5 years.

Mr. Chairman, I supported the substitute amendments offered by Congressmen DANNEMEYER and KASICH. In my judgment, reducing the deficit should be a top priority for the Congress. The substitute amendments offered by Congressmen DANNEMEYER and KASICH, while allowing for increases each year, would have made real progress in reducing the deficit. The Dannemeyer substitute amendment would have saved $45.8 billion in fiscal year 1992 alone. Over the course of 5 years it would have saved $472.2 billion. Congressman KASICH's substitute estimated savings at $16.5 billion over the Democrat's proposal and $172.2 billion over 5 years.

By holding annual increases to the rate of inflation, Congressman KASICH's proposal allows for modest increases in domestic discretionary spending which will provide real restraint and savings in Federal spending through fiscal year 1995. Congressman KASICH's proposal incorporates means-testing recommendations for certain high-income individuals receiving medicare and farm subsidies which I feel is necessary. As half the Federal budget is spent on entitlements, reduction in the deficit can only go so far without examining and reducing this area of the budget. The

Kasich substitute will also eliminate $500 million from international spending. The cuts will not be made from an individual country's account, but will be found in other areas.

The substitute amendments offered by Congressmen DANNEMEYER and KASICH were not passed today. Mr. Chairman, I will now support the President's budget which is being offered by Congressman GRADISON. I believe it contains the blueprint for a 5-year period growth and prosperity, which the Democrat's budget proposal does not. For a budget with a growth priority, the Democratic proposal is missing a plan of action. The President proposes a plan of action. This year there are several expiring tax incentives. While the President is supporting their extension, the Democrat's budget does not mention their existence. The President's growth proposals; such as capital gains, enterprise zone, family savings accounts, and penalty-free withdrawals from IRA's for first time home buyers, are quickly rejected by the Democrat's proposal.

Transportation infrastructure does well under the Gradison substitute. The Highway Trust Fund will receive an increase in funds. Over the next 5 years, the budgets for highway construction and rehabilitation, and mass-transit funds will be enlarged. The President has also committed in his proposal to several railroad, airport, and highway demonstration projects.

The media has recently been printing a number of articles indicating that global warming may be occurring faster than previously thought. Under the President's proposal, the Global Change Research Program is scheduled to receive a 34-percent increase over 1991 appropriations. This program is vital to further understanding the effects of global warming and deforestation to our planet.

Finally, the Gradison substitute will achieve $6.3 billion in savings in fiscal year 1992 alone through redirecting entitlement resources to where they are most needed. Again, in my judgment, without looking for savings in entitlement programs, the budget will not achieve real reduction unless entitlement resources are redirected.

Mr. Chairman, I will cast my vote for the Gradison substitute amendment which will promote a healthy, growing economy and make real progress toward deficit reduction.

Mr. DYMALLY. Mr. Chairman, as we discuss the budget resolution, I would like to take this opportunity to commend the Budget Committee and its distinguished chairman, the gentleman from California [Mr. PANETTA], for their commitment to the expansion of the Job Corps Program. The Job Corps is a program that provides many disadvantaged youth a glimmer of hope of a better future. By providing residential education, training, and job replacement for disadvantaged youth between the ages of 16 and 21, these youth receive comprehensive education and training services which offers them an alternative to the perils of the drug related crime and gang violence.

I would like to reiterate my commitment and that of the Congressional Black Caucus to the expansion of the Job Corps Program, and specifically in support of the 50–50 plan. This plan will result in the opening of 50 additional centers around the Nation, each offering 400 yearly training slots, in areas of need to serve 50 percent more of the youth.

The Job Corps 50–50 plan once authorized will seek to open 50 more centers while at the same time improving existing services. At the completion of the 10-year plan, it is estimated that more than 70 percent of the Nation's most disadvantaged youth will be educated and trained by Job Corps.

The costs of expanding this worthy program are minimal when we consider that the cost of building of a single prison is at $17,000 per bed to incarcerate those at-risk youth.

Mr. Speaker, the budget resolution complicated the defense of specific line item programs. However, the Congressional Black Caucus will lend its full support to the 50–50 plan.

Ms. PELOSI. Mr. Chairman, I rise in support of House Concurrent Resolution 121, the fiscal year 1992 budget resolution. I commend the chairman of the Budget Committee, Congressman, LEON PANETTA, for his efforts on the budget, which addresses many of the critical needs of this Nation.

House Concurrent Resolution 121 rejects the misguided priorities contained in the President's budget by instead targeting the Nation's resources towards the needs of working families for programs that will contribute to the long-term economic strength of our Nation. It also protects and expands proven programs which support the disadvantaged and helps to ensure that all American children have enough to eat, a roof over their heads, access to health care, and the opportunity to learn.

Clearly, producing this year's budget resolution was not an easy task. While the parameters of this budget were established by last year's summit agreement, the committee did a commendable job of meeting the challenges of a strict spending ceiling with extremely limited resources. It is not a painless budget, but it is fair and fiscally responsible given the committee's constraints, and unlike the President's budget, it doesn't rely on "less is more" rhetoric without providing the funding to back up its priorities.

For example, in the area of health care, the budget rejects the President's inadequate plan to underfund a number of vital health programs, including infant mortality, community and migrant health centers, and the maternal and child health care block grant. The budget also targets AIDS-related programs for increased funding, to address one of the Nation's most important health concerns and one of our greatest domestic challenges. Consequently, House Concurrent Resolution 121 provides a $450 million increase for AIDS-related programs, including a $188 million increase in the Public Health Service [PHS] budget for AIDS, which is $123 million above the President's request. These health care programs are vital to my district and in a time of severe fiscal austerity, I applaud the committee for its exemplary actions with regard to funding for AIDS and other health care programs.

In the area of housing, the budget provides an increase of $2.014 billion for HUD low-income housing and McKinney Act homeless programs. This much-needed funding increase will allow for new initiatives, including funding for critical AIDS-related housing.

The budget also identifies education as a key priority. However, unlike our "Education President," this budget resolution provides the funding to back up the rhetoric—$2 billion, or 9 percent over the current funding level, is included for elementary, secondary, and higher education, which is triple that of the President's request. It also rejects the administration's attempt to exclude a number of working families from the Pell Grant Program. House Concurrent Resolution 121 also calls for a $350 million increase for Head Start, which would result in all Head Start eligible children being served by the year 2000, unlike the administration's budget, whereby full funding would take 50 years.

House Concurrent Resolution 121 also addresses critical nutritional needs by increasing funding for the special feeding program for women, infants, and children [WIC] by $350 million, representing the first installment toward full funding of this important program.

Finally, House Concurrent Resolution 121 contains $800 million above the current level to enhance the energy security of the United States through energy conservation research and development, solar and alternative fuel research and development, energy conservation loans, and other programs. Although energy-related economic concerns helped compel us to fight in the Persian Gulf, the President's budget request in this area was inadequate and shortsighted. In contrast, this budget realistically confronts our Nation's tremendous energy needs.

Mr. Chairman, again I commend my colleagues serving on the Budget Committee for their efforts on this budget and I urge my colleagues to join me in supporting their effort.

Mr. KLECZKA. Mr. Chairman, today the congressional budget resolution is before the House. Now that the budget process has been reformed by placing caps on spending categories, it will focus our attention on what is deserving of Federal funding. When compared to the President's budget proposal, this budget blueprint for fiscal year 1992 more accurately reflects the Nation's priorities.

This resolution continues the budget policy of investment in America's future: our families, our workers, and our competitiveness in the global economy.

Make no mistake, the budget process reforms enacted last year force Congress and the administration to work within the spending limits. If the lid is blown off a spending cap, across-the-board cuts will be ordered for the over-budgeted category until it is scaled back to its legal limit.

As a result, we need to make the most out of every dollar in a fair, responsible manner. For these reasons, House Concurrent Resolution 121 rejects the President's $25 billion Medicare cut proposal, as well as his proposed cuts for veterans and farmers, child nutrition, and energy assistance for low-income families. It also rejects the President's misguided capital gains tax break, which primarily benefits upper-income individuals while offering little or nothing to many families.

Mr. Chairman, not enough can be said about the vital importance of education and worker training. It has a direct impact on the

country's economic competitiveness and an individual's standard of living. Especially disturbing to me is the fact that elementary, secondary, and higher education all appear on the President's top 10 list for budget cuts, despite his pledge to be the education President.

The budget resolution shifts needed funds to education programs. It provides triple the amount of resources recommended by the President. It also supports the Head Start Program by adding 93,000 children to its enrollment.

Tough decisions lie ahead, but they need to be made. The budget resolution recognizes this reality and does the right thing by recommending reduced funding for some Federal programs and elimination of other nonpriority ones to increase efficiency.

Where should our funding priorities be? Clearly, we must respond to community development needs during this economic downturn. House Concurrent Resolution 121 calls for significant increases above the President's request for housing assistance and community development, nutrition for women, infants, and children, and health programs.

Veterans' health programs should also receive serious attention in our budget. Sufficient funding is essential to meet the needs of our newest veterans now returning from service in the Persian Gulf. Special attention must be given to health care programs for veterans.

As for Medicare, last year's Budget Reconciliation Act included nearly $44 billion in Medicare cuts over the next 5 years. Additional cuts, as proposed by the administration, would directly violate this hard-won compromise. The administration should look for reductions in other areas before asking for more Medicare cuts.

Economic growth depends on a strong infrastructure to help commerce flow freely and to enhance our quality of life. House Concurrent Resolution 121 invests in roads, transit, aviation, waste water treatment, and other aspects of our infrastructure which have been taken for granted for too long.

However, more attention needs to be given to environmental protection. The funding increases I have outlined do not apply to environmental programs. It is important that more resources, perhaps from the huge Bush proposal for a space station, be devoted to cleaning our air and water, so that the Earth continues to be a more desirable place to live than outer space.

This budget resolution promotes growth with fairness for working families. It is a step in the right direction to rebuild America's strength for the 21st century, and I urge my colleagues to support it.

Mr. BORSKI. Mr. Chairman, I rise in support of the House Concurrent Resolution 121, the congressional budget resolution for fiscal year 1992. In particular, I am pleased to see that this legislation, as amended by Congressman FORD, substantially increases our investment in education and training programs.

Mr. Chairman, recent studies have shown that U.S. elementary and secondary school students perform poorly in areas of great importance for competitive skills. Compared with students in other industrialized countries, ours finished last or near-last in many comparisons of math and science skills and knowledge. Working Americans do not have the confidence they once did that our educational system will prepare their children to be competitive in the world economy.

Unfortunately, President Bush's proposed education budget does not go far enough to better prepare our children for school and motivate them to take advantage of educational opportunities. Under his proposal, education programs would be increased by only 3 percent, which represent a reduction after accounting for inflation. Proven, cost-effective compensatory programs like Head Start and Chapter 1 would still only serve half of all eligible children under the Bush budget.

Furthermore, the President's spending proposals for higher education programs would have a devastating impact on middle-income families. Under his proposal, only low-income individuals would be eligible to receive Pell Grants. If implemented, about 14,500 Pennsylvanians would lose their Pell Grants in 1992–93. As a result, middle-income families would have to borrow more than they can afford if they want to send their children to college.

Fortunately, Mr. Chairman, House Concurrent Resolution 121 provides a $2 billion, or 9 percent, increase for education programs—an amount three times higher than the increase proposed by the President. This includes substantial increases for compensatory education, math and science education, vocational and adult education, and student aid. House Concurrent Resolution 121 also quadruples the President's request for Head Start to $350 million, which will increase by 72,000 the number of children served by the program.

Furthermore, the Ford amendment provides an additional $400 million increase for Head Start, Chapter 1, vocational education, and student financial aid. This amendment, which I supported, further promotes cost-effective investment in proven education programs.

Mr. Chairman, if our Nation is to be competitive in the next century, we must have a productive and well-educated work force. I urge my colleagues to support House Concurrent Resolution 121 to equip the next generation of working Americans with the skills they require to prepare for our future challenges.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the House budget resolution. Given the tight fiscal situation we face, this is a time when priorities are more illustrative than dollars, and I am proud to say that in that respect, the Budget Committee resolution before us is far more consistent with the priorities of my Michigan constituents than the administration's budget. It is far more sensitive to the needs and concerns of middle-income taxpayers and of working families.

Today, our Nation is faced by a series of domestic crises which dwarf the threat of any external military power. We are losing our lead in the global economic race. Our crumbling infrastructure and failing educational system are unable to meet the needs of our economy. The cost of health care has skyrocketed, and today 40 million Americans cannot afford health insurance. And in most prosperous Nation in the world, one out of five children lives in poverty.

Despite the President's rhetorical commitment, his education budget does not even keep pace with inflation, and student financial aid would be cut so drastically that 200,000–400,000 middle-income students would no longer be able to receive aid. The enormously successful Head Start Program would not be able to provide services to all eligible children until 2040. The collapse of our transportation network notwithstanding, the Bush budget would shift the responsibility for rebuilding our roads and highways to the States, which are already having trouble making ends meet, and would dramatically reduce mass transit funding. Likewise, on the healthcare front, the Bush budget is remarkably insensitive. In spite of the huge Medicare cuts in last year's budget, the President has requested an additional $25 billion in cuts over the next 5 years. And, in the wake of the gulf war, which demonstrated the dangerous vulnerability of our energy dependence, the President proposes a $242 million cut in energy programs, and target conservation to receive only 8 percent of all energy R&D funds. Improvements in efficiency would be the quickest, cheapest, and most environmentally benign method of displacing our dependence on petroleum. Yet, the level of support for conservation programs would remain roughly 65 percent under the level of funding such programs received in 1979. Clearly, the Bush budget is out of sync with America's needs, and with the priorities of the American people.

In my view, the Budget Committee resolution would establish a new path for our Nation, a path that points to a more prosperous, secure future for America.

First, children and families are given the highest priority. They will receive much-needed relief in the form of a $2 billion, or 9 percent, increase in funding for elementary, secondary and higher education. Head Start, WIC, infant mortality and childhood immunization programs, and the war on drugs, will all receive substantial increases over the President's request. The committee proposes a $350 million increase over 1991 in the Head Start Program, 3½ times that of the President and enough to serve an additional 72,000 children, 50,000 more than the President. And the special funding program for pregnant women, infants, and children, WIC, is targeted for full funding by 1996, with a $350 million increase now, nearly triple that of the President. Equally important, the committee budget provides for 350,000 more child immunizations than last year, 70,000 more than the President's budget.

Second, our economic foundation will be bolstered by increased funding for basic R&D, for job training programs, for highway and mass transit programs, and for energy programs designed to reduce our Nation's dangerous dependence on foreign aid.

Third, by eliminating the $25 billion in Medicare cuts and the $3.5 billion in cuts in veterans health care programs requested in the Bush budget, Congress will reaffirm its commitment to our most vulnerable Americans. A program of particular importance to Michigan, Low Income Home Energy Assistance, would also be spared a 37-percent cut proposed in the administration budget, and instead would receive a modest increase.

Finally, it is important to note that in spite of the increases in these important programs,

this resolution strictly conforms to the parameters of last year's budget agreement. This means that to meet the highest priority needs, it has been necessary to freeze or reduce spending in many important areas. Some programs have been frozen, others have been funded at levels lower than the President has requested. For example, where the President called for a 13-percent increase in space programs, the Budget Committee has asked for a far more modest increase. Also, the President's request for a 120-percent increase in funding for the superconducting super collider has been scaled back. A variety of other domestic programs would, out of necessity, also face a budgetary freeze, or slight reductions. Some programs even face outright elimination. My colleagues, there is no question that this budget does not address all of the problems we face here at home. But in these tight budgetary times, the issue here is balance. Priorities must be reordered. And that means the need to accept some painful tradeoffs. This budget charts a new and more hopeful course for our Nation, a course that will begin the task of rebuilding America.

I urge support of the House Report Committee resolution.

Mr. POSHARD. Mr. Chairman, I rise in support of House Concurrent Resolution 121, the congressional budget resolution for fiscal year 1992. I congratulate Chairman PANETTA and all of the members of the Budget Committee for their work in bringing this resolution to the floor.

I voted for the final budget agreement last year because it made the best of a bad situation. The first alternatives we were presented with were not acceptable, for my district or the country, and I had no trouble voting against them. But in the end we agreed on a budget that was relatively fair, balanced, and made progress on the deficit.

That alone would not bind me to this resolution if I thought it was not a good one, but because it observes the spending caps set in the 5-year agreement by continuing the pay-as-you-go policy, and invests in the domestic priorities of our Nation, I support it.

When I look at this document I see progress on the single most important issue in Congress, the one which impacts all of the other initiatives we consider, and that is the budget deficit. It confirms the wisdom of the budget agreement from last year. And I am pleased to see the first product of that venture roll off the assembly line in such good working order.

But this is not simply a document containing the formulas to reach specific mathematical targets in various functions known only to the people who study Federal budgets. No, this document must also be judged for its comfort, and the committee has rightly exercised its option to make adjustments in the administration's budget and redirect our spending priorities, again, I empahsize, within the spending limits.

In my district there is a crying need for education, health care, and services for low income families and single parents. This is truly a land of plenty, but there is a tremendous underclass in this country unable to fully participate in the American dream.

There is no reason why people should have to do without health care. In a Nation of promise and opportunity there is no reason why hunger should keep a child from learning or making the most of his or her abilities. But it happens, and people in my district are engulfed by the poverty and despair it produces. In this resolution we make a commitment to help them.

This resolution proposes full funding in the near future for two of the most successful Federal programs in history, WIC and Head Start. This is a strong one-two punch on the insidious danger of children who are malnourished or without proper supervision and instruction. If we are going to invest in our human capital in proven, effective ways, then we can't go wrong with these two programs. The committee is wise to shift the administration's priorities in this area to more fully meet the tremendous need in America's communities. I also support the readjusted priorities in fighting another national tragedy, the level of infant mortality in this modern Nation, in rural and urban neighborhoods alike.

Health care in rural areas is in critical condition. I have seen too many hospitals close, babies born in helicopters and ambulances, people wither away from lack of proper medical attention to support further cuts in medical services. The very fact that the committee resolution protects Medicare from the kind of cuts the adminsitration proposed makes it worthy of my support. But, fortunately, it does more.

I have just returned from 2 weeks of meeting with students and educators in my district, not to mention young people just starting families, who are extremely concerned with the rising cost of education. I hear a lot of talk about making America No. 1 in education, and competing with the Japanese and others in test scores and ability, but then we are presented a budget that attacks the Pell grant and Student Loan Program. The committee resolution wisely restores those cuts.

I hate to say it, but it seems as if some of the budget writers are saying, "If you're poor, don't get sick. If your parents can't afford private school, don't worry about competing. If you're a single mother and want to make something of your life, don't come here looking for help." That's not the America I know. That's not what I envision for a budget that invests in improving the quality of life for people who need some help.

And an equally strong case can be made in areas such as transportation, antidumping programs, veterans, and energy research, all places where the committee correctly adjusts the priorities of the administration blueprint.

But no budget could address all of these concerns without coming back to the guiding principle for any such agreement, budget discipline. This resolution does not arbitrarily spend more than we have or fudge the numbers to make them say what we want. Instead it makes hard choices about where we spend the precious taxpayer dollar.

It says that as wonderful as a new space mission is it doesn't quite match the need of hungry families, and in a perfect world a capital gains tax cut might be nice but we can't afford that kind of break for the wealthiest of Americans and still have a fair system.

I was serious when I voted for the final budget agreement last year because I wanted $500 billion in deficit reduction over the next 5 years. In the most complicated part of the congressional process the goal is really very simple. It all boils down to how you want to get from point A to point B. You have a spending cap and a pay-as-you-go mandate, and now all you have to do is decide what's most important. And for me, the committee is right on the priorities and right on the price.

Mrs. BYRON. Mr. Chairman, there is much in this budget that represents excellent work by the Budget Committee Chairman LEON PANETTA, and others. It reflects a priority for programs like Head Start, WIC, education, health care, and much, much more. It reflects a desire to keep our promise to senior citizens in the area of Medicare. It reflects a priority for veterans' health care.

All of that and much, much more I support as representing the right choices for the right investments in human potential in this country.

But, once again, I am struck by the willingness of the President, and the Congress to ignore the presence of a crippling debt that has the potential of strangling this country's economy.

The deficit in this budget for the record is over $360 billion. That is just the operating budget deficit that is disclosed in this budget. But, if one looks at one of the back pages of the President's budget submission to Congress, one discovers that because some spending is considered off budget the amount of money we are going to be required to borrow will increase the country's gross indebtedness by $404 billion during this coming fiscal year.

I think this country is seriously off track. It is spending money it doesn't have on many things if doesn't need. It is unwilling to confront in a real way the wrenching problem of either significant cuts in expenditures, or increases in taxes, but is content rather to continue to charge much of the cost of government to our children and the grandchildren.

Every day, 7 days a week, 52 weeks a year, we will spend a billion dollars a day more than we have, and that billion dollars is represented by this group of politicians and this group of Americans to be a billion dollars we want someone else, our kids, our grandkids to pay for.

It represents, in my judgment, the most irresponsible period of fiscal policy in this country's history. It represents a gridlock between a President unwilling to lead, and a Congress incapable of leading and unwilling to follow. And it represents an American people that want the benefits of the spending programs, but resist the burden of the taxes to pay for them.

I fear that one day soon, the country with $3.4 trillion in debt, and $400 billion a year in deficits, will find its leaders looking back scratching their heads, and wondering how things could have collapsed, and asking themselves how could we not have seen that we couldn't keep doing this without an economic collapse. I think it is better to answer those questions now, than allow the economic collapse that could force them to be answered later under much more difficult circumstances.

I would like to have voted for this budget, but I simply have to continue to raise my voice

against the practice of spending a billion dollars a day that we don't have. It is fundamentally irresponsible fiscal policy. Some way, some day, it must be stopped.

Mr. BACCHUS. Mr. Chairman, I am voting for this budget resolution today because I believe it is a necessary first step that will allow us to write a fiscal year 1992 budget in a responsible, deliberative manner.

However, I am far from satisfied with some of its provisions, especially in the areas of space exploration and scientific research. I believe there is unanimous agreement in this House that we must increase our competitiveness in the international marketplace. But how in the world can we profess a commitment to competitiveness when we fail to invest in one of the few technology areas in which the United States remains the clear international leader? Instead of cutting the President's proposed NASA budget by $1.2 billion, we should be spending more on space research and exploration. I also question the decision to cut Energy Department general science programs by $80 million. I will be working throughout the budget process, from the authorization committee to the appropriations committee to the floor, to obtain the largest possible increase for NASA and to ensure that we invest in scientific research.

On a more positive note, Mr. Chairman, I applaud the budget resolution's commitment to meeting the needs of our children. The increased spending on health and nutrition programs, Head Start, and education will save us much more later. But such a wise investment in preventive government further underscores the shortsightedness of not investing adequately in space exploration and science. Not only must we prepare our children to be productive members of society, but we must also provide them with the value-added jobs that will make them leaders in the international marketplace.

I hope we will have many opportunities to debate these vital issues during this budget process. I am voting for this resolution today to get this process started so we can confront our challenges with the time to do so responsibly.

Mr. HASTERT. Mr. Chairman, I rise today to express my strong opposition to the House concurrent resolution on the budget for fiscal year 1992.

This budget does not address the needs of America's future, and would slash badly needed funds from programs that are critical for maintaining American competitiveness in the global arena.

Mr. Chairman, America has long dominated the field of high-energy physics, thanks to the diligent research efforts of our top scientists working to make new discoveries about the fundamental makeup of the universe.

Scientists, working at the Fermi National Accelerator Laboratory in Batavia, IL, have dedicated themselves to investigating the nature of matter and pioneering ways to approach the challenges our country faces in the fields of medical research, manufacturing technology, and educational enhancement.

The work being done at Fermilab simply deserves the continued support of the Government, because it is so vital to our Nation's future. The funds earmarked by the President for Fermilab are for improvements to Fermilab's technological capacity, which is absolutely vital to the continuing work of its scientists and our Nation's high energy physics program.

Improvements to the existing accelerator at the laboratory, collectively called Fermilab III, will significantly extend the reach of the Tevatron, the world's first superconducting accelerator and the highest energy proton-antiproton collider.

The budget resolution has classified these important improvements as new starts, and by doing so has targeted them for deep reductions in funding. Mr. Chairman, it is for this reason I must oppose the budget resolution.

Fermilab III should not be part of an overall effort to reject new starts. Fermilab III consists of a series of improvements to the existing 20-year-old accelerator. These improvements differ from new starts in that the overall accelerator is fully operational and only components of it are being replaced to increase its efficiency of operation. The construction of these improvements has been underway for 2 years with full funding.

Fermilab has developed a cost-effective plan for increasing the luminosity of the Tevatron by more than a factor of 50 above its design. Fermilab III consists of an upgrade of the Linac—linear accelerator—from 200 MeV to 400 MeV, the replacement of the 20-year-old main ring with the main injector and substantial improvements of the two large, general purpose detectors.

The present focus at Fermilab has been the search for the top quark, the last unobserved fundamental building block of matter. Scientists working at Fermilab expect that Fermilab III will enable them to discover the top quark.

Fermilab III will make it possible to realize the full scientific potential of the Tevatron at a small fraction of the cost required to build the Tevatron accelerator complex and its detectors. The Linac upgrade and the main injector are the components of Fermilab III that require line-item approval in the congressional budget. Congress has appropriated a total of $16.6 million in fiscal year 1990 and fiscal year 1991. The Linac upgrade is slated for completion in fiscal year 1992 at a total cost of $22.8 million. The final $6.2 is included in the Department of Energy fiscal year 1992 budget request.

The DOE fiscal year 1992 budget request contains the initial $43.5 million for construction of the main injector. The main injector could be completed within 4 years at a total estimated cost of $177.8 million. Funding for the first year of construction of the main injector is crucial.

The Department of Energy's own High Energy Physics Advisory Panel strongly recommended the "immediate commencement and speedy completion of construction of the main injector." This was determined to be the highest priority recommendation for the 1990s. Under the constant budget scenario, it was the only initiative to be recommended for new construction. The advisory panel further recommended the need to take full advantages of existing high energy physics facilities prior to the construction of the SSC to take advantage of the many physics opportunities available.

Throughout the 1990's Fermilab will be the only opportunity for the U.S. high-energy physics community to carry out the research at the forefront of the field.

There are three primary reasons that funding for Fermilab III is essential. First, prior to the intended completion of the SSC at the turn of the century, Fermilab will continue to be the largest and most powerful accelerator in the country. We desperately need this operating facility to stay competitive internationally. Second, if the start of the construction of the main injector is postponed, we may lose some of our best scientists to foreign accelerator laboratories. Third, a comprehensive high energy physics plan and the existence of experienced physicists depends on the implementation of Fermilab III.

Fermilab and the SSC's futures are intertwined. Fermilab III's full implementation in the 1990's is the only opportunity for U.S. physicists to gain experience in the design, construction, and operation of the equipment that is essential to operate the SSC. Fermilab will continue to provide the training and instruction necessary to receive Ph.D's in high-energy physics and accelerator physics. That valuable experience will not only ensure that the SSC is constructed in a timely fashion, but that it has the trained personnel needed to operate.

In addition, I fear that failure to fund Fermilab III will result in a flight of human capital to foreign laboratories competing with Fermilab in its efforts to detect the top quark. Some of our Nation's top physicists conduct research at Fermilab precisely because of its powerful Tevatron accelerator.

All indicators lead us to believe that the SSC will not be completed until after the year 2000. The U.S. high-energy physics program needs to be healthy and competitive in the interim in order to ensure it can provide the scientific and technological base necessary to use it to its best advantage when it becomes operable. To assure this, we need to provide for the full utilization of existing facilities, including cost effective upgrades. Full funding for Fermilab III can give the United States this firm base in high energy physics while the SSC is being built.

The CHAIRMAN pro tempore (Mr. MAZZOLI). Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. MAZZOLI, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the concurrent resolution (H. Con. Res. 121) revising the congressional budget for the U.S. Government for the fiscal year 1991 and setting forth the congressional budget for the U.S. Government for the fiscal years 1992, 1993, 1994, 1995, and 1996, pursuant to House Resolution 123, he reported the concurrent resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 261, nays 163, not voting 7, as follows:

[Roll No. 71]

YEAS—261

Abercrombie	Ford (TN)	Mineta
Ackerman	Frank (MA)	Mink
Alexander	Frost	Moakley
Anderson	Gaydos	Mollohan
Andrews (ME)	Gejdenson	Montgomery
Andrews (TX)	Gephardt	Moody
Annunzio	Geren	Moran
Anthony	Gibbons	Morella
Aspin	Gilman	Morrison
Atkins	Glickman	Mrazek
AuCoin	Gonzalez	Murphy
Bacchus	Gordon	Murtha
Barnard	Gray	Nagle
Beilenson	Guarini	Natcher
Bennett	Gunderson	Neal (MA)
Berman	Hall (OH)	Neal (NC)
Bevill	Hamilton	Nowak
Bilbray	Harris	Oakar
Boehlert	Hatcher	Oberstar
Bonior	Hayes (IL)	Obey
Borski	Hayes (LA)	Olin
Boucher	Hefner	Ortiz
Boxer	Hertel	Owens (NY)
Brewster	Hoagland	Panetta
Brooks	Hochbrueckner	Parker
Browder	Horn	Patterson
Brown	Horton	Payne (NJ)
Bruce	Hoyer	Payne (VA)
Bryant	Hubbard	Pease
Bustamante	Huckaby	Pelosi
Byron	Hutto	Penny
Campbell (CO)	Jefferson	Perkins
Cardin	Jenkins	Peterson (FL)
Carper	Johnson (SD)	Peterson (MN)
Clay	Johnston	Pickett
Clement	Jones (GA)	Pickle
Coleman (TX)	Jones (NC)	Poshard
Collins (IL)	Jontz	Price
Collins (MI)	Kanjorski	Rahall
Condit	Kaptur	Rangel
Conyers	Kennedy	Ray
Cooper	Kennelly	Reed
Costello	Kildee	Regula
Cox (IL)	Kleczka	Richardson
Coyne	Kolter	Rinaldo
Cramer	Kopetski	Roe
Darden	Kostmayer	Rose
Davis	LaFalce	Rostenkowski
de la Garza	Lancaster	Roukema
DeFazio	Lantos	Rowland
DeLauro	LaRocco	Roybal
Dellums	Laughlin	Russo
Derrick	Lehman (CA)	Sabo
Dicks	Levin (MI)	Sangmeister
Dingell	Lewis (GA)	Savage
Dixon	Lipinski	Sawyer
Donnelly	Lloyd	Scheuer
Dooley	Long	Schroeder
Downey	Lowey (NY)	Schumer
Durbin	Luken	Serrano
Dwyer	Manton	Sharp
Early	Markey	Shays
Eckart	Martinez	Sikorski
Edwards (CA)	Matsui	Sisisky
Edwards (TX)	Mavroules	Skaggs
Engel	Mazzoli	Skelton
Erdreich	McCloskey	Slattery
Espy	McCrery	Slaughter (NY)
Evans	McCurdy	Smith (FL)
Fascell	McDermott	Smith (NJ)
Fazio	McHugh	Snowe
Feighan	McMillen (MD)	Solarz
Fish	McNulty	Spratt
Flake	Meyers	Staggers
Foglietta	Mfume	Stallings
Ford (MI)	Miller (CA)	Stark
Stenholm	Torricelli	Waxman
Stokes	Towns	Weiss
Studds	Traficant	Wheat
Swift	Traxler	Whitten
Synar	Unsoeld	Williams
Tallon	Upton	Wilson
Tanner	Valentine	Wise
Tauzin	Vento	Wolpe
Thomas (GA)	Volkmer	Wyden
Thornton	Washington	Wylie
Torres	Waters	Yatron

NAYS—163

Allard	Green	Petri
Andrews (NJ)	Hall (TX)	Porter
Applegate	Hammerschmidt	Pursell
Archer	Hancock	Quillen
Armey	Hansen	Ramstad
Baker	Hastert	Ravenel
Ballenger	Hefley	Rhodes
Barrett	Henry	Ridge
Barton	Herger	Riggs
Bateman	Hobson	Ritter
Bentley	Holloway	Roberts
Bereuter	Hopkins	Roemer
Billirakis	Houghton	Rogers
Bliley	Hunter	Rohrabacher
Boehner	Hyde	Ros-Lehtinen
Broomfield	Inhofe	Roth
Bunning	Ireland	Sanders
Burton	Jacobs	Santorum
Callahan	James	Sarpalius
Camp	Johnson (CT)	Saxton
Campbell (CA)	Kasich	Schaefer
Carr	Klug	Schiff
Chandler	Kolbe	Schulze
Chapman	Kyl	Sensenbrenner
Clinger	Lagomarsino	Shaw
Coble	Leach	Shuster
Coleman (MO)	Lent	Skeen
Combest	Lewis (CA)	Slaughter (VA)
Coughlin	Lewis (FL)	Smith (IA)
Cox (CA)	Lightfoot	Smith (OR)
Crane	Livingston	Smith (TX)
Cunningham	Lowery (CA)	Solomon
Dannemeyer	Machtley	Spence
DeLay	Marlenee	Stearns
Dickinson	Martin	Stump
Doolittle	McCandless	Sundquist
Dorgan (ND)	McCollum	Swett
Dreier	McDade	Taylor (MS)
Duncan	McEwen	Taylor (NC)
Edwards (OK)	McGrath	Thomas (CA)
Emerson	McMillan (NC)	Thomas (WY)
English	Michel	Vander Jagt
Fawell	Miller (OH)	Visclosky
Fields	Miller (WA)	Vucanovich
Franks (CT)	Molinari	Walker
Gallegly	Moorhead	Walsh
Gallo	Myers	Weber
Gekas	Nichols	Weldon
Gilchrest	Nussle	Wolf
Gillmor	Orton	Young (AK)
Gingrich	Owens (UT)	Young (FL)
Goodling	Oxley	Zeliff
Goss	Packard	Zimmer
Gradison	Pallone	
Grandy	Paxon	

NOT VOTING—7

Dornan (CA)	Lehman (FL)	Yates
Dymally	Levine (CA)	
Hughes	Udall	

□ 1755

The Clerk announced the following pair:

On this vote:

Mr. Hughes for, with Mr. Dornan of California against.

Mr. HOPKINS changed his vote from "yea" to "nay."

So the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Concurrent Resolution 121, the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT IN HOUSE CONCURRENT RESOLUTION 121, CONCURRENT RESOLUTION ON THE BUDGET, 1992

Mr. PANETTA. I ask unanimous consent that in the engrossment of House Concurrent Resolution 121, the concurrent resolution on the budget, 1991, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing the concurrent resolution.

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

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 598. An act to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities, to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 248. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, and for other purposes.

REQUEST TO MAKE IN ORDER TONIGHT CONSIDERATION OF A JOINT RESOLUTION RELATING TO THE RAIL STRIKE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order tonight to consider in the House a joint

resolution to be introduced by Representatives DINGELL and LENT relating to the rail strike, that the joint resolution be debatable for not to exceed 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit.

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

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, and I will not object, but would the majority leaders give us some idea of timing for this evening? What is going to happen?

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

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I will ask the gentleman to yield also to the chairman of the committee, but I believe it is planned that there will be a meeting of the subcommittee and the committee within the next hour, and that we will try to be back on the floor with the bill around 8:30. If there is an hour of debate taken and all the time is taken, we would probably have a vote about 9:30 this evening. That will be the only vote, and if this bill is passed in the same form by the Senate tonight or tomorrow morning, which we would hope, it would mean we would not have to have votes tomorrow; but of course, we do not know that until we know what the Senate has done.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

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

Mr. GINGRICH. Reserving the right to object, Mr. Speaker, I would ask my good friend, the gentleman from Michigan, to withdraw his request until say 7 o'clock. We are frankly and candidly trying to talk with the Secretary of Transportation, and we cannot find him right at this minute. We would like to have time to sort this out.

We believe we could have unanimous consent say at 7 to take this bill up at 8:30, and we would not have lost anything.

We would recommend the staff to proceed on that presumption, but if we could go to special orders or do whatever is appropriate and then ask the question at 7 o'clock, we think at that point we could say yes.

Mr. GEPHARDT. Mr. Speaker, on the basis of that, I withdraw the unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Missouri withdraws his request.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I take this time simply to inform Members that if we get a bill and if we get it through the House this evening, it may be necessary to go to conference with the Senate if there is a difference, and we do not know that that will happen, but Members should be on the alert that this could happen and you may be needed to stay in the area this evening.

Further, that if we have a conference this evening, we would want to finish it this evening and bring back that product tonight.

□ 1800

But again, we do not know that a conference would be needed, and we hope one will not be needed.

Members should also be advised that there will be no votes expected before 9:30 this evening on this or any other matter.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES TODAY SUBJECT TO A CALL OF THE CHAIR

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses today subject to a call of the Chair.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1292

Mr. CAMPBELL of Colorado. Mr. Speaker, I ask unanimous consent that the name of the gentleman from California [Mr. PANETTA] be deleted as a cosponsor of H.R. 1292. His name was listed on that bill by accident.

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

There was no objection.

EXPLANATION OF LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to speak for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman, the majority leader, is recognized.

Mr. GEPHARDT. Mr. Speaker, I simply wanted Members to know that when I said before that there will not be a vote until 9:30, that if we come back to the floor at 7 o'clock and ask for unanimous consent at that time and unanimous consent is not obtained, there is the possibility that prior to 9:30, there could be an effort to come back to the floor to ask for the voting on a rule which would require a vote possibly prior to 9:30.

I simply put Members on notice. We will, obviously, contact offices. We hope that that will not happen, but I want you to be on notice that it might happen.

TRIBUTE TO FORMER REPRESENTATIVE ALBERT RAINS

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to one of the greatest Alabama Congressmen to ever serve my State and our Nation. Albert Rains, who died on March 22, was elected to Congress in 1944, representing North Alabama's old Fifth District. He served as the State's Congressman-at-Large for 2 years before retiring in 1965 to return to his home in Gadsden.

Albert Rains was a good friend of mine and when he left Congress, he became one of my constituents. We stayed in very close touch over the years and I always valued his insights. I am going to miss him very much.

Very few people achieve as much as Albert Rains did. He left a legacy for our Nation which will always be remembered.

He is best known for his outstanding work in developing the housing programs which have benefited thousands of people over the years. In fact, Albert Rains was known in Congress as "Mr. Housing."

Albert achieved greatness from humble beginnings. He was a blacksmith's son who worked his way through school. He was largely self-taught and obtained a license to practice law by reading at night. He was considered a brilliant orator.

When he came to Congress, he drew on his experiences as a schoolteacher and principal as well as a steelworker. Albert Rains cared deeply about people and the legislation he wrote reflects his concern that the American people should have decent housing. He went to bat for the needy, the elderly, the military, and for rural programs.

Much has been written about Albert Rains, but I feel that the Gadsden Times captured his essence the best in an editorial on March 26. I request that this editorial be printed in the RECORD.

[From the Gadsden Times, Mar. 26, 1991]

ALBERT RAINS WAS A POLITICAL GIANT

Albert Rains would have served as a good model for anyone wishing to preserve the image of the quintessential congressman.

This man was symbolic of just about everything associated with the giants of any political era. The requirements for such stature are basic but hard to achieve, and he had them all. Safe from any real re-election challenge, he was entrenched by seniority, sat at the head of the table on three major legislative committees, helped guide the partisan political establishment to which he belonged and was a friend of presidents.

The death of Mr. Rains marks the passing of yet another of the Southern Democrat stalwarts whose feats and reputation in Washington was legendary. Hardly any key

legislation was passed during his time without the guidance of one or more of this handful of Democrats. It is unlikely this kind of coalition will be seen again now that seniority no longer is the overriding criteria for legislative assignment and advancement.

Mr. Rains had been away from Washington for many years, thus his name doesn't generate the immediate recognition among the younger generation as it does with their parents and grandparents. But all three are affected by legislation he helped draft. And future generations will be, too.

Foremost among them are laws which created or expanded federal housing programs. He was generally referred to in Washington as "Mr. Housing." He also was instrumental in legislation affecting banking and transportation. He authored the first major transit bill and was a ranking member of the committee dealing with banking. His friendship with Presidents Kennedy and Johnson made his influence even greater.

Background adds to the Rains' story. He was a school teacher while still a teenager. He went back to college and became a lawyer. Setting up practice in Gadsden in the late 1920s, he was the city's attorney and the county's district attorney. He got his first political experience as a state legislator, where he continued to put his speaking skills to use.

Mr. Rains was away from Gadsden much of the time for 20 years while he served in the House, but he maintained an unbroken and close friendship with the community and the rest of his congressional district. In Gadsden where he made his home for 60 years, he was associated with various community causes, particularly the Lions Club of which he was a charter member.

Albert Rains was recognized nationwide for his political strength. He sponsored and wrote legislation that will endure. But he always kept the down home atmosphere of Gadsden and his native DeKalb County, never forgetting the people he was sent to represent.

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION FOR FISCAL YEAR 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology.

(For message, see proceedings of the Senate of today, Wednesday, April 17, 1991.)

EARTH DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 119) to designate April 22, 1991, as "Earth Day" to promote the preservation of the global environment, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of our colleague, the gentleman from Wisconsin [Mr. OBEY], who is the chief sponsor.

Mr. Speaker, at this time I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise today to support House Joint Resolution 144, designating April 22, 1991 as "Earth Day" and I would like to commend the gentleman from Wisconsin [Mr. OBEY] for his efforts on behalf of our environment.

April 22, 1990, will mark the 21st anniversary of our Nation's first Earth Day. On that first Earth Day, the United States saw the beginning of the environmental movement, as well as the largest organized demonstration in history.

Now, Earth Day, 1991, will come in a few short days, and we have the opportunity once again to enact landmark environmental legislation to address new environmental problems which we are only beginning to understand.

As we all know, the problems we face in our country are different, however, our problems are also those of our neighbors. And their problems, if not addressed, become ours. Therefore, it is vital that we offer our assistance to those countries that need our help. The United States, despite our problems, is the leader in environmental technology, and we have the opportunity to lead the world into a better future.

There are many steps we can take each day to protect our environment. Turning down the thermostat, insulating our houses, using energy efficient cars, and light bulbs are all ways in which we can protect the environment and save money at the same time.

In Congress, it is hoped that the debate on the national energy strategy will yield productive solutions to our energy dilemma.

Accordingly, I urge my colleagues to support this measure and I hope that everyone will join in and enjoy the celebration of Earth Day and learn a little more about our environment.

Mr. RIDGE. Mr. Speaker, continuing on my reservation of objection, I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I was pleased to have had the opportunity to introduce the resolution to declare Earth Day, 1991 with my colleague from Wisconsin [Mr. OBEY].

Much of the success of last year's 20th anniversary celebration was the tangible effect that the process had on individual Members of Congress. Collectively, the events surrounding Earth Day have resulted in a Congress more personally aware of environmental affairs, their severity and their consequences, than ever before in history.

But, let's be honest, there are a few things missing from this year's 21st celebration of Earth Day. There's no huge rally on The Mall, no Tom Cruise, no John Denver, no Richard Gere. Yet here we are, expected to continue our work to help heal and protect the Earth—after the hype has died and the fanfare has withered leaving the typical lobbyists.

Now, now is the time when we must do our best work.

This Congress, our list of legislative challenges and responsibilities is long: RCRA, clean water, wetlands, endangered species, an energy strategy, and more. And in the area of foreign assistance, we have to be positive that our scarce dollars do not in any way contribute to destruciton of the natural resources of the countries we are seeking to help and in fact work positively to protect them.

Mr. Speaker, resources to address our concerns are not easy to come by. Efficiencies and creative new approaches will be needed. Efforts to work more closely with the States, many of which have more stringent environmental standards than the Federal Government, should be a high priority.

From the oil fires in Kuwait to interstate transport of waste, from pollution in Eastern Europe to the growing hole in the ozone layer, there is a great deal that should be, must be addressed, and addressed forcefully.

When this country gathers its will, its expertise, and its resources, there is little that we cannot accomplish.

Earth Day is a good time to remember this. I hope you will all join me in supporting this resolution.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, before we conclude this matter, I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE], my colleague, for yielding, and I do want to address briefly the question of Earth Day.

Mr. Speaker, I was here in the Congress 21 years ago when we had the first Earth Day, and it was an exhilarating and inspiring experience. It galvanized especially young people all over the land.

In addition, last year we had a similarly really truly encouraging and worthwhile celebration of Earth Day, and one hopes that we are educating the public. I think we are.

There is one segment of that great big wide public out there that we have not seemed to reach in terms of educating them for Earth Day, and that seems to be that narrow constituency, that small constituency of decisionmakers, down at 1600 Pennsylvania Avenue.

Mr. Speaker, I think countries around the world are coming to a grim realization that the problems of greenhouse gases and global warming are real. There is some controversy at the margin as to how soon, how fast, how much with it they are, but the fact of global warming is there. The effect of the accumulation of greenhouse gases is real. No serious scientist debates, and decision makers, and scientists and top government people all over the developed world are cudgling their brains to figure out how they can reduce their impact on the global environment, how they can reduce especially the consumption of fossile fuels that seems to be the engine propelling the accumulation of greenhouse gases, and the destruction of the ozone and the seemingly irreversible, inevitable process moving us toward global warming.

They are trying to reverse the seemingly irreversible, and they are giving it great attention and concern.

Mr. Speaker, I find it truly ironic that at this time, when there is an emergent consensus around the world that global warming and greenhouse gases are bad for us, this administration chose to announce a national energy policy that has as its underpinnings not conservation, not energy efficiency, not renewable sources of fuel, but a greater and greater and greater reliance on more development, more transportation from abroad, and more consumption here at home of—you guessed it—more fossil fuel.

Imagine the irony that this administration received from the Secretary of Energy, Jim Watkins, a thoughtful, a courageous draft of a national energy plan that has as its intellectual underpinnings a rational balance between energy production and energy savings, a rational role for energy conservation, for energy efficiency, for development of alternate fuels. And it is a source of great disppointment to me and great concern that the administration, and I take it from published reports with he architect of this trashing of Admiral Watkins' program being the gentleman from New England, Mr. Sununu, it is a source of great chagrin and embarrassment to me that this administration has given a straightarm to concepts that have been rationally developed and thoughtfully put in forms that would lead us to more rational use of energy, more creative application of research and investment to alternative fuels, and more concern for energy efficiency.

This myopic, irrational reliance that this administration places on greater and greater and greater production of fossil fuels, and greater and greater and greater consumption of fossil fuels, more than half of them that will be imported from abroad, most of that from the Persian Gulf, vastly increasing our energy security problems, is a source of great chagrin and embarrassment to me.

Mr. Speaker, I helped organize several years ago an organization called GLOBE. [Global Legislators Organization for a Balanced Environment]. I served as its first chairman. The organization now has a 15-member delegation from the European parliaments, including the chairman of their Environment Committee; a 15-member delegation from the Japanese Diet, including Noboru Takeshita, the former Prime Minister of Japan; and a 15-member delegation from the United States, including all of the leadership of the House and the Senate. It is a prestigious and highly, formidably able group.

Yesterday we had a dozen legislators from Brazil and they asked me, "How could you do it? With the consensus around the world driving governments, driving legislatures to adopt more thoughtful energy policies, how could you trash concepts of energy efficiency, energy conservation, and development of alternative fuels?"

Of course they are very proud of the development of alternative fuels in Brazil, and they very subtly and gently enunciated the feeling that it was somewhat anomalous that we would be trashing Brazil, criticizing Brazil for her destruction of tropical rain forests, which do produce a great amount of fossil fuels, which do contribute to global warming, while at the same time out of the other side of our mouth we are relying almost exclusively on continued production of fossil fuel energy abroad, continued transportation of fossil fuel energy from abroad to our shores, and continued consumption of fossil fuels in this country.

Legislators in parliaments around the world have been in touch with me in recent weeks, as chairman of GLOBE, asking for an explanation. Frankly, Mr. Speaker, I have none. My term as chairman expired, and our organization is honored to have Senator AL GORE as the new chairman of GLOBE and Congressman GERRY SIKORSKI will shortly be moving into position as chairman of the American delegation to GLOBE U.S.A.

I hope they will come up with an answer to thoughtful, conscientious legislators around the world, especially in the developed world, to give them some understanding, some perception of how this administration could have turned its back on sanity, could have turned its back on rationality, and retreated into this utterly destructive posture of more and more and more fossil fuels which will continue to degrade our environment and expose us to global warming, holes in the ozone, and more acid rain and all manner of sad environmental defects.

I thank my colleagues.

Mr. OBEY. Mr. Speaker, I, along with Congressman PORTER and 225 other cosponsors, support House Joint Resolution 144 and its companion, Senate Joint Resolution 119, which designate April 22, 1991, as Earth Day.

The purpose of this legislation is simple—to promote a conservation ethic and awareness in our society regarding the need to protect our environment. It is clear that if our children and our children's children are to grow up in an environment which is wholesome, we must instill in each new generation the awareness that is necessary to meet the challenges that confront us. In this regard, it is refreshing that this year, 21 years after the first Earth Day, schools and communities across the Nation are planning events to celebrate this important event, with the goal of making every day Earth Day.

In 1969, Senator Gaylord Nelson realized the value that a nationally organized series of events like the powerful campus teach-ins directed at the Vietnam war could have in placing the issue of the environment on the national agenda. He announced his proposal for a national Earth Day to be held the following year and he drew together talented young people to organize the event. The result was Earth Day. I remember the first Earth Day fondly, as it was just after my first year in Congress. Earth Day 1970 was important enough to many Members of Congress that they left Washington and participated in teach-ins all across the country.

April 22, 1970, was a day that sensitized an entire generation. Approximately 20 million American citizens joined together in celebrating the Earth. Their main objective was to enlighten the world about our environmental mismanagement. Unfortunately, after 20 years and increased participation by over 200 million people, our society is still environmentally lethargic.

This resolution will designate April 22, 1991, as Earth Day and will reemphasize the fact that this year's events are part of a 21-year tradition. We can only hope that, whereas Earth Day 1990 focused on environmental awareness. Earth Day 1991 will focus on environmental action by highlighting people who have made personal changes in their lifestyles for the betterment of the Earth. Earth Day 1991 will mark another step toward a society guided by a conservation ethic.

I have a special message for interest groups which are supportive of this resolution: I hope you are tough minded enough not to be fooled by some Members of this institution whose only indication of support for environmental protection is to pose for political holy pictures by supporting this resolution. My feeling is that Members of Congress who signed on and supported this resolution today ought to be willing to cast the tough votes tomorrow to make this Earth Day more than just a passing fancy.

As the next generation enters the working world, the burden of environmental reconciliation will be magnified. With strong leadership now, perhaps our great-grandchildren will be able to enjoy nature as we now know it. I'm happy to say that over 315 communities and cities have already committed themselves to Earth Day 1991. However, we must not stop striving towards our goal to make every day Earth Day.

I am hopeful that Monday, April 22, will be only the beginning of a week in which every citizen of the world takes stock of where we are and where we are going. Wouldn't it be wonderful if environmental education were provided in every school kindergarten through high school, as in Wisconsin? In this way, we could cultivate a deeply ingrained conservation ethic in our children to assure that we will not continue to mortgage our planet's future for momentary gain.

I am optimistic that our children and their children will grow up knowing that, as individuals, they have it in their power to make lifestyle decisions and to insist on governmental policies which will create a cleaner, healthier environment and a more livable planet for all of humanity.

Mr. JAMES. Mr. Speaker, in honor of Earth Day, I rise today to talk about the future of our world.

Today, all of us will be more conscious about the need to protect our environment. We'll discuss the dangers of worldwide deforestation, offshore oil drilling, air and water pollution, and global warming.

All of these are certainly important environmental initiatives. They are issues that must be seriously addressed.

An equally important part of Earth Day, however, is for each and everyone of us to examine our daily lives and discover how we can personally take steps that will help protect the environment.

Whether it be taking reusable bags to the grocery store; recycling newspapers, glass, aluminum, and motor oil; or, building our homes to be energy efficient; all of us can do our part.

In the past year, more Americans have become concerned about the environment.

Without any fanfare, Americans in thousands of communities are tackling serious environmental problems by just doing it.

Local schools annually conduct newspaper recycling drives, community-service organizations dispose of Christmas trees, customers work with local businesses to reduce the use of nonbiodegradable products, and community leaders purchase land for precious wildlife.

Even Washington is joining in.

Since last Earth Day, Congress has enacted the Clean Air Act, the Pollution Prevention Act, and the National Environment Education Act. Deliberations on important environmental initiatives such as the future of our forests and global warming have begun.

And in my home State of Florida, we're working to preserve valuable wetlands, endangered wildlife, and our fragile coastlines.

One of our top concerns is offshore oil drilling. I'm proud to work with my colleagues in the Florida delegation to ensure that our beaches are never covered with oil. To reaffirm my support, I'm signing a letter today written by my colleague and friend, the Honorable ANDY IRELAND.

Mr. IRELAND is helping to lead an effort to stop oil drilling in the Eastern Gulf of Mexico. I'm proud to support his effort.

All of these initiatives are being undertaken by Americans who want to leave a better world for our children. To me, that's the importance of Earth Day. It's more than just a yearly celebration, it's a time for all of us to reaffirm our resolve to leave something very valuable for our children—a cleaner world.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 119

Whereas the world faces an international environmental crisis which demands the attention of citizens of every nation of the world, including the United States, so that alliances can be built that transcend the boundaries dividing countries, continents, and cultures;

Whereas there is a need to confront environmental problems of increasing severity, including climate change, depletion of the stratospheric ozone layer, loss of forests, wetlands, and other wildlife habitats, acid rain, air pollution, ocean pollution, and hazardous and solid waste buildup;

Whereas it is important that the next generation be guided by a conservation ethic in all of its relations with nature;

Whereas education and understanding is necessary for individuals to recognize the environmental impact of daily living and to become environmentally responsible consumers by conserving energy, increasing recycling efforts, and promoting environmental responsibility in communities;

Whereas major public policy initiatives are necessary to cure the causes of environmental degradation, such as eliminating the manufacture and use of chlorofluorocarbons, minimizing and recyling solid wastes, improving energy efficiency, protecting biodiversity, promoting reforestation, and initiating sustainable development throughout the world;

Whereas nearly 21 years ago, millions of individuals in the United States joined together on Earth Day to express an unprecedented concern for the environment, and such collective action resulted in the passage of sweeping laws to protect the air, water, and land;

Whereas the 1990's should be observed as the "International Environmental Decade" in order to forge an international alliance in response to global environmental problems; and

Whereas to inaugurate the new environmental decade, individuals should again stand together in cities, towns, and villages around the world for a day of collective action to declare a shared resolve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 22, 1991 is designated as "Earth Day", and the people of the United States are called upon to observe the day with appropriate ceremonies and activities in our grade schools, high schools, colleges and local communities with the objective of making every day Earth Day.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 16) designating the week of April 21–27, 1991, as "National Crime Victims' Rights Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to our colleague, the gentleman from Pennsylvania [Mr. GEKAS], who is the chief sponsor of this resolution.

Mr. GEKAS. I thank the gentleman for yielding.

I say to the Members, to all who are within listening and viewing distance from this podium, that the adoption of this resolution will result in the establishment of next week, April 21 through April 27, as "National Crime Victims' Rights Week." This is not the first time that we will have done this particular deed as Members of the Congress and it will follow a pattern in which increasingly the public, as represented in the Congress, is being made aware of the rights of crime victims and to try to strike a balance between what everyone seems to be pushing for, the rights of the defendants in cases where we feel that some recognition, overwhelming recognition, ought to be given to those who suffer the consequences of a violent crime.

Every day, and I repeat so that the full focus of this can be made clear, every day in our country there are 16,000 burglaries committed.

I said, "every day."

□ 1810

There are 13,000 assaults every day, 3,000 robberies, which is a violent crime. A robbery is to steal from someone's person through violence. Three thousand a day. There are 350 rapes a day in our country, 60 murders a day, 62 deaths by motor vehicle every single day.

Needless to say, Mr. Speaker, the toll that that is taking then in the form of lives, and property, and cost, and so forth is almost immeasurable.

The particular fact that has to be brought to light as well here is that women are increasingly becoming the victims of crime. As the number of crimes go up, proportionately the victimization of women goes even higher in those statistics. It is calculated that because of this trend that three out of every four women in our country will face and be a target of some violent crime at one point or another through their lifetime. Now that is an appalling figure.

Mr. Speaker, we know the recent emphasis that we have put on this legislative body, as well as in the States, on the victims of rape, and we have done some great reforming legislation with respect to the victims of rape, and how testimony can be proffered, and some safeguards that have been put in for a rape victim so that we make sure that she is not the person on trial, but rather the defendant who perpetrated the crime. But still we need to recognize that there is more.

The cost of these burglaries, property damage, as great as it is, is, as best as can be said, serious, and there are thousands of injuries and deaths that occur as a result of violent crime, and then on top of that those who do survive go through a period of grief, frustration, lingering pain, and psychological damage. We are talking about people who are families and friends of the person who has become a victim of a homicide or even of an assault. So, all of this mounts up into a society that is pretty well stunned by the crimes that are committed in our country.

The President of the United States, through his initial campaign for the Presidency, and later in his inaugural address, and since then, has become a champion of victims of crimes, and he has set up a White House ceremony next week in order to properly focus on this particular problem. He is following along a pattern that was set by his predecessor, President Reagan, who not only established such a week as we are replicating here next week, but also created a task force on victims' rights, which, in turn, made certain recommendations which turned into legislation that we, as a Congress, were able to enact and place into law which compensates crime victims through a system of collection of fines by the very people who committed those crimes. So, there is a kind of ironic justice there that we are putting on record, and it will continue through the years to come.

So, Mr. Speaker, I ask the Members and everyone else to help, not only in supporting the resolution, but in the support of the actual commemoration where we stop and think about what crime is doing to our people and that this war on drugs and war on crime that we have all declared shall indeed continue until we can see positive results and a peaceful, nonviolent future somewhere down the line in the history of the United States.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE] for yielding the time and the gentleman from Ohio [Mr. SAWYER] who heads the Committee on Post Office and Civil Service.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I would like to thank my friend and colleague, the gentleman from Pennsylvania [Mr. GEKAS], who has been a moving force in support of this kind of initiative and defender and promoter of victim crime legislation. On the Committee on the Judiciary he is an outspoken proponent and supporter of the President's crime bill initiative.

Mr. Speaker, under my continuing reservation of objection, I yield to our colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleaded to rise in strong support for House Joint Resolution 171 designating the week beginning April 21, 1991, as "National Crime Victims' Rights Week," and I command my colleague Mr. GEKAS, from Pennsylvania for his efforts to honor those who are victims of crime.

Recently, Representative BEN NIGHTHORSE CAMPBELL was on his way to his Capitol Hill home, when a man tried to mug him. Mr. CAMPBELL was fortunate to be strong enough to fight off his attacker and he can consider himself lucky that he only injured his ankle while fighting off the mugger. However, there are millions of Americans who cannot fend off their attacker or attackers.

Mr. Speaker, by supporting National Crime Victims' Rights Week, the victims of crime can become aware of the various support organizations and how they can help the victims. The victims need to know they have rights.

The Bureau of Justice estimates that there are 35 million American victims of crime each year. Six million victims fall prey to violent crimes such as rape, assault, murder, child abuse, and drunken driven casualties. These crimes can leave the victim physically, psychologically, and financially paralyzed for numerous years following the incident. Victims need to be educated of their rights.

The victims of crime and the advocates who support and assist the rights of victims need to be honored with appropriate ceremonies and activities.

The advocates who serve the rights of victims have the difficult job of constantly taking on the criminal justice system. They are continuously stressing the point that all victims have equal rights no matter what their race, religion, or ethnic background may be.

By designating the week beginning April 21, 1991, as "National Crime Victims' Rights Week" we have the opportunity to enlighten the American people that victims of crime have rights and those rights are protected from criminal activity.

Accordingly, Mr. Speaker, I urge my colleagues to join me in supporting this important resolution.

□ 1820

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 16

Whereas thirty-five million individuals in the United States are victimized by crime each year, with six million falling prey to violence;

Whereas the Department of Justice estimates that five out of six individuals will be the victim or intended victim of crime during their lifetimes;

Whereas many victims suffer severe psychological, physical, and emotional hardships as a result of victimizations;

Whereas the Nation must commit its collective energies to improving the criminal justice and social services response to victims; and

Whereas, as a Nation committed to justice and liberty for all, efforts must be continued to remove the inequities victims face and to protect and restore individual rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 21 through April 27, 1991, is designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities:

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 218) to designate the week beginning April 21, 1991, and the week beginning April 19, 1992, each as "National Organ and Tissue Donor Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so, to acknowledge the work and sponsorship of this measure by our colleague and friend, the gentleman from Washington [Mr. MORRISON].

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

Mr. RIDGE. I yield to the gentleman from Washington.

Mr. MORRISON. Mr. Speaker, I thank the gentleman for yielding.

I thank the committee for their expeditious processing of this measure. I thank the majority of the House for joining in the cosponsorship, particularly the gentleman from Tennessee [Mr. GORDON], who helped in acquiring the cosponsors.

Mr. Speaker, by this resolution we ask America to join us in Tissue and Organ Donor Awareness Week. It has been almost a decade now that this House has come together and has advocated this concept. We have asked America to give of themselves by signing up as organ donors.

It has been a dramatic success, and we could tell a lot of stories here, as we pointed out the lives that have been saved over this time. Maybe partially because some of you have given of your extra time in dealing with these commemoratives on the floor, but what happens, springing into action during this week, a number of voluntary organizations waiting for this opportunity to get the word out to America.

Unfortunately, in the organ donor arena, even with all the success we have had, demand grows faster than supply. So through this process today we are asking Americans to help America to live on by giving to others, and to sign up as organ donors. We make it very, very easy to do so, but you have to plan ahead.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I simply want to acknowledge the work of the gentleman from Washington [Mr. MORRISON]. I can recall being with him on the floor as he embarked on a similar effort over the past couple of years, and I know of his interest in this effort, not only with the resolution but in making tissue and organ donations available and familiarizing people with the necessity and value of the program. The moral imperative has been one of his special commitments that he has brought to the House of Representatives. So I commend him today, not only for his leadership on this initiative during this year, but for his continuing leadership in activities of this kind throughout his congressional career.

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

Mr. RIDGE. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania, and I pause just briefly to thank both the gentleman from Washington [Mr. MORRISON] and the gentleman from Pennsylvania in turn for their tenacity and patience in bringing this matter before us in this way.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 218

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 21, 1991, and the week beginning April 19, 1992, are each designated "National Organ or Tissue Donor Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1830

NATIONAL ARBOR DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 64) to authorize the President to proclaim the last Friday of April 1991, as "National Arbor Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I do so simply to acknowledge the work of the sponsorship of the gentleman from New Jersey [Mr. ROE], who is the chief cosponsor of this resolution.

Mr. ROE. Mr. Speaker, I want first of all to thank Chairman CLAY, Mr. SAWYER, the distinguished chairman of the Subcommittee on the Census and Population and the gentleman from Pennsylvania [Mr. RIDGE], for their support on the expedient passage of Senate Joint Resolution 64, "National Arbor Day 1991." I would also like to commend my fellow sponsors on the House bill, House Joint Resolution 66, for their assistance and attention to this matter.

It was over 100 years ago that the State of Nebraska established the first official Arbor Day observance in America. Today, there are less than a handful of states that do not have an Arbor Day which is observed by schools, service clubs, and civic groups, as well as Arboricultural, Horticultural, and Agricultural groups.

The importance of trees to the environment has been recognized throughout history. In the ancient world, trees were worshiped as deities, and in some civilizations, a festival celebrating trees was an important part of culture. Every day we are reminded that this resource like any other is finite. Man's encroachment on the environment can have serious consequences, through carelessness or accident it can be destroyed. I believe it is very appropriate to honor those who work to make us aware and educate all of us to the vital need to protect and preserve our arboreal resources.

Just a few weeks ago, we joined together to celebrate the National Cherry Blossom Festival in our Nation's Capital. This event which celebrated the magnificent display of blossoms was possibly one of the most spectacular presentations in the history of these arbors. These wonders are just additional evidence of our Nation's devotion to this national resource.

Speaker, I would like to commend the Committee for National Arbor Day, and the Honorable Harry J. Banker who publishes the National Arbor Day Review and all the organizations which lent their support for their work to bring this legislation to life and ensure that Friday, April 26, National Arbor Day will more than enhance public awareness in name only.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 64

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April 1991, as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the joint resolutions that we just considered and passed, namely, Senate Joint Resolution 119, Senate Joint Resolution 16, Senate Joint Resolution 64, and House Joint Resolution 218.

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

There was no objection.

GENERAL LEAVE

Mr. RIDGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on Senate Concurrent Resolution 22, which was adopted earlier today.

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

There was no objection.

CREATING JOBS FOR AMERICANS SHOULD BE HIGH BUDGET PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. ANDREWS] is recognized for 5 minutes.

Mr. ANDREWS of New Jersey. Mr. Speaker, on Monday of this week I had the occasion to host a meeting in my district at which several hundred unemployed construction workers from my First District in New Jersey turned up at the local Carpenters Union Hall in hopes of hearing some information about their prospect of getting a job in the rebuilding of Kuwait.

The news that we were able to give them that day was not particularly the news that they wanted to hear. We had to tell them there were very few jobs in Kuwait that are presently available, and that the prospects for American workers to receive those jobs are, frankly, not particularly good, unless we take some action at this time.

What I thought was particularly poignant about that is that this is a country with more amassed wealth than anywhere in the world, a country that is capable, as we have seen very recently of achieving virtually anything, anywhere in the world, on a military and technological basis, but we have permitted our economy to deteriorate to the point where hundreds of people, skilled people, hard working, motivated people living in this country, are willing to pick up and move halfway around the world because there is not a sufficient job for them here in the United States.

That is why I cast a "no" vote today on both of the budget resolutions before the House of Representatives. Let me hasten to say that I am very proud that my party took a stand in its budget resolution in favor of a lot of priorities that I know my constituents also stand for.

We took a stand for good benefits for senior citizens; we took a stand for increased educational opportunities for all of our people; we took a stand for cleaning up the environment; and when the time comes in the appropriations process to make sure that the dollars are delivered to make those promises a reality, I will be there to support the delivery of those dollars.

But in the two budget resolutions that we had before us today, we really had a broader question about where we are going as an economy, where we are going as a country, and what our economic strategy is and is not.

I voted against the President's proposal and the proposal of our Democratic Party for three reasons. The first reason is that in the midst of the worst recession we have had in over a decade, I did not see an antirecession, progrowth, proindustrial base proposal in either one of those budgets.

The President wants us to believe his capital gains tax cut proposal will produce jobs. He wants us to believe if we give a massive tax benefit to the wealthiest 2 or 3 percent of people of our economy, that they will do the right thing with it. It will trickle down, and those unemployed workers I talked to Monday will benefit from it.

I do not believe that, they do not believe that, and anyone who studied the economic history of this country in the 1980's knows that the objective record does not support that.

My own party needs to come up with a program for economic growth that leaves more dollars in people's pockets and makes people have an incentive to invest more of those dollars in the diminishing industrial base of this country, so people can have the kind of jobs where they can support their family and move on and improve their standard of living, and not just stand still the way they are today.

The second reason I voted against both proposals is that, as the gentleman from Vermont [Mr. SANDERS] said, there is a 1-percent difference between the two. One percent.

Now, the fundamental question here, and I know there are others who would disagree with the way I come at this question, is that a budget of $1.45 trillion is just too much. That is too many dollars going out of the pockets of working men and women in this country and coming to Washington.

I would argue that there is very little difference between the Republican proposal and the Democratic proposal. They share in common one basic economic point, and that is that the proper economic policy is to take money away from people who earned it, and use the Federal Government in Washington to redistribute it.

The only thing they differ on is to whom to redistribute that money. The Republicans in the White House want to redistribute the money to noncompetitive defense contractors, to our foreign creditors, and to their favorite clients served by the Federal bureaucracy.

Some Members in the Democratic Party want to use the Government to redistribute that money to bureaucracies which claim to be helping people move ahead, but the objective record says they just are not. They just are not moving ahead.

The third reason that I opposed this budget is that I do not think it engages in the same kind of analysis we need to have when we look at spending. We ought to ask ourselves three questions whenever we are asked to spend one of the taxpayers' dollars.

□ 1840

The first question is does this spending induce or retard economic growth.

The second question that we ought to ask is if the Government did not provide this service, would somebody else, or is it really necessary to provide nutrition for young children or housing for senior citizens or environmental protection, and if it is, we should do it, and we should do it at a greater level and with greater quality then we are doing today.

Finally, we ought to ask ourselves the question whether it is the best way to deliver that service. Does it really make sense? Is this appropriation going to build more houses or add to the housing bureaucracy? Is this appropriation going to provide higher income for senior citizens or more bureaucrats in the Federal Government?

Those are the kinds of questions we ought to be asking ourselves. The 300 or 500 workers I talked to on Monday were not included in this budget today. There was not a sufficient proposal to put them back to work building America, not selling each other insurance policies or doing word processing for each other, although we need those service industries and they are good. But there was no proposal to face the inexorable deterioration of the industrial base of this country.

I do not want to be in a position in this country 10 years or 20 years from now where if I want to build a house or manufacture steel or buy a car that I cannot buy a product made in the United States. That is the path that we are on. That is the direction we are in, and each of the two budget proposals taxed our people, led us further down that road and did not deal with the fundamental problems of the American economy.

INTRODUCTION OF RESOLUTION TO REPLACE IRAQI GOVERNMENT WITH UNITED NATIONS ADMINISTERED GOVERNMENT

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Under a previous order of the House, the gentleman from Florida [Mr. BACCHUS] is recognized for 5 minutes.

Mr. BACCHUS. Mr. Speaker, my first vote as a Member of this House was a vote for a new world order.

In January, I voted to authorize the President of the United States to use military force to end the occupation of Kuwait by Saddam Hussein.

I did so because I seek a new world in which our American dream of freedom and democracy can one day become a reality for everyone, everywhere.

I did so because I believed our President when he said that he believed in that same new world.

But today that new world we sought in January looks very much like the same old world. Today, when I listen to our President, I am not sure what he believes.

The new world I envisioned is not one where armies are allowed to slaughter their own people with helicopter

gunships and chemical weapons. It is not one where starving, freezing children are allowed to die on remote mountains. It certainly is not one where the United States of America turns away from its responsibility to a brave and helpless people, offering only the hollow excuse that we cannot interfere in the internal affairs of another nation.

There is a word from the old world order to describe what is happening in Iraq. That word is genocide. The mountains of Iraq are the new death camps, the new killing fields. One thousand precious lives are lost every day.

I'm far more interested in saving real lives than I am in the heartless nuances of heedless realpolitik. If the new world order is to mean anything at all, we must use all reasonable diplomatic, economic, and military means to end the mass murder of the Kurds, prevent the mass sacrifice of the Shiites, and remove Saddam Hussein from power. We must send a message once and for all that we value the fundamental human rights of oppressed people more than we value the territorial rights of oppressive governments.

President Bush did a superb job in bringing the world community together to drive Saddam Hussein from Kuwait.

Rarely has the moral and military might of the United States been so effectively and properly applied.

Why has the President not shown the same leadership in bringing the world community together to help the innocent people of Iraq? Can we truly celebrate victory amid reports of mass starvation and mass execution? Can we truly treasure the homecoming of our troops while children are tortured before the eyes of the world? Are the yellow ribbons we have worn so proudly beginning to fray?

I applaud the actions the President took yesterday to protect the Kurdish refugees. I wish that those and other urgently needed actions had come sooner. In recent weeks, I've been deeply disappointed in the President. He called on the people of Iraq to rise up against Saddam Hussein. I heard him. The whole world heard him. America must not abandon them now.

So today I have joined my distinguished colleague from New York, Mr. SOLARZ, in a letter to the President urging him to seek a Security Council resolution calling for the resignation of the brutal government of Saddam Hussein and its replacement by a government administered by the United Nations that would hold free and fair elections. We believe that this resolution must authorize the use of whatever means are necessary to enforce this demand.

In concert with other members of the allied coalition, we must do all we can to stop the slaughter in Iraq. We should destroy Iraqi helicopters, warplanes, and artillery when used against civilians. We should arm and finance what remains of the resistance against Saddam Hussein.

Building on the belated efforts of recent days, we should expand our relief efforts to feed, clothe, and shelter the vast refugee populations fleeing oppression. We should work through the United Nations to create safe havens for refugees inside Iraq. We should move quickly to provide American troops to protect the Kurds in northern Iraq, and we should not remove our remaining troops from southern Iraq at this time, for that would allow Saddam to slaughter the Shiite refugees we left behind, even as he has slaughtered the Kurds.

I am not advocating solely unilateral action by the United States. I am not advocating that we march on Baghdad and impose a government on the people of Iraq.

I am advocating that we help give the Iraqi people the means to accomplish what President Bush encouraged them to do: Overthrow Saddam Hussein, and establish a new government that will live in peace with its own people and with the rest of the world. I am advocating that we live up to the principles that our brave men and women have been defending in the Persian Gulf.

America must continue to stand for what America is supposed to stand for. Only then will we have a victory truly worth celebrating. Only then will we have real hope for the new world we seek.

BUILDING A NEW MACEDONIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, this Sunday the Macedonia Baptist Church in Mount Vernon, NY, is breaking ground for a new church building. This is not a new experience for Macedonia, which has had a number of homes in the 78 years of its existence. Instead, it is yet another milestone on a path of growth and service that has made major contributions not only to thousands of individual lives, but also to the entire Mount Vernon community.

When Macedonia was founded in 1913, by 11 men and women under the leadership of the Reverend James D. Morris, it met in a small mission at 111 West Third Street. Little more than a year later, it moved to South Eighth Avenue. In the years that followed, a succession of locations on South Ninth Avenue were the home for this growing congregation, until the completion in 1925 of the church building that the Reverend Rinico Nelson called a "Christian bulwark in our city * * * an edifice that would serve as a beacon light to all who came within the vicinity of the community."

That magnificent structure has served Macedonia well for over half a century. It has been expanded and redecorated, and has seen the congregation flourish and prosper. Now, the time has come for the church to begin construction of a new home. The task is one to which this congregation is well suited, for the people of Macedonia are builders. They have built a senior citizens' home that ensures decent care for the elderly, built up scholarship funds that provide college opportunities to young members of the congregation, and established a day care center that builds children into responsible members of the community. Under the inspired leadership of the Reverend Richard H. Dixon, who has served since 1958, Macedonia has built a congregation that is a model of dedication and involvement, and in the process has helped in many ways to build a better Mount Vernon.

I look forward to joining the friends and members of Macedonia as they begin construction of what will no doubt be an impressive new building. It will be a reflection of the congregation's continued growth, strength, and vitality. More importantly, it will reflect the spirit and commitment of the people of Macedonia. It is that spirit that has enriched the lives of so many and which has reached out to others throughout Mount Vernon. I know my colleagues join me in congratulating Reverend Dixon and the Macedonia congregation for all they have done and wish them every success in future endeavors.

NATIONAL LIBRARY WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, once each year we celebrate National Library Week. It gives us an opportunity to take a look at our most taken-for-granted institution. Libraries are taken for granted at every level. Libraries are an endangered species of institutions. More and more of them are being closed on a daily basis and many of them are facing tremendous budget cuts which threaten their survival over the next few years.

It is ironic that at a time like this the administration in the White House chooses to place zero in the budget for one act which offers some aid to libraries across the country. The Library Services and Construction Act was proposed to be zeroed out by this administration. It is ironic also because this administration supported a White House Conference on Libraries which is to take place this year between July 9 and July 13, a White House conference to consider the future of libraries and how libraries can be more effective in our society, and certainly how libraries can contribute to educational reform, which is very much on the minds of people these days.

We are told that tomorrow the President will announce a major new initiative for education.

□ 1850

When he was elected, he said he wanted to be known as the education President, and one great step toward the achievement of that goal, one great step toward being worthy of that label will be taken tomorrow with the unveiling of the next step in the President's education reform plan.

There are some serious contradictions that we face from an administration that places zero in the budget for library aid, which is already quite small; $135 million is all we are talking about. It has been at that level for the last 10 years almost. You know, $135 million is ridiculous for a basic institution undergirding all learning processes.

To allow our libraries to close is about as ridiculous as saying that we are going to fight a major war and shut down the ammunition dump. Are we going to fight a major war and the warehouse where all the spare parts are kept for the military vehicles will be closed? Libraries are that basic to the learning process. It is a great contradiction.

Mr. Speaker, I am not going to use stronger language because I think everything related to education, we ought to make an attempt to lift it above partisan deliberations and try to proceed on education in this country on a nonpartisan plane rather than hurl accusations at each other. Let us plead with each other to be rational, to be logical, to apply scientific methods as we proceed to try to improve education in America.

Certainly libraries are part of the process of improvement of education. I applaud the President's speechwriter or the President himself. He signed this letter, which he does every year for National Library Week, which has all of the right language. It is quite informed about the role of libraries and the importance of libraries.

I would like to begin my statement by placing in the RECORD the President's letter designating National Library Week. I will now just read a few quotes from this letter from the President. It begins:

There is at the center of virtually every American town a library, a repository of history and of our recorded hopes, dreams, and plans for tomorrow. Libraries require only that we have the desire to learn and to explore the fascinating world of knowledge and ideas. For those with the desire to read but lacking the ability, libraries hold a key to literacy as well, offering special educational programs for everyone. Libraries provide access to all of these treasures through both electronic and conventional retrieval services. Libraries also serve as favorite sanctuaries for our children. For students engaged in the lifelong process of learning, these institutions serve as a valuable point of reference. Indeed, for every citizen, from the serious researcher to the individual reading for pleasure, libraries refresh the spirit and enrich the intellect for every citizen. This year National Library Week is a celebration of the fact that those who read succeed. Libraries enable us to enjoy more fully the benefits of learning and opportunity and by promoting literacy for all Americans we can share those benefits with many of our fellow citizens.

Always we get an excellent letter from the White House. I agree with the basic reasoning, the basic statement in the letter, but there is a great contradiction between what the President states in his letters for National Library Week and what the administration consistently has been doing for the last 2 years, and before that the Reagan administration for the last 8 years.

We are embarked on a series of ridiculous kinds of contradictions when we move to restrict libraries at the same time we are calling for a new effort to improve education.

Mr. Speaker, I yield to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman from New York very much for yielding, because his concerns are my concerns.

Mr. Speaker, I am compelled to make a statement this evening, having met with several librarians from the State of Vermont yesterday, and they educated me as to what the President has in mind not only for the libraries in the State of Vermont but for the libraries throughout this country.

I agree very much with the gentleman from New York as to the horrendous impact that these proposed cuts are going to have.

Mr. Speaker, I rise in strong opposition to the President's proposal to decimate the Department of Education's funding for libraries. Shortly after the First Lady launched the "Year of the Lifetime Reader" campaign, the man who would have the American public think of him as the education President cut Federal support for the Library Services and Construction Act by 75 percent.

Ironically, at the same time the White House has announced a conference on library and information services. President Bush is quoted as saying that "improving the Nation's library and information services may be one of the best investments we make in our campaign to end illiteracy," that we need to "ensure that our Nation's libraries continue to serve as a valuable source of knowledge and training," that we "must meet the information needs of all of our citizens—especially minorities, the elderly, disadvantaged young people, and persons living in rural areas."

This, at the same time as he is cutting Federal aid for libraries through LSCA from $143 million to $35 million in his budget proposal. The impact of a cut of this magnitude would be enormous on the public library system.

In my State of Vermont, a rural State, we are very dependent on the small amount of Federal aid we receive for libraries. Let me give you just a few examples. LSCA title I provides $211,000 for regional libraries which provide services to the 42 towns which have no local library, as well as supplemental book collections to 196 small, rural libraries and consulting services, continuing education across the State. LSCA title II provides $136,000 in matching funds for renovation, construction, and technology enhancement. In Vermont none of these funds are used for administration. LSCA title III provides an 800 line connecting libraries around the State to a computerized data base, itself funded by the State. Our State librarian, Patricia Klinck, summed up the effect of the proposed cuts quite clearly: "In a rural environment, LSCA funding means the difference between access and isolation."

Not only is the 75-percent cut devastating to our public libraries. The fact is that the remaining $35 million for literacy is not specifically designated and would become part of the State Block Grant Program, which includes funds for welfare, human services, and education. Library services would, in all likelihood, not fare well in competition with more immediately obvious pressing needs such as hunger and housing, especially in these difficult economic times.

We must not allow these cuts to go through. We must speak out on the specific impacts of these and the many other cuts being quietly implemented while nonconsequential actions are used in a shell game to divert media attention from the real issues. In his letter accompanying the announcement of the White House Conference on Library and Information Services, President Bush writes, "Our ability to stay ahead depends, in large part, on our ability to stay informed." I could not agree more. The problem is that when the U.S. Government says one thing and does another, it is difficult for the American people to do that.

Mr. Speaker, I thank the gentleman from New York for allowing me to speak.

Mr. OWENS of New York. Mr. Speaker, I would like to proceed with my theme that we have illogic prevailing. We have contributions that are hard to bear.

I would like to make a plea to the new Secretary of Education, Mr. Alexander, and his overseers in the White House to reexamine this attitude and their posture on libraries. It contradicts so much of what they are proposing with respect to education.

Libraries are very high cost/benefit operations. For the amount of money we put into them, we get a tremendous benefit. There is probably no other educational enterprise that we engage in which yields such a high benefit for the low cost.

The Federal Government has never been a great supporter of libraries. The library aid at this point being proposed by Congress is $143 million. If we take the whole history of the Library Services and Constitution Act over a period of about 25 years, all of that money that has been used for aid to libraries would not equal the cost of one single aircraft carrier. One aircraft carrier costs $3.3 billion, $3.5 billion. Federal aid to libraries has not even added up to one aircraft carrier all the years that it has been available. So we are talking about a very small amount of money.

We do have a White House Conference on Library and Information Services going forward. It was initiated by Congress, signed by the President, and our total Government is behind this conference that will be held in July.

□ 1900

Of course, the preamble to that law—Public Law 100-382—the preamble to that law includes in it statements like the following: "The future"—I am quoting from the preamble—"The future of our society depends on developing the learning potential inherent in all children and youth, especially literary, reading, research, and retrieval skills." It goes on with many other statements which are very much on target in terms of the role and the need of libraries.

Mr. Speaker, instead of reading this summary by the American Library Association, I will submit the summary in its entirety for the RECORD.

SUMMARY OF AMERICAN LIBRARY ASSOCIATION APPROPRIATIONS RECOMMENDATIONS FOR FISCAL YEAR 1992 LABOR–HHS–EDUCATION APPROPRIATIONS

[In thousands of dollars]

Library program	Fiscal year—		Fiscal year 1992—		
	1990 appropriation	1991 appropriation	Authorization	Administration request	ALA recommendations
Library Services and Construction Act	126,321	132,163	[1]	35,000	207,500
Title I, public library services	82,505	83,898	[1]	[3]35,000	100,000
Title II, public library construction	18,900	19,218	[1]	0	55,000
Title III, interlibrary cooperation	19,551	19,908	[1]	0	35,000
Title IV, Indian libraries	.....	[4]	[4]	[4]	.....
Title V, foreign language materials	0	976	[1]	0	1,000
Title VI, library literacy	5,365	8,163	[1]	0	10,000
Title VII evaluation and assessment,	0	0	[1]	0	500
Title VIII, library learning center programs [5]	0	0	[1]	0	6,000
Higher Education Act Library Programs	10,325	10,735	[1]	0	[6]21,000
Title II-B, training and research	855	976	[1]	[7]0	5,000
Title II-C, research libraries	5,738	5,855	[1]	0	10,000
Title II-D, technology	3,732	3,904	[1]	0	5,000
Title VI, section 607 foreign periodicals	0	0	[1]	0	1,000
Hawkins/Stafford Elementary/Secondary School Improvement Act, ESEA chapter 2 [8]	487,894	469,408	672,000	462,577	500,000
National Commission on Libraries and Info. Science	750	732	750,000	911	911

SUMMARY OF AMERICAN LIBRARY ASSOCIATION APPROPRIATIONS RECOMMENDATIONS FOR FISCAL YEAR 1992 LABOR–HHS–EDUCATION APPROPRIATIONS—Continued

[In thousands of dollars]

Library program	Fiscal year—		Fiscal year 1992—		
	1990 appropriation	1991 appropriation	Authorization	Administration request	ALA recommendations
National Center for Education statistics (including library surveys)	39,739	63,524	[1]	80,060	80,060
National Library of Medicine (including Medical Library Assistance Act)	81,861	91,408	[9]	100,554	100,554

[1] Such sums.
[2] For LSCA, ALA recommends amounts authorized for fiscal year 1990 in Public Law 101–254, signed March 15, 1990.
[3] Proposed to be used for adult literacy activities.
[4] Funded at 2 percent of appropriations for LSCA, II, and III.
[5] Under Public Law 101–254, no appropriation may be made for LSCA VIII unless the total for LSCA I, II, and III is at least equal to the previous year's total plus 4 percent. (ALA's first priority for LSCA funding is restoration of LSCA programs currently funded.)
[6] For HEA II, ALA recommends amounts authorized for fiscal year 1987.
[7] Part of a proposed consolidation of several graduate fellowship programs will Secretary setting priorities for each year.
[8] The six targeted uses of chapter 2 funds include school library resources and training of librarians.
[9] 42 USC 275.

Mr. Speaker, I also would like to note a few other items that I would like to submit for the RECORD, including a summary of recommended level of appropriations for items which relate to libraries.

The President, as I said before, placed in the budget zero for the Library Services and Construction Act, but the American Library Association recommends a rather conservative figure, $207,500,000. For the Higher Education Act Library Programs, a total of $21 million is recommended. For the Hawkins-Stafford Elementary, Secondary Improvement Act, which contains chapter 2 which relates to libraries, $500 million is recommended. The Library of Congress, the National Library of Medicine, everything that relates to libraries, there are recommendations here which I agree with. They are far from the sums that have been requested by the administration, and of course, unfortunately, they are far from the sums that have been recommended in the budget resolution which was passed today. I placed the summary of the recommended appropriations into the RECORD.

I will insert the letter from the White House at this point:

THE WHITE HOUSE,
Washington, March 28, 1991.

There is at the center of virtually every American town a library, a repository of history and of our recorded hopes, dreams, and plans for tomorrow. Libraries hold the acquired wisdom of the ages, as well as contemporary ideas and information, providing access to these treasures through both electronic and conventional retrieval services.

Libraries require only that we have the desire to learn and to explore the fascinating world of knowledge and ideas. For those with the desire to read, but lacking the ability, libraries hold a key to literacy as well, offering special educational programs for everyone.

Libraries also serve as favorite sanctuaries for our children, revealing in their quiet rooms new worlds to entertain and to challenge growing young minds. For students engaged in the lifelong process of learning, these institutions serve as valuable points of reference. Indeed, for every citizen—from the serious researcher to the individual reading for pleasure—libraries refresh the spirit and enrich the intellect.

This year, National Library Week is a celebration of the fact that those who read succeed. Libraries enable us to enjoy more fully the benefits of learning and opportunity; and by promoting literacy for all Americans, we can share those benefits with millions of our fellow citizens.

GEORGE BUSH.

One of the items which will be discussed at the White House Conference on Libraries is a brandnew proposal that will require considerable funding from the Federal Government. Only the Federal Government can make it happen. It is called NREN, the proposed National Research and Education Network. It is a high-capacity, high-quality computer network which supports a broad set of applications and network services for the research and education community. The NREN will be an expansion and an upgrading of the existing interconnected array of mostly research networks such as the national NSFNET and the regional networks, NYSERNET and SURANET, and local area networks on campuses known collectively as Internet. The aim is to reach gigabit per capacity over several years. This has been described as a national highway for information. It will be for the average American, placed at their disposal kind of an electronic retrieval system already available to corporations and scientists doing high-level research. It will be a very efficient, efficient system since it will research everybody, and kind of a hope for the future, dream for the future, which I hope will be discussed extensively at the White House Conference on Libraries. It will require funding. It will require considerable new funding. It will be in accordance with the kind of proposals that are being made by the President and the Governors in their six recommended goals for education.

Those six goals cannot be realized unless there is more support via libraries and new kinds of information systems. An electronic retrieval system would be a vital necessity in order to upgrade our entire educational system, especially the parts which talk about increasing our students' abilities in the areas of math and science. Mr. Speaker, I will include a summary of the National Research and Education Network factsheet in the RECORD at this point.

NATIONAL RESEARCH AND EDUCATION NETWORK FACTSHEET, APRIL 1991

What is the NREN? The proposed National Research and Education Network (or NREN, pronounced en-ren) is a high-capacity, high-quality computer network which supports a broad set of applications and network services for the research and education community. The NREN will be an expansion and upgrading of the existing interconnected array

of mostly scientific research networks, such as the nationwide NSFNET (the backbone) and regional networks such as NYSERNET and SURANET, and local area networks on campuses and elsewhere, known collectively as the Internet. The aim is to reach gigabit (a gigabit is one billion bits) per second capacity over several years.

The concept of the NREN originated as a means to connect supercomputer centers and to accommodate the massive amounts of data produced by high-performance computer projects. Reports over the past several years by a number of organizations—the White House Office of Science and Technology Policy and its Federal Coordinating Council for Science, Engineering, and Technology (FCCSET), the National Research Council, the Congressional Office of Technology Assessment, EDUCOM and others—have shaped the concept and moved it forward.

Supercomputers and super networks are needed to address "grand challenges" such as global climate change and the mapping of the human genome, but such advanced computing and communications capacity also makes possible the transmission of unprecedented volumes of other kinds of electronic data and information—from electronic mail to electronic journals to entire digital library collections including audio and visual components. Educational needs are now part of the NREN plan although it is undecided how wide the range of users and institutions will be. However, the ability of a researcher to connect to computerized tools is becoming a necessity for scholars in all fields, students at all levels, and information seekers wherever located.

Administration Plan. Development of the NREN is part of a Presidential initiative described in a 1991 report from the Office of Science and Technology Policy, "Grand Challenges: High-Performance Computing and Communications." This multiagency initiative calls for $638 million in President Bush's FY 1992 budget, an increase of about 30 percent over similar activities in FY91. These funds would support activities in four program areas; high-performance computing systems, advanced software technology and algorithms, the NREN, and basic research and human resources. The OSTP report calls the FY92 network under this plan the "Interagency Interim NREN."

Legislation. Legislation to establish the NREN was first introduced by Sen. Albert Gore Jr. (D-TN) in 1988. He introduced the bill again in the 101st Congress, and a revised version of S. 1067 passed the Senate in October 1990, but the House did not act on HR 3131, the companion bill.

Sen. Gore has again introduced legislation this year (S. 272, the High-Performance Computing Act of 1991) on which his Science, Technology, and Space Subcommittee held a hearing on March 5. A revised version of S. 272 was approved by the parent Commerce, Science, and Transportation Committee on March 19.

A companion bill (H.R. 656) has been introduced by Rep. George Brown (D-CA), Chairman of the Science, Space, and Technology Committee. Two subcommittees held a hearing March 7 on H.R. 656. Rep. Rick Boucher (D-VA) presided as Chairman of the Science Subcommittee at the hearing cosponsored by the Technology and Competitiveness Subcommittee, chaired by Rep. Tim Valentine (D-NC). H.R. 656 is expected to be marked up this spring.

A third bill is also pending (S. 343), the Department of Energy High-Performance Computing Act of 1991), introduced by Sen. J. Bennett Johnston (D-LA), Chairman of the Energy and Natural Resources Committee. S. 343 would have the Energy Department establish a Federal High-Performance Computer Network to serve many of the same purposes envisioned for the NREN.

Provisions of Bills. S. 272 and H.R. 656 assign a lead role to FCCSET, which is to develop a National High-Performance Computing Plan involving multiagency collaboration. The long list of agencies includes the Library of Congress, the National Agricultural Library, the National Library of Medicine, and the Department of Education. The National Science Foundation is designated the lead agency to coordinate NREN development among the various agencies.

In the Committee-approved version of S. 272, the NREN is to link research and educational institutions, government, and industry in every state. Federal agencies are to work with state and local agencies, libraries, educational institutions and organizations, and private network service providers in order to ensure that researchers, educators, and students have access to the network. Within the federal government, NSF is to have primary responsibility for connecting colleges, universities, and libraries to the network. To the extent practicable, the network is to provide access to electronic information resources maintained by libraries, research facilities, publishers, and affiliated organizations.

The bills call for various agency activities and/or FCCSET reports to address such issues as standards to provide interoperability, common user interfaces, network security and user privacy, protection of copyrights, pricing policies and plans for eventual commercialization of the network.

Library Interest. The Senate bill as ordered reported includes some improvements suggested by the American Library Association and the Association of Research Libraries in testimony and recommended amendments, as well as some elements suggested by a Partnership for the NREN (20 education, library, and computing organizations, including ALA, ARL, the American Association of Law Libraries, the Chief Officers of State Library Agencies, the Coalition for Networked Information, EDUCOM, and the Special Libraries Association).

These improvements include the idea of NREN connections to all 50 states, additional references to education as a whole and to libraries, collaboration with potential users, the possibility of using the network as a dissemination vehicle for federal databases and information, and specifying library and information science in research, education, and training components.

S. 272 and H.R. 656 call for development of a mechanism to coordinate and manage the network, but are not very specific about the governance structure. This is probably the most important unresolved issue as far as Partnership for the NREN organizations are concerned. Also of concern to library and education organizations is the issue of how S. 272 and S. 343 may be reconciled, particularly with regard to governance issues and the ability of the network to serve education, broadly defined.

EDUCOM estimates that federal funding of the current internet amounts to only about 10 percent of the total investment, with the remainder coming from universities, states, and industry. The bills should provide more explicitly for a governance structure with balanced participation by users of the network (including government, the private sector, education and libraries) in establishing policy and in developing standards. Among all the reports and studies should be one on progress in connecting the broad education and library communities to the network, and on possible mechanisms for ensuring long-term, low-cost communications for educational institutions and libraries.

ALA has endorsed the concept of a National Research and Education Network with library participation for the following reasons listed in ALA testimony in March 1991 on S. 272 and H.R. 656:

The NREN has the potential to revolutionize the conduct of research, education, and information transfer.

Current Internet users want library-like services, and libraries have responded with everything from online catalogs to electronic journals.

Libraries provide access points for users without an institutional base.

With libraries and their networks, the support structure to make good use of the NREN already exists.

NREN development should build on existing federal investments in the sharing of library and information resources and the dissemination of government information.

The NREN's higher capacity will enable the sharing of full text and nontextual library and archival resources.

Libraries provide a useful laboratory for exploration of what services and what user interfaces might stimulate a mass marketplace.

Public, school, and college libraries are appropriate institutions to bridge the growing gap between the information poor and the information rich.

Libraries of all types linked to the NREN would enhance the national investment in the network, spread its benefits more widely, and increase access to the resources available over it through an institution already established to assist users with information needs.

Another set of issues called Government information policy issues relating to matters of grave concern to libraries and involve libraries. The Government information policy issues include issues related to depository libraries, issues related to the Office of Management and Budget Circular A-130. A-130 is a circular that has been in existence for some time, promulgated for the Office of Management and Budget under Freedom of Information and is of intense interest. It was announced that they will provide guidance to the Federal agencies to provide electronic information products to depository libraries, but not both products and services. Such a number of Government publications are being distributed through on-line services such as electronic billboards, and moves to eliminate products alone would restrict public access to Government information.

Currently, depository libraries are participating in pilot projects which would provide for the dissemination of electronic services throughout the Government Printing Office. These are like the national highway of information. They are new systems of disseminating information, electronic format, which require the coordination and the

support of Government. This is one of the many Government information policy issues which is of concern to the library community. It is also concerned about the Paperwork Reduction Act Reauthorization. We are concerned about the Freedom of Information Act, and a number of other acts of considerable importance. Mr. Speaker, I ask to place the summary of Government information policy issues in the RECORD in its entirety at this point, and it is as follows:

GOVERNMENT INFORMATION POLICY ISSUES
FACTSHEET, APRIL 1991

GPO Appropriations: For the Superintendent of Documents operation, the Government Printing Office is requesting $27,371,000 for FY92. Together with $755,000 in funding from FY91 which Congress withheld from obligation until FY92, this would give SuDocs $28,126,000, compared with $25,745,000 in FY91. Of the total, $22,616,000 would be for distribution to depository libraries. In appropriations testimony in February, Public Printer Robert Houk provided a status report on the original five pilot electronic projects, efforts which GPO expects to complete in 1991.

On cost sharing, a controversial issue with cost implications for libraries, Houk said that all participants in online electronic dissemination services, including depository libraries, "may be required to pay a portion of the cost of such services to the extent allowed by law. Adequate controls are essential and limitations on free service access must be considered early in any arrangement to make databases available to the public through the depository library network."

Katherine Mawdsley, University of California, Davis, testifying about GPO appropriations on behalf of ALA and the Association of Research Libraries, urged GPO SuDocs funding at a level which would support distribution of electronic information through the Depository Library Program, and sustain the current distribution of paper and microfiche.

Depository Libraries. Rep. Charles Rose (D-NC), Chair of the Joint Committee on Printing, plans hearings on April 25 regarding public access to government information through depository libraries and other means. Three depository librarians have been invited as witnesses.

Revision of OMB Circular A-130. In a move of intense interest to the library community, the Office of Management and Budget announced that it will revise guidance to federal agencies to provide electronic information products to depositories—but not both products and services. Since a number of government publications are being distributed through online services, such as electronic bulletin boards, moves to limit agency compliance with depository requirements to products alone would restrict public access to government information. Currently, depository libraries are participating in pilot projects for the dissemination of electronic services through the Government Printing Office.

The announcement regarding depository libraries appears in OMB's plans to revise its controversial OMB Circular No. A-130, Management of Federal Information Resources, published in the March FEDERAL REGISTER (56 FR 9026-28). This is an advance notice, not a draft of the revised circular. OMB invites comments on the issues most requiring revision, on new formulation of policy, and on the directions that formulation should take. Comments are due by May 3; OMB is likely to issue a draft circular for public comment soon after the date.

Paperwork Reduction Act Reauthorization. The reauthorization of the Paperwork Reduction Act failed to pass before the 101st Congress adjourned. Prospects for this controversial legislation are uncertain at this time. OMB cites the Paperwork Reduction Act as its authority for Circular A-130, and plan to revise the circular despite the lack of an authorization since September 1989.

Freedom of Information Act. Congress is considering explicitly including computer and electronic records under the Freedom of Information Act in the same manner as documents printed on paper. Rep. Gerald Kleczka (D-WI), joined by Rep. Bob Wise (D-WV), introduced HR 1423, the Freedom of Information Public Access Improvement Act of 1991, on March 13. The Senate Judiciary Subcommittee on Technology and the Law, chaired by Sen. Patrick Leahy (D-VT), is in the process of drafting proposed amendments to the FOIA.

One last item I would like to place in the RECORD, Mr. Speaker, relates to an article which was placed in the Wall Street Journal on February 13, 1991. In this article they talk about many public libraries being forced to close their doors for months. There are towns in West Virginia where libraries have closed, and they are not sure when they will reopen. We know of West Virginia, but I submit that there are probably many others across the country that are closing and have not been noted by the Wall Street Journal.

Forty States have major problems in terms of budget for the entire States. The recession has hit very hard. The mismanagement of the Reagan years, and the mismanagement of the Bush years is coming home. We are pouring more money into savings and loan associations than we are into maintaining the educational infrastructure or the physical infrastructure of the Nation. All of this is hitting all of our institutions. Libraries are very small. They have very little political clout, so they are just a preview, just a preview of coming attractions in terms of institutions which will be wiped out in their entirety if we do not change our policies, and turn the management of our Government around.

In this article, the Wall Street Journal has done a great service by listing all the States of the Union and the amount of money spent on libraries in each one of those States per capita. For the number of people, for each person in the State, the following amounts are spent. I will give a few examples from the article. New York leads the list, and we are proud in New York of the great amount of assistance that comes from the State, and the tradition of maintaining libraries at the local level, but even with this great effort we are so proud. We are only spending $29.48 per person for libraries in New York. The District of Columbia is to be congratulated, because the District of Columbia has resources which are quite meager compared to the State of New York, and they rank second, with an expenditure of $29.46 per person. And so it goes until we get down to Mississippi, which spends $6.58 per person; Arkansas spends $5.98 per person.

I will insert the article here:

[From the Wall Street Journal, Feb. 13, 1991]

MANY PUBLIC LIBRARIES SUFFER MAJOR BLOWS IN LOCAL BUDGET CRISES

(By James S. Hirsch)

POCA, W.VA.—When the one-room library closed down here in June, it was like a death in the family.

On the library's last day, children brought stuffed bears and flowers for the librarian. Later, residents who hadn't heard the news pounded on the locked wooden door of the building.

"They couldn't believe we were really closing," says Betty Hamilton, the librarian. "To a child, the library was always there. Then suddenly something is missing from their life. It's like when someone dies, there's a little empty space there."

The Poca library was one of three small branches closed last year in Putnam County, a bedroom community for Charleston and Huntington. Why? Each branch cost about $15,000 a year to operate—more than the county could afford.

TROUBLING TREND

Finally, the small libraries begged enough money to reopen part-time this week. But after making do for eight months, the people of the three communities offer a dark glimpse of life without libraries—and a warning to other areas of the country, both urban and rural, where many of the nation's 15,000 public libraries are struggling to survive.

Libraries face soaring costs for books, periodicals and computers just as their budgets are being squeezed by cash-strapped local governments. Few libraries have been closed completely, but officials are cutting hours, trimming staffs, slashing book and periodical budgets and leaving broken boilers and other problems unfixed.

The New York City library system has cut hours by 10% since 1988 and faces a new 8% budget cut. In Brooklyn last week, demonstrators draped library doors with black cloth to protest layoffs and service cuts, including programs affecting children. The Los Angeles system has been under a hiring freeze since last year that has left the libraries with about 110 positions unfilled, or 10% of the staff. In Dade County, Fla., library officials have to cut back by 3%, and that "may mean shutting smaller branches," a spokesman says.

In Philadelphia, the public library has canceled orders for 20,000 new books and has delayed reopening three branches that are undergoing capital improvements. "I just got a report that says we still have toilet paper but don't have paper towels," says Elliot Shelkrot, president and director of the Free Library of Philadelphia. "It gets down to basics."

Throughout the U.S., libraries are pleading for money. In a special election, residents in Rockland County, N.Y., went to the polls last week to vote on one issue: Whether to increase property taxes to raise $245,000 annually for public libraries in Suffern and Sloatsburg. The tax passed, 336 to 142.

GROWING ILLITERACY

The cutbacks come despite growing concern that illiteracy rates are rising and that workers don't have sufficient reading skills. The retrenchment is particularly painful

now beause library use traditionally goes up during recessions, when people flock to branches to seek out newspaper want-ads and books become an important source of free entertainment.

Public libraries are especially vulnerable in a slumping economy. Libraries usually don't charge fees and instead get most of their money from local governments. But today, may cities and counties, struggling with budget problems, are cutting services across the board. Libraries, considered less essential than services such as police and fire protection, often get the crumbs of a shrinking economic pie.

No help is coming from Washington. The Department of Education increased its allotment for public libraries to $132 million in 1990 from $74.5 million in 1981, an increase that library advocates say fails to keep up with inflation. And President Bush's new budget recommends a 73% cut, to $35 million.

A LARGE CIVIC ROLE

The library cutbacks have hit especially hard in rural America, where branches play a larger civic role than their urban counterparts. They often serve as cultural centers, social dens and auxiliaries to local grade schools. Yet public support is difficult to muster in the hardscrabble counties, where anti-tax fever runs high and where, according to Peggy Bias, director of the Putnam County, W.Va., library system, many adults "think a library's a luxury." She adds, "They didn't have it when they were growing up and don't see why they need it."

Few states need healthy libraries more than West Virginia, which is ranked 49th in the nation in state literacy ratings, according to U.S. Census figures. In fact, West Virginia has one of the nation's most innovative public library systems, thanks to the flamboyant state library commissioner, Frederic J. Glazer. During his 19-year tenure, Mr. Glazer has more than doubled the number of public libraries and installed a model computer network system with the help of shrewd marketing and irrepressible showmanship.

Testifying before a committee of state legislators in 1972, Mr. Glazer gave each member a five-cent pack of Life Savers. Because West Virginia was spending four cents per capita on library services at the time, Mr. Glazer told the lawmakers, "This pack costs more than we're spending for library service, and that's shameful."

His efforts paid off. West Virginia now spends $2.96 of state money per person on library service, compared with the national average of $1.37—but when spending from local governments is included, West Virginia is ranked near the bottom among states. Under Mr. Glazer's stewardship, the number of libraries in the state has risen to 185 from 90. In the early 1980s, a computer network was installed in 120 libraries, connecting remote mountainous communities with phone and microwave links, to tell library users where they can find books in the system. Satellite dishes are being put up in about 100 libraries this year, paid for by a private donation.

State funding, however, has been stagnant for several years, and makes up only 38% of the money needed to run the libraries. For all his progress, Mr. Glazer can't overcome economic reality. "Uncle Sam can bail out all these businesses, but he can't bail out a library," Mr. Glazer laments. "Libraries are just as important as Chrysler, and if they're uncertain, let them build cars with workers who can't read."

A 1979 WORLD BOOK

Even his best efforts couldn't prevent five branches from closing last year, including those in the small towns of Poca, Eleanor and Buffalo in Putnam County, which has a total population of 42,597. Holding 5,000 books each, these so-called "outpost" branches are squat prefabricated wooden structures that had been rolled into town. The buildings came without windows, but now each has one—only because the libraries used part of a small grant for books to do the construction.

When the Poca branch was in full swing, a financial adviser helped residents with tax forms. Copier and fax machines drew crowds. Rhododendrons bloomed in front, and Ms. Hamilton, the librarian, notarized wills, read stories to preschool children and allowed overdue book borrowers to pay fines with cans of food, which were donated to a soup kitchen. But the problems were obvious, too: The library's World Book is dated 1979.

Before the libraries got their reprieve, Putnam officials tried to keep the branches open with three proposed tax levies, but all failed. The most recent, in November, received 58.4% of the vote, just shy of the 60% needed for passage.

READING LESS

The closings cut deep wounds, not all of which will be healed by the limited reopenings. At Buffalo High School, entire classes depended on the library for research projects; after the building closed, students had to be bused to libraries in other towns. "It hurts, particularly with the better students," says Bill Sanders, the principal. "In a small town, anytime you lose something, you lose part of your life."

In Eleanor, six-year-old Traci Flynn would walk to the library and check out Garfield books. In the summer, she went for story hours, when the librarian read poems and fairy tales, led sing-alongs and served cookies and Kool-Aid. But all that ended last June when the library closed. The main county library is 10 miles away in Hurricane, and Traci's parents, who both work, rarely had time to take her there. Traci's school doesn't have a library, so she read few books. "We have books, but she doesn't like to read the same ones over again," says her mother, Carla Flynn.

In Poca, it used to take Carol Carroll three minutes to drive to the library, where her two children would check out Judy Blume books. With the library closed, it took 20 minutes to reach the main library, so trips were reduced. "I was so naive, I never thought a library could close," she says. "It's like a church packing up and hitting the road. It's just supposed to be there."

In January, the county library commission asked for $40,000 from the Putnam County Commission and the Putnam County School Board to reopen the branches. The school board, which already gives $40,000 a year, turned down the request, suggesting the branches use volunteers instead of paid librarians.

"We have a lot of justifiable causes, and we can't fund all of them," says Sam Sentelle, the school superintendent. Noting that all of Putman's high schools and middle schools have libraries, he adds, "We need more books for our own libraries." In addition, he says, "The electorate has turned down tax money for the library, and if the schools gave their money to the library, it would circumvent popular will."

The county, however, agreed to put up $20,000, in addition to the $71,000 it already spends. That was enough to reopen the branches for 30 hours a week starting this week. On Monday, Putnam library officials cut a red ribbon on the staircase leading to the front door and children from a local elementary school brought Ms. Hamilton flowers and a heart-shaped balloon inscribed with the message, "You're special." But the joy could be short-lived: If more money isn't found, even the parttime hours will be cut in half.

THE $11,000 LIBRARIAN

Other libraries, like the one in Peterstown (pop 640), a poor tobacco-farming community on the Virginia border, get by on a shoestring and a prayer. Nestled amid oak and maple trees in the Appalachian Mountain Range, the carousel-shaped wooden library has been used for wedding receptions, slumber parties, scout meetings and political forums.

Students at the local grade school, which lacks a book collection of its own, come frequently. On a recent day, the doors fly open and 25 fourth graders noisily drop off books, then rush for the stacks to find Hardy Boys, the Black Stallion, and Nancy Drew. When the children leave, librarian Annette Rule-Place and her three volunteers grab the returned volumes and scurry to the shelves. They have a half-hour to replace about 100 books before the next class arrives.

The library almost closed in the mid-1980s. Monroe County had cut back its funding after money from federal revenue sharing dried up (a problem that also hit Putnam, where federal revenue sharing once accounted for 16% of the county's budget). Ms. Rule-Place laid off her one paid assistant, cut magazine subscriptions and opened the library only three days a week. Even though the county had no book stores, support for its two public libraries has been difficult to gain. The libraries twice asked voters to approve a property tax levy, but lost both times.

So. Ms. Rule-Place's library has hung on through private donations and grants, which, together with public money, make up its $24,240 budget. Two years ago, it landed an additional $25,000 state grant, which has allowed the library to stay open six days a week.

Ms. Rule-Place and her volunteers also scrape up nickels and dimes. On the checkout desk sits a large tin can for contributions. So far today: 37 cents. The library once raised a few dollars when Ms. Rule-Place dressed up some children as Little Bo Peep, gave them a tin cup and sent them to a mall. "I went as Mother Goose," she says proudly.

A native West Virginian, Ms. Rule-Place has used her own money for crayons, glue, pencils and other supplies. She is also the judge for the grade school spelling bee and coordinator for the county's Girl Scouts. Her annual salary is $11,000. "I want these kids to have the same educational opportunities as kids from New York or Pennsylvania, and I'm going to do my damnedest to make sure they do," she says.

Her 14-year career as a librarian has a storybook twist. She met her third husband here. He was standing in adult nonfiction and it was love at first sight. They married two years later. "All good things," Ms. Rule-Place says, "happen in a library."

Libraries' Lament—States ranked by all money spent per capita for public libraries in 1989, preliminary data in dollars

New York	$29.48
District of Columbia	29.46
Maryland	24.45

Alaska	23.64
Ohio	23.34
Connecticut	22.10
New Jersey	21.16
Wyoming	19.83
Washington	19.81
Illinois	19.25
Massachusetts	19.18
Minnesota	18.62
Colorado	18.01
Indiana	17.95
Hawaii	17.23
Wisconsin	16.53
Virginia	16.29
California	15.89
Kansas	15.85
Oregon	14.74
Arizona	14.53
New Hampshire	14.46
Michigan	13.83
Utah	16.64
Missouri	13.37
Nebraska	13.16
South Dakota	13.09
Maine	12.66
Vermont	12.37
Florida	11.93
Iowa	11.85
Rhode Island	11.71
Louisiana	11.53
New Mexico	11.34
Pennsylvania	10.99
North Carolina	10.55
Oklahoma	10.24
Georgia	10.06
Idaho	9.84
Nevada	9.65
Texas	8.94
South Carolina	8.72
Delaware	8.22
Alabama	8.13
North Dakota	8.01
Tennessee	7.70
Montana	7.56
West Virginia	7.46
Kentucky	7.04
Mississippi	6.58
Arkansas	5.98

Source: National Center for Education Statistics.

These statistics come from the National Center for Education Statistics.

All over, we are spending a very paltry sum for libraries. Again, in a serious contradiction, if we want to improve education, then it is important that everyone take a close look at what we are doing with our libraries. The analogy is not far-fetched when they say that to close libraries at a time when we want to reform and improve education, it is similar to trying to fight a major war at the same time we close down the ammunition dump, or the warehouse for spare parts. These contradictions are particularly strange at a time when the President has galvanized and mobilized the entire leadership of the country, corporations, and Governors, around a set of education goals. The President has six goals he has proposed. The Governors have endorsed the six goals. All education policy is going to be very much affected by these goals that have been set forth in the next few years. Probably what the President will be saying tomorrow, part of what the President will be saying tomorrow when he announces the new initiatives on education will relate to these goals.

Goal 1, in summary form, by the year 2000, all children in America will start school, ready to learn. That is a very ambitious goal. Underneath that goal they have the objective of trying to educate parents, so parents can nurture their children better, and enable their children to be better prepared when they start school. Education research continues to emphasize the importance of exposing children to literature at an early age, in order to promote the development of language among children, and other reading readiness skills they will need when they enter school.

□ 1910

A 1978 study by William Teal, for example, found that the children who were most successful in acquiring reading skills were those who had been exposed to a wide variety of printed materials, and had been read to regularly by parents and other care givers. For a variety of reasons, and most of these reasons are financial, this kind of regular and intensive exposure to literature is not provided to many young children in family day care and even in some center-based care arrangements.

In recent years public libraries in many communities have been trying to fill the gap for our day care centers and parents. For example, the Howard County Public Library's Baby-Wise Program has developed a series of teaching kits which they regularly deliver along with books, toys, and educational games to the family day care providers in their community.

Another example, the Hennepin County Public Library conducts workshops for family day care providers on the selection and use of children's literature which the county social service agency has made a part of its in-service training requirement for providers.

A special preschool bookmobile makes scheduled stops at family day care homes and child care centers throughout the area. That is done in Hennepin County in Minnesota.

The Brooklyn Public Library has a Child Place Program, and it serves 45,000 preschool children and their caretakers each year. The staff of the Brooklyn Public Library teaches parents, day care providers and others how to prepare their children to read and learn.

The New York Public Library which covers Manhattan, Staten Island and the Bronx in New York, maintains deposit collections of books and materials on the premises of many Head Start and child care facilities and conducts regular workshops for child care providers on the selection of materials for use for preschool children.

In Florida, the Jacksonville Public Library conducts regular reading workshops for functionally iliterate parents and their children. While the children attend a story hour program, their parents are taught how to read using the same books their children are listening to. Later the parents then read the story to their children.

In Oregon, the Rouge River Public Library has an outreach program in which volunteers visit the families of the newborn to give them a library card, to deliver a presentation on the services of the library for parents of young children and to instruct them in how to read to children.

These are only a few examples of how goal number one of the President and the Governors, preparing young children so that they are ready to learn when they enter school, is facilitated by libraries, already being facilitated by libraries, and so much more could be done if the Federal Government would understand the kinds of supportive services and the kind of supportive role that libraries can play in the realization of a goal number one.

Goal No. 2 of the President, by the year 2000 the high school graduation rate will increase to at least 90 percent. At this point 25 percent of our students are dropping out of high school. In concentrated areas like Chicago and New York, 50 percent of the high school students are dropping out before they graduate.

Libraries have helped a great deal, but it is my understanding that research indicates that youth who are the most likely to drop out are those who are the least prepared academically and are the least involved in school activities.

Libraries have been playing a major role in targeting special services to this category of students in order to help improve their academic performance and keep them from dropping out of school.

There are numerous summer programs that are conducted by libraries. In the Shawnee Mission in Kansas, in South Carolina and Illinois, all have extensive summer reading programs serving thousands of children.

Many of them also have after-school programs targeted for the same category of young people in order to help them to learn to read and be able to prepare themselves better for their classroom work.

Such youngsters will not drop out of high school because they are acclimated and able to cope with the environment and reap great benefits from the experience. That is goal No. 2.

Goal No. 3 is by the year 2000, American students will leave grades 4, 8, and 12. They will have demonstrated competency over challenging subject matter, including English, mathematics, science, history, and geography.

Report after report on educational reform in recent years has proclaimed the importance of reorienting our current curricula and our current methods

of instruction so that we can better develop what is called information literacy. Literacy means many things, and one of the new forms of literacy that we have to consider is information literacy, the new set of skills which are required in a knowledge-based economy.

Information literacy means a person knows how to use information to solve problems and to obtain the objectives that they want to obtain.

For example, in its 1986 report, "A Nation Prepared," which was published by the Carnegie Forum on Education and the Economy, they declared that—

> The skills needed now in our society are not routine skills. Our economy will be increasingly dependent on people who have a good intuitive grasp of the ways in which all kinds of physical and social systems work. Such people will have the need and the ability to learn all the time, as the knowledge required to do their work twists and turns with new challenges and the progress of science and technology. They will not come to the workplace knowing all they have to know, but knowing how to figure out what they need to know, where to get it, and how to make meaning out of it. We are describing people who have the tools they need to think for themselves, people who can act independently and with others, who can render critical judgment and contribute constructively to many enterprises, whose knowledge is wide ranging and whose understanding runs deep.

Information literacy is the foundation for all other skills in a knowledge-based economy, the one skill through which all other skills and competencies can be acquired and maintained. It is, in short, knowing how to learn. Information literacy is knowing how to learn. Information literacy is the great contribution that libraries alone can make.

Inevitably, libraries must be central to developing these new information-access skills and facilitating the lifelong learning that has become an economic imperative. As one library educator has put it:

> If the challenge is to learn how to learn and how to place one's learning within a broader societal and information environment, then libraries and resources become the logical center for such learning.

Goal No. 4 of the President and the Governors—by the year 2000 U.S. students will be first in the world in mathematics and science achievement. By the year 2000, our students will be first in the world in mathematics and science achievement.

All of the recent reports concerning the crisis in math and science education have focused on the need to reconfigure our current authoritarian instructional approach to one in which there is a greater participation and more hands-on learning by students. Public and school libraries have shown themselves to be effective partners in this more interactive instructional method. These libraries provide multimedia materials to supplement classroom instruction and they offer a noncompetitive environment in which independent self-directed learning is facilitated. The Whitehall, MT, High School Library, for example, worked with the school's science department to develop a Videotaping Through Microscopes Program to enhance student participation in difficult microbiology experiments and in learning how to use the microscope.

Public and school libraries also promote math and science education by using new technologies to give teachers, students, and parents greater access to science and math information and resources. The Radnor High School Library in Pennsylvania, for example, instructs science students in the use of electronic data bases like Dialog for performing science research. Automated bibliographic networks allow users to identify, locate, and obtain highly specialized information from libraries throughout the Nation.

A number of libraries also sponsor instructional television networks which provide instructional programming to the classroom and to the community at large. In Leon County, FL, for example, the library-sponsored instructional television network offered a series of after-school programs designed to help students with their homework and to familiarize and involve parents with what their children are learning in the classroom.

Libraries also provide students and their families with free access to microcomputers and other expensive information technologies which they may not be able to purchase on their own. Last year, 44,000 people used the free Apple microcomputers offered by the New York Public Library at 54 different locations.

□ 1920

Many of the people who use them are students working on classroom assignments. The library is the only place in all of New York where microcomputers can be used for free.

Goal No. 5 of the President and Governors reads as follows:

> Goal No. 5: By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Libraries continue to play an instrumental role in the battle against illiteracy. They have proven to be particularly effective in reaching and educating adults with the lowest literacy levels. Frequently, adults with low literacy skills have had humiliating experiences in school classrooms and are more comfortable with literacy programs provided at their neighborhood library.

There have been some effective outreach programs conducted by libraries in this area.

Mr. Speaker, because they do not have the same stigma as schools and other public institutions, libraries are an important way to reach people who are functionally illiterate. The Onodaga County, NY, Public Library conducts outreach for its literacy program at the waiting rooms of social service agencies; libraries in South Carolina target outreach to persons at substance abuse treatment centers; the Missoula Public Library in Montana offers a literacy program at a local mall; and the Lane County Library in Oregon uses a bookmobile to deliver literacy materials and instruction to rural residents.

They provide services to special populations all the time. Libraries have also been effective in delivering literacy instruction to members of special populations who are often overlooked by other providers. In Colorado, a library-sponsored bookmobile provides low-literacy reading materials and literacy and English-as-a-Second-Language instruction to migrant farmworkers throughout the State. The Chicago Public Library offers library services and peer tutoring to inmates at the Cook County jail. The New York Public Library has provided English-as-a-Second-Language instruction to 11,000 adults and literacy instruction to another 3,500 since 1984.

Lifelong learning is a part of this goal. As the "peoples' university", the public library is also an essential resource for the pursuit of lifelong learning by adults. Last year in New York State alone, over 428,000 people obtained job, career, and education information and counseling services through their local library. These users received career counseling and advice on developing a résumé, information on job and educational opportunities, and participated in programs on how to start small- and home-based businesses.

Goal No. 6 reads as follows: By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conductive to learning.

Violence in our schools is a major problem. But part of that violence is due to the fact that they are confronted with children who have difficulties in coping with the processes of schooling because they got off on the wrong foot, they did not have any nurturing parents, they did not start school with a readiness to learn, they were not helped in any way to master the one important skill that precedes all other skills, and that is the skill of reading.

This cycle of hopelessness often leads to dropouts, drug abuse, alcoholism, and begins in the early grades and can be counteracted only by a massive infusion of Federal aid to make certain that this goal, goal No. 6, as well as all of the other goals that have been set

forth by the Governors and the President are realized in a meaningful manner.

To talk alone is not enough; I have tried to put out the fact that we have many contradictions. I hope that we can persuade the administration. I hope that the new Secretary of Education can be persuaded to begin a more systematic, a more logical and a more scientifically based approach to the improvement and reform of education in America.

If such an approach is begun, then I think there would be no need to make the argument that at the center of any learning enterprise there are always libraries, if that learning enterprise is to be successful.

Libraries are analogous to the ammunition dumps in war or the spare parts warehouses where the equipment for fighting vehicles is provided. If you do not have an ammunition dump, if you do not have the spare parts, the war effort will certainly falter and not succeed.

As we go forward and we see the President's initiatives on education, the new initiatives, tomorrow, I hope that the contradictions that are so apparent between the President's letter concerning National Library Week and his praise of libraries and his placement of zero in the budget for libraries, that kind of contradiction we will not have to live with much longer.

Mr. FAZIO. Mr. Speaker, it gives me great pleasure to join in the special order to celebrate National Library Week.

As a U.S. Representative from Sacramento, CA, I can take great pride in the library services of Sacramento. My good friend Gary Strong, California State librarian, works hard to being quality library service to the people of California. Working in concert, the Sacramento Public Library and the libraries of our elementary and secondary schools do much to enrich the educational lives of our young, our old, the blind and disabled, as well as the curious reader of fiction, history, biography, science, or religion.

As chairman of the Subcommittee on Legislative Appropriations, I have along with my California colleague and the ranking minority member, JERRY LEWIS, had to become closely involved in library and information science as we have reviewed the activities of the Library of Congress and the depository library program of the Government Printing Office. One of the pleasures of this chairmanship has been an opportunity to work with librarians from across the country to assure that the information needs of the American people are met by these two institutions.

Our Founding Fathers were men of letters who had a vision of the Nation which they wanted to build. One of their first acts in providing for the move of the seat of government from Philadelphia to Washington was to establish a library for the Congress and to appropriate $5,000 for the purchase of books. This small appropriation and this large vision brought into being what is now the greatest library in the world, the Library of Congress—a national base of knowledge for the American people.

After the British burned the Capitol in 1814, using library books as kindling, it was Thomas Jefferson himself, then in retirement at Monticello, who offered for sale his personal library as a replacement. In offering his library to Congress he said:

> I do not know that it contains any branch of science which Congress would wish to exclude * * * there is, in fact, no subject to which a Member of Congress may not have occasion to refer.

In 1897, the Library was moved to the original building across the street, the Thomas Jefferson Building. This building is one of the grandest architectural monuments in the United States. I am pleased to report to my colleagues that phase one of the renovation/restoration of this building is now complete. The main reading room, which has been closed for over 3 years, will reopen on June 3. I urge my colleagues to attend one of the special previews of this grand symbol of liberty and learning the Librarian of Congress has arranged for Members of Congress. Not only is the past preserved for our grandchildren, but future access to knowledge is insured. Modern technology has been installed to allow for ready access to the Library's computers and to provide for a national information base in the upcoming century.

Let me recite a few facts about our Library which we have so wisely deemed the library of the American people.

Today the Library of Congress has 97 million items in all formats—manuscripts, prints, photographs, motion pictures, maps, atlases, music, sound recordings, computer programs, and so forth. Some 470 languages are represented in the collections. The Library receives 31,000 items a day from all over the world of which 7,000 are selected for the collections. The Library has personal papers of 23 Presidents of the United States and over 535 miles of books shelves.

The Library has six overseas offices to collect materials in countries without a developed book trade—in some of these overseas offices books and other materials are collected for other major libraries as well as our own.

The Library of Congress, since 1902, has provided cataloging information to libraries throughout the United States—saving them in excess of $370 million annually. This information, now electronically stored, has become the foundation for the national information base.

As a pilot project, the Library has offered on-line access to its data bases to 50 State libraries. Thirty-three States are now on-line with the Library of Congress.

The Congressional Research Service provides scholarly research and information to the Congress on public policy issues and answers over 500,000 research and reference requests a year.

Through the National Library Service for the Blind and Physically Handicapped, the Library circulates over 20 million talking books and books in braille to over 700,000 readers in all 50 States and in U.S. territories. There is a network of 160 regional and subregional libraries across the country.

The Library administers the U.S. copyright laws as well as taking the lead in insuring international protection of intellectual property for U.S. citizens—over 600,000 claims to copyright each year are registered. Copyright also contributes to development of the Library of Congress collections through a mandatory deposit provision of the act.

The Library's Center for the Book promotes reading and literacy, using commercial and cable television, and coordinating activities with 23 State Centers for the Book, including the one in Sacramento.

Currently, the Library is developing more and more programs to share its resources with the American people. This is done through interlibrary loan, through traveling exhibits, answering over 2 million reference questions each year, and through a new initiative, the American memory project in which our subcommittee has taken a personal interest. Using laser technology and interactive video and audio disks the Library collections can be made more readily available on a large scale through libraries across the country. A pilot program from this new technology, locating equipment and disks in high school, public, and university libraries, has been developed and will be expanded to 30 more test sites this fall.

The Library of Congress is also reaching out to the world. As a result of the plunder and devastation of the Central Library in Kuwait and the Kuwait University Library, the Library of Congress will be extending a hand to the Kuwaitis to help them replace what is lost. The Library of Congress has almost all of the Kuwaiti newspapers on microfilm as well as many of their government publications. In fact, the Library has holdings that the Kuwaitis are unlikely to find anywhere else in the Middle East. The replacement of much of the Kuwaiti heritage is only possible because of the universality of our Library of Congress.

The Library of Congress is also a center for cultural programs, including concerts, poetry and literature readings, motion picture showings, seminars, folklore workshops, and so forth. I believe it most appropriate that the people's representatives in Congress can take credit for developing and nurturing the finest intellectual resources known to civilization. It was Thomas Jefferson, the virtual godfather of the Library of Congress, who said: "Enlighten the people generally, and tyranny and oppression of body and mind will vanish like evil spirits at the dawn of the day."

Another program, dear to the heart of librarians, and one for which the Congress of the United States provides special jurisdiction through the Subcommittee on Legislative Appropriations and the Joint Committee on Printing, is the Government Depository Library Program administered by the U.S. Government Printing Office.

To help fulfill its responsibility to inform the public on the policies and programs of the Federal Government, Congress established the Depository Library Program. This program is based upon three principles: First, with certain exceptions, all Government publications shall be made available to depository libraries; second, depository libraries shall be located in each State and congressional district in order

to make Government publications widely available; and third, these Government publications shall be available for the free use of the general public.

Publications are supplied to libraries in both paper and microform formats and in some cases in electronic format.

It is interesting to note that before the establishment of designated depositories, or any systematic method for the distribution of public documents, special acts of Congress were passed at various times providing for the printing of a sufficient number of copies of the public journals of the Senate and House of Representatives for distribution to the executives of the several States and each branch of the State and territorial legislations.

I have learned the importance of Government depository libraries to the American people as well as the dedication of libraries in making their Government's information available to the citizenry. I have visited the depository library of the University of California at Davis to observe firsthand the usefulness of these publications to our university students.

Mr. Speaker during National Library Week I think that each of us should reflect on the role that the U.S. Congress has played in providing vital information and knowledge resources for our constituents. What better role could we as the people's representatives have? I salute America's librarians who do so much for our country.

Mr. SCHULZE. Mr. Speaker, the glory and soul of freedom and democracy is intelligence. Mr. Speaker, it is with this in mind, that I salute National Library Week, April 14 through April 20, 1991.

This special week is an appropriate time to commence preparation for the White House Conference on Library and Information Services scheduled for this July in the Washington Convention Center.

The goals of this convention accurately reflect a sense of transition and potential at this moment in the continuum of history. The goals focus on systems for enhancing access to information, cultivating literacy, increasing productivity and perpetuating our liberties in their pristine forms. It is ultimately to this latter objective that I address my remarks.

There is so much information in existence, that every level of business, industry and government is practically buried under an avalanche of knowledge. But this is mostly wasted, unless the specifically pertinent information is efficiently united with the person or organization that needs it. This capacity is well exemplified by the Library of Congress, which I commend.

But this capacity must be available at all levels of American life as an essential element of our infrastructure. Improved library and information systems have the potential for combating illiteracy as well. To teach Americans to read, particularly adults, will avoid wasting human resources, and recycle talent and skill into the American work force.

Learning to read comes full circle when it becomes an intrinsic pleasure for those who discover new vision, adventure and autonomy.

And finally, synthesizing the seemingly unwieldy universe of information, and making it efficiently accessible will preserve the most cherished elements of our American heritage—our freedoms and liberties.

During my life of public service, I have all too often seen proposed legislation and policies which have failed in the past, or which lose value under the light of germane information. An informed public is much less likely to repeat past failures. Indeed, as we have seen in Eastern Europe and briefly in China, once the free flow of information is uninhibited, freedoms and liberties flourish.

The relationship is inseparable; the level of efficient access to information is directly linked to every aspect of the quality of life. Consequently, I ask my colleagues and constituents alike to support the future of our heritage by supporting the goals of National Library Week and the White House Conference on Library and Information Services.

Mr. DERRICK. Mr. Speaker, "Kids Who Read Succeed" is more than a slogan for National Library Week. It should be the rallying call to action on behalf of our Nation's children, for reading is the most important discipline in education and the basis of success in almost every endeavor. Exposure to books and reading at an early age is the key to creating a desire to read. That desire leads to eventual success in learning to read and to achievement in every aspect of life.

The public library plays a vital role in our country's effort to become a Nation of readers. Millions of preschoolers are introduced to the pleasures of reading by a skilled children's librarian. In South Carolina alone in 1990, over 5,000 preschool programs were held in public libraries and 2,500 visits were made outside the library to child care centers and other agencies to bring books and children together. Public libraries support and assist parents in reading aloud to young children and in encouraging reading throughout the years of childhood and adolescence.

Library Services and Construction Act funds are used to employ trained children's librarians, to provide continuing education opportunities for librarians, to purchase books and other materials, and to establish demonstration programs for reaching children and parents with books and services. Programs begun with LSCA funds have been a catalyst for the establishment of similar programs in other libraries as information about these successful programs has been disseminated to other libraries around the country.

Our children are our most valuable resource. Public libraries are in the mainstream to insure that we have literate, informed and productive citizens today and in the future. We must make it possible for libraries to place increased emphasis on the service to children and youth and continued LSCA funding is vital to this effort.

Mr. GOSS. Mr. Speaker, resources as varied as braille, children's masks, encyclopedias, periodicals and travel guides can all be found in libraries across the country. This is proof that libraries are not made but grow and expand to meet the needs of the communities they serve. Here in Washington, we can take great pride that the money the Federal Government has allocated in the Library Services and Construction Act and the Higher Education Act has been utilized in such beneficial and diverse ways.

Community initiatives such as "Community Reads 91" in my home district, appeals to businesses to sponsor publicity for literacy awareness. The library is no longer for the elite or those who can read. Its shelves are open to everyone, and the wealth available on those pages can belong to anyone, with some assistance. I am proud that we can boast of a very strong volunteer start on literacy programs, evidence of community commitment to the library system.

Libraries can not be lost in this year's budget shuffle. Our "Education President" must acknowledge the community resource we have in libraries. They preserve our history, tickle our imaginations and broaden our horizons. They are indeed a national treasure.

Mr. RAVENEL. Mr. Speaker, I am submitting these remarks on behalf of the South Carolina State Library on this day, April 17, 1991.

We have all read and heard a great deal about the problems of America's educational system. In order for our public schools and institutions of higher learning to be able to provide the educational foundation our young people need, the libraries at the heart of these institutions must have the resources they need.

In January 1988, Congress recognized the importance of libraries by authorizing the President to call a White House Conference on Library and Information Services. This White House Conference will explore such topics as how libraries can more effectively support literacy and adult education programs, how to provide business and industry with improved access to needed information, and how to best meet the needs of special groups such as children, senior citizens, and the disabled. The conference will be held here in Washington this summer and will bring together a cross section of librarians, library trustees, civic leaders, and library users. The three delegates from my district illustrate the diversity of the participants; one is a public television station manager, one a college professor, and one a best-selling author.

Delegates to the White House Conference will establish this Nation's agenda for libraries and library services into the next century. America's libraries must be able to rise to the challenges of satisfying the diverse needs of our diverse society. The White House Conference on Library and Information Services is a worthwhile endeavor which deserves the wholehearted support of the Members of Congress.

Mr. SPENCE. Mr. Speaker, one of the indicators of the quality of life in a community is the quality of its public library. As South Carolina's population increases along with library usage, our public library facilities are experiencing growing pains. In one recent survey, nearly 1 million more square feet of space is needed in order for public libraries in South Carolina to provide adequate facilities.

An LSCA title II construction grant provides an incentive to a community to raise matching funds for construction or renovation of its library facilities. Because Federal funds must be matched with equal or larger amounts of State or local funds, construction grants are an inducement to lower levels of government to enter into a partnership with the Federal

Government and to share responsibility for providing adequate library facilities. In my home county of Lexington, a title II grant of $100,000 will be matched with more than $700,000 in local funds to convert a former department store into a library.

In 1990, title II construction planning involved 23 projects in 20 South Carolina counties. Continued support of LSCA title II construction funding can make a real difference in the excellence of library facilities in South Carolina and across our Nation.

Mr. MAZZOLI. Mr. Speaker, I thank our colleague, the gentleman from New York [Mr. OWENS] for sponsoring this special order on libraries.

Libraries are the intellectual, the social, and the economic underpinnings of any community. And, although libraries are mainly administered by local government, they merit attention at the Federal level, especially now when libraries across the Nation in large cities and small towns are financially strapped.

Mr. Speaker, through the course of history, we have read and been taught about the ice age, stone age, the iron age, and the bronze age, just to name a few. Today, we are in the midst of the information age. And, libraries are the only institutions dedicated to amassing, collating, and cataloging this vast and diverse body of knowledge so we, the users, can apply it to the betterment of our fellow humans and of the planet we inhabit together.

To address the challenges which the information explosion poses and to capitalize on the promise this knowledge explosion offers, libraries must become stronger and healthier and this strength and health depends heavily on adequate local, State, and Federal funding.

It is propitious, perhaps, Mr. Speaker, that the White House Conference on Library and Information Services will take place in July. White House conferences over the years have served to increase public awareness of issues of national importance. This one, I devotedly hope, will follow this pattern because our libraries—our precious national treasures—will only be able to survive their economic woes if the people of the United States are alerted to their problems and are energized to solve those selfsame problems.

I have worked with Ms. Harriet Henderson, who came to my community from the Newport News, VA, library system, since she took over the reins of the Louisville Free Public Library system. I have found her to be a most thoroughgoing professional and a person determined to upgrade and improve the Louisville and Jefferson County library system.

I have nominated Ms. Henderson to be an at-large delegate to the White House Conference on Library and Information Services which will take place this July. Since she has extensive experience on the ground, as we term it, as director in Newport News and now Louisville, and since Harriet has exhibited the traits of leadership and stamina which will be required to develop the communitywide consensus and the requisite resources—human and financial—the job of restoring our library system takes, I am certain Ms. Henderson would make a solid contribution to the White House Conference.

Library support will always be a largely local function, and, if our libraries are to remain equal to the challenge of the information age, local citizens and local governments will have to do the bulk of the work and provide the bulk of the money. But that does not mean there is no role for the Federal Government. There is a role and it is vital. The role involves financial grants, such as those provided under the Library Services and Construction Act, which among other things, helps local library systems defray the cost of construction and renovation of library facilities and link-up with other information services to provide a range of resources to users, and supports communities which have particularly serious library problems.

The President's fiscal year 1992 budget—in another case of misplaced priorities—recommended a 75-percent cut in our funding for libraries to only $35 million. Fortunately, our Democratic budget resolution, before the House today, would restore the funds cut by the President. Our budget blueprint would provide total library funding for fiscal year 1992 of $148 million, a $5 million increase from the $143 million provided by the Congress in fiscal year 1991. I applaud the Budget Committee on its recognition of the need for Federal assistance for libraries, and I hope we can do even better by our Nation's libraries in the years ahead.

Let me conclude, Mr. Speaker, by again thanking the gentleman from New York for taking this special order and asking permission to extend at this point material about my father and me which appeared in Whitney North Seymour and Elizabeth N. Layne's book on libraries titled, "For the People: Fighting for Public Libraries," and an article from the April 19 Washington Post by Haynes Johnson which supports our Nation's public library system:

FOR THE PEOPLE: FIGHTING FOR PUBLIC LIBRARIES

(By Whitney North Seymour, Jr. and Elizabeth N. Layne)

THE PURSUIT OF HAPPINESS

Romano Mazzoli grew up in the little mountain village of Maniago in northern Italy. When he was a small child, the family home caught fire and he suffered extensive burns which left his face badly scarred. In 1914, shortly after he turned eleven, Romano's father moved his wife and children to the United States, so he could join a family-owned tile, terrazzo, and marble business in Louisville, Kentucky. Three months after they arrived in Louisville, the boy's father died. Romano was sent to live with relatives.

He went to the local public school where, because he could speak no English, he was placed in the first grade. His embarrassment at being a large boy among small children was compounded by his disfiguring facial scar. He felt himself a misfit, and even though he began to advance rapidly in school as he learned to read and speak English, his relatives took him out of school when he reached seventh grade and apprenticed him in the family business.

Romano Mazzoli had a strong native intelligence. He was dextrous, imaginative, ingenious, intuitive, and a tremendously hard worker. He soon mastered the difficult craft of laying tile, setting terrazzo and mosaics, erecting marble, and doing decorative plasterwork. Before long he was a master mechanic, and soon a job foreman. As the business expanded, Romano was sent out of town to run jobs in distant cities, where he stayed at the branch YMCA or a local rooming house. The time after work hours was spent reading whatever he could lay his hands on. He haunted the public library every place he went. he developed an interest in music. Simultaneously he began to develop self-confidence and a love for his adopted country.

Eventually Romano Mazzoli went into business for himself. By hard work and the support of a devoted wife, the business flourished. He earned enough to send his three children to school for the education he never had. He personally taught them to respect and love books and music.

Today one of those children is a member of the United States Congress, who proudly carries on his father's name—Representative Romano L. Mazzoli of the Third District of Kentucky. Congressman Mazzoli speaks feeling of the impact of the public library on three generations of his family:

Many times over the years, Dad told me that, in his judgment, he was "Americanized" by the free pubic library system in the city of Louisville. What Dad meant by this, of course, was that the libraries enabled him to gain the knowledge and the understanding and the appreciation of things around him which he did not acquire in the formal setting of a classroom. The acquisition of this body of knowledge—in the countless hours he spent in libraries around the country—gave Dad the confidence to open up to the world around him and to open up to himself. The free public library system enabled him—a man of few means—to grow socially and intellectually.

I am sure that because of my dad's great love of books and of the printed word, I acquired a love of books: a love affair which continues to the present day.

And, as I look around my son's room, I see that this respect for and love of the written word has been transferred from my father through me to my son. He is only a junior in high school, yet he subscribes to four classical book clubs and is acquiring valuable book sets which he will have use of all the days of his life.

When Thomas Jefferson wrote his poetic introduction to the Declaration of Independence, he singled out three "unalienable" rights with which we have been endowed: "Life, Liberty, and the Pursuit of Happiness." As the experience of the Mazzoli family so graphically shows, probably no institution contributes more to the citizen's Pursuit of Happiness than the nation's public libraries.

[From the Washington Post, Apr. 19, 1991]

PUTTING THE SQUEEZE ON LIBRARIES

(By Haynes Johnson)

In affluent, pleasantly suburban Potomac, a community blessed with good schools and public-spirited citizens, residents have learned through the Potomac Gazette that their admirable public library faces a problem. Soaring Montgomery County deficits are forcing cuts in staff and curtailment of popular programs. Further trims may be needed as county officials wrestle with proposals to reduce library hours and eliminate full and part-time staff positions to meet budgetary shortfalls.

"It's sad not to be able to do as much," says Larry Dickter, who heads Potomac Library's adult services. He adds that "we're experiencing a sense of loss" not only because of valued colleagues affected but also because of the prospect of further reduction of programs and services.

It is not an isolated problem. Even as he spoke this week, public library representatives from around the nation were cornering their representatives and senators on Capitol Hill. They had come to lobby for restoration of proposed Bush administration budget cuts that represent, as the American Library Association puts it, "yet another attempt to eliminate federal library programs."

The Bush proposals, requesting a cut of more than 75 percent in Education Department library programs—from the $143 million appropriated last year to $35 million—comes after the "zeroing-out" Reagan-era slashes in federal funds provided states and local governments. The now-familiar Reagan rationale was that the federally assisted library programs had been well established and that states and localities were more than able to maintain them.

That may have been true during the boom of the 1980s. But that bubble has burst. Like the federal government, state and local governments are battling increasing record deficits. Caught in the vice are such crucial institutions as public libraries that no longer can turn so confidently or easily to federal or local governments for help.

Across the nation, public library systems large and small are in the midst of hard times. As in Potomac, big-city libraries are being forced to slash staffs, freeze hiring levels, cancel purchases of new book orders and computers, delay opening new branch systems and cut programs and services affecting adults and children.

The reasons for this dismaying situation are not obscure or even that complicated. They are part of the legacy bequeathed Americans from the freebooters who had full reign over the nation's destinies in the last decade. Evidence of that reckless, spendthrift decade's disasters continues to accumulate, and not only in the obvious growing problems of debt and deficits. News this week of the federal seizure of First Executive Corp.'s California life-insurance unit—the nation's single largest insurance failure—comes after the collapse of the junk-bond market, the savings and loan debacle, the real estate market Waterloo and increasing strains on the national banking system. All are consequences of the policies and attitudes of the '80s.

In the context of the present, with so much dramatic news of war and starvation and recession and unrest beating on people daily, the plight of America's public libraries is, not surprisingly, largely ignored. That doesn't mean that ordinary citizens are uncaring. On the contrary, they care greatly as was evidenced by demonstrators who hung black cloth across library doors in Brooklyn recently to protest new layoffs and service cuts.

To its credit, the Wall Street Journal devoted Page One "leader" space to a major article about the woes of public libraries during the decisive Persian Gulf ground-war assaults. The article began by focusing on the closing of a one-room library in Poca, W. Va., an event that reporter James S. Hirsch likened to a death in the family.

"On the library's last day," he wrote, "children brought stuffed bears and flowers for the librarian. Later, residents who hadn't heard the news pounded on the locked wooden door of the building."

He quoted the librarian, Betty Hamilton, as saying: "They couldn't believe we were really closing. To a child, the library was always there. Then something is missing from their life. It's like when someone dies, there's a little empty space there."

That, in essence, is what's happening with the nation's libraries. They are not in danger of dying, but they are being diminished. As they decline, they take America down with them.

Mr. SPRATT. Mr. Speaker, I am pleased to participate in the special orders today in recognition of National Library Week. During this week, we take time to pay tribute to the many services that our libraries provide.

Older Americans are the fastest growing segment of our Nation's population. Older Americans presently comprise 13 percent of South Carolina's population, and this number is increasing every year. Because of its mild climate and comparatively low cost of living, South Carolina has been ranked as the third most desirable State for retirement, and retirees are choosing to live in South Carolina in ever increasing numbers.

Many of our older citizens have special needs which the libraries of our State are attempting to address. Library Services and Construction Act [LSCA] funds have enabled our public libraries to develop innovative programs to reach these senior citizens. These programs include personal delivery of library books for homebound patrons, armchair traveler programs in nursing homes, and providing magnification equipment to patrons with vision problems. The York County Library in my district recently coordinated a senior citizens fair, in which elderly residents could obtain information about all the services that are available to them from different local and State agencies. This library also published a directory of these agencies and services and distributed it to the public.

These valuable services need to be made available to our senior citizens. Continued LSCA funding is vital for public libraries to be able to continue this work.

STRENGTHENING U.S. POLICY TOWARD THE BALTIC STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 60 minutes.

Mr. KLECZKA. Mr. Speaker, today, I join my good friend from Illinois, Mr. DURBIN, in introducing a bill which strengthens U.S. policy toward the blossoming democracies in the Baltics.

The courageous Baltic States of Estonia, Latvia, and Lithuania need our help. Soviet forces have ruled the Baltic States ruthlessly since World War II, with only erratic support from the United States. While United States policy up to now has been nonrecognition of the Soviet annexation of the Baltic States, the time is right to help these brave people break the shackles of Soviet domination once and for all, by supporting their desires for freedom and independence.

Since Saddam Hussein's invasion of Kuwait last August 2, most of us in Congress have focused on events in the Persian Gulf, and for good reason. In January, the Soviet Union took advantage of our gulf war preoccupation by undertaking an act of brutal aggression in Lithuania. Recalling Stalin's action in Hungary in 1956, Mr. Gorbachev called in the tanks against the Lithuanian people.

Soviet troops forcibly seized communications systems, a printing plant, a television tower, and government buildings. This belligerant act was a total departure from Mr. Gorbachev's highly proclaimed and much-publicized ideals of perestroika and glasnost, which are the foundation of our improved United States-Soviet relationship. As a result, at least 140 Lithuanians were wounded and at least 15 lost their lives, some of whom were crushed by tanks.

Although the attention of the world now centers on the plight of the Kurdish and Shiite refugees in Iraq, Turkey, and Iran, it is time to support the principle of popular sovereignty, and act on behalf of our friends in the Baltic States. The people of Lithuania, Estonia, and Latvia have chosen to follow a democratic path. Their leaders were freely and openly elected. They bravely boycotted the recent referendum imposed by the Soviet Union. They embody the democratic ideals of our forefathers and they deserve our support.

Our bill will strengthen United States policy toward the Baltic States. The legislation is similar to S. 670, which was introduced last month by our distinguished colleague, Senator PAUL SIMON. It calls for the appointment of cultural representatives by the Secretary of State and permanent commercial representatives by the Foreign Commercial Service to each of the three Baltic States. These representatives would be located in the Baltics.

The legislation also urges the President to appoint a special envoy to assist in Baltic-Soviet independence negotiations and to raise the issue of Baltic independence at the September 1991 U.S. General Assembly session. Finally, the bill makes the Baltic States eligible for United State assistance.

Mr. Speaker, I encourage my colleagues to join us in supporting a stronger United States policy toward the Baltic States by cosponsoring this bill.

THE ANTI-STRIKE-REPLACEMENT LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. FAWELL] is recognized for 60 minutes.

Mr. FAWELL. Mr. Speaker, I have asked for this time this evening so that I might discuss, and I think several of my colleagues may be here also, to discuss H.R. 5, which is referred to as the antistriker replacement law, which is legislation now pending before the Committee on Education and Labor, in regard to which I think many people in this body are not fully aware of all of

its aspects, as well as I think the Nation in general is not aware that such legislation as that is pending.

Basically, what the legislation does is alter 50 years, more than 50 years of labor law in this Nation by creating two new unfair labor practices. One is a prohibition in regard to the employer being able to hire permanent replacement workers during a labor dispute. That is, where labor exercises the undoubted right that it does have to withhold labor and individuals under the NLRA have the perfect right, of course, to go on strike and to remain on strike until such time as they believe their demands have been met.

Always during the last 50 or 55 years, ever since the Wagner Act came into being in this Nation, the employers have had the concomitant right also, if they wish—and it is a difficult right for employers to exercise just as it is a difficult right for the employees to go on strike—it is difficult for the employer to exercise this right to hire permanent replacement workers. Although over the years this right of the employer has not been used greatly, it is a right which is there and in those situations where there are egregious economic demands. In effect, the employer states, "I can't in good conscience accept those economic demands. If I did, I would be out of business or I wouldn't be able to compete in this global economy."

Thus, he would say to those who have gone on strike, "The only thing that I can do, the only alternative I have, is to hire permanent replacement workers."

This has been standard law. It is standard law right now. That would be taken away from the employers of America. I think it is an awfully important item for us to recognize today that 88 percent of the workers of America are not members of labor unions and that, therefore, the fact that, as I see it, the people of this Nation are not really aware of this type of legislation, we ought to be, as Members of Congress, aware of that lack of awareness before we consider adopting legislation such as this. But it does not stop there. It also declares that there is another new unfair labor practice, and that new unfair labor practice is in effect to say to any employee that elects to stick with the employer during a strike, this legislation would say, "Well, you can do that, you can exercise the right," which is granted by the National Labor Relations Act for over 50 years, to not strike, and that is a right of labor in this country just as is the right to withhold one's labor, the right not to strike.

□ 1930

However, Mr. Speaker, under this bill, if an employee decides, "Well, I will not strike for any number of reasons," exercises that statutory right, guess what happens to that employee when the strike is over.

The returning members of the labor union who were on strike can bump him from his job.

Now heretofore the courts have been very clear that one has the right, if there are vacancies, that the returning strikers have the right, to be first considered for any vacancies. But the courts have made it very clear that for those employees who elected not to strike there is no vacancy there, and the person who remains with the employer cannot be bumped. That goes out the window, too, and, as a result, we trivialize, if not as a practical matter just eliminate, all meaning to the right of the workers of America to not go on strike.

Now the bill also, as a practical matter, and many people were not aware of this, but it also covers all employees who are employed in a non-union setting. A number of people are not aware of the fact that under the National Labor Relations Act all employees, whether a member of a labor union or not, have a right to go on strike and, therefore, under those circumstances, if this bill were to pass, even in a nonunion setting where, say, two or three people engage in concerted activity because they are objecting to, for instance, the wages or any of the terms and conditions of employment, they have a right, though not a member of a labor union, to walk off the job, and the employer has the obligation to enter into bargaining with them.

But the employer has had for the last 55 years, under those circumstances of course, to also hire permanent replacement workers. He does not have to necessarily accept the fact in that instance that he just has to wait for those people to return and only to hire temporary replacement workers. So, as a practical matter, over the years that right of the employer to be able to hire permanent replacement workers is something that is utilized, though not too often, in the nonunion setting, as well as it is utilized, although not too often even in the union settting where a strike takes place.

Mr. Speaker, all of this would change now, and this is something that from my viewpoint would mean that we are removing the balance of risks and the balance of rights that one might say exists between employee and labor unions and employers. As a practical matter the labor union will be able to say that these are—let us assume egregious economic demands—and the employer is not able to say, "Well, under the circumstances where I know I can't live with that, I know I'm going to lose business. I'll maybe lose my business completely to foreign competition or to other competition who are not able to say that I am going to have to go with permanent replacement workers." If he cannot say that, then his only alternative is just to capitulate to what the unions request of him, and that pertains to all economic strikes.

It is not an easy thing, for instance, for any employer to make the decision that he has to hire permanent replacement workers and retrain his work force. So, it is not something that employers want to go into, and all we have to do is look at the Greyhound strike, for instance, where the employer elected to use permanent replacement workers. They are now in bankruptcy.

So, it is not something that anybody, any employer, wants to do, but my colleagues see that there is that balance of risks. The striker who goes on strike knows that he takes the risk of perhaps losing his job if there are not vacancies there after the strike. That has always been the case, and that is a risk. The employer, on the other hand, takes the risk, if he uses permanent replacement workers, of also having damage done to his business because he has to retrain workers, and so forth.

So, Mr. Speaker, we are just throwing out the window 50 years of unquestioned labor law, and that I think is deeply very unfortunate, and the thing that I feel that is of concern, or should be of concern, to all of us is that perhaps none of us, being so very busy, are fully aware of what is actually taking place here, and I think that we ought to be aware of that.

There is some talk about having an amendment that would in effect in this bill not be effective in regard to the nonunion setting as though, if that amendment were to pass, that that would just solve the problems insofar as employers are concerned, for instance, who are not with union contracts. What those who present such an amendment seem to be unaware of is that the labor law in this land of ours has always applied equally to all of America's workers. Whether they are union or nonunion, the rights that are afforded are the same.

If, for instance, this bill passes granting these kinds of powers; that is, to not have to worry about permanent replacement workers and having the ability to bump any employee that sticks with the employer in a strike, if that is applicable only to the labor unions, then obviously they have a tool to be able to solicit membership which is fantastic, which obviously we will say to all of those who do not join the union, "Well, if you don't join the union, that's the only way that you can protect yourself, you see, from having permanent replacement workers come in and the only way that you can be assured that you can come back and bump the person who was set as a permanent replacement to your job is to join the union," and so obviously unions which are very concerned about the fact that their membership has fallen greatly during the last several

decades would just love to be able to have the law altered so as to give them those kinds of powers.

Now, Mr. Speaker, there are a number of other people here who also would like to speak on this subject, and so I will yield to the gentleman from Florida [Mr. IRELAND] for comments on this matter.

Mr. IRELAND. Mr. Speaker, I thank the gentleman from Illinois [Mr. FAWELL] for yielding.

Mr. Speaker, as the gentleman from Illinois [Mr. FAWELL] has said, soon we will all be asked to vote on H.R. 5, the so-called striker replacement bill. Big labor has targeted this bill as it's No. 1 priority and a must-win issue. If H.R. 5 becomes law, it will be a disaster for American small businesses. The union bosses' gain will be the country's loss—in terms of higher labor costs, more frequent strikes, and the ripple effect on suppliers, customers, subcontractors, and related businesses.

This bill isn't about protecting union members from unfair labor tactics by corporate America. What the bill is about is allowing one or two employees in a small, nonunion firm to hold that company hostage to their employment demands, no matter how unreasonable they may be.

As the National Federation of Independent Business has pointed out in a letter to Members of Congress:

> H.R. 5 incorporates many of the definitions contained within the National Labor Relations Act [NLRA] and existing case law. In doing so, the bill implicitly covers any business that employs two or more employees.

Now I know that there are those who claim that this bill doesn't apply to nonunion small businesses. But they are wrong—and here's why:

H.R. 5 would make it an unfair labor practice "to offer, or to grant, the status of permanent replacement employee to an individual for performing bargaining unit work for the employer during a labor dispute."

This is one of two instances in H.R. 5 in which the term "labor dispute" appears. The legislation does not specifically define "labor dispute." Instead, it incorporates the definition already contained in the NLRA as follows:

> The term labor dispute includes any controversy concerning terms, tenure or conditions of employment or concerning the association or representation of persons negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relations employer and employees.

In other words, any two employees who walk off a job to protest a "working condition" are considered to be engaged in a labor dispute. Every business with two or more employees could be therefore covered by the legislation.

And this isn't just pie-in-the-sky speculation. It is a very real problem. A recent example of the broad scope of protected activity falling within the "labor dispute" category is found in a recent Seventh Circuit Court of Appeals decision, NLRB versus Jasper Seating Co. That case involved a nonunion manufacturer whose plant had a large overhead door which was left open when the outside temperature exceeded 68 degrees. One day, two employees who worked near the door requested the door be closed. The supervisor refused the request because the majority of workers in the shop wanted to keep the door open. The two complaining employees walked off the job and were dismissed by the employer.

The NLRB held that the two employees were unlawfully dismissed because, by protesting the working conditions at the plant, they were exercising the legal right to engage in concerted activity.

The seventh circuit enforced that decision, noting that the two employees had a right to protest their working conditions, even if their complaint was unreasonable, lacked merit, and did not have the support of a majority of their fellow employees.

Such situations are generally avoided, however, by the exercise of management's ability to permanently replace such striking workers.

If H.R. 5 were applied to the facts of the Jasper case, the two striking nonunion employees would be engaged in a "labor dispute," and would therefore have immediate reinstatement rights to the jobs they voluntarily vacated—whenever they chose to return to work.

To permit such disruptive activity will not only cause friction between groups of workers, but will also severely restrict an employer's ability to manage and to maintain proper workplace discipline.

What's more, H.R. 5 would apply to any individual who—and I'm reading right from the bill now—"has exercised the right to join, to assist, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection through the labor organization involved in the dispute."

Now, supporters of H.R. 5 will try to tell you that the term "labor organization" only applies to certified union representation. But the NLRA definition says otherwise:

> The term "labor organization" means any organization of any kind . . . in which employees participated and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

In other words, whenever any group of employees act in concert—whether over a wage increase or other terms or conditions of employment—the group constitutes a labor organization within the meaning of the NLRA. The courts have made clear in several decisions that you do not need to have a certified union represent your employees to have a labor organization as recognized by the definition contained in the NLRA.

Finally, H.R. 5 would make it an unfair labor practice to permanently replace an individual performing "bargaining unit work" for the employer during a labor dispute.

According to labor experts, past positions taken by the NLRB and the courts make it clear that, while not defining "bargaining unit work," the NLRA has always been interpreted to apply to all workers, whether they are affiliated with a certified union or not.

Clearly, H.R. 5 has implications for all businesses—union and nonunion. And there is no question that smaller firms have the most to lose if this bill were to become law.

Small businesses generate more than 57 percent of all new jobs in the United States. They set the standard for the rest of the world in creativity, innovation, and entrepreneurial spirit. The striker replacement bill is a direct threat to this vital sector of our economy and to our continued competitiveness in world markets. I urge you to vote against H.R. 5.

□ 1940

Mr. FAWELL. Mr. Speaker, I thank the gentleman from Florida [Mr. IRELAND]. Once again, he has exhibited the fact that he does his homework and is aware of what the rather arcane labor law is in regard to these circumstances. That is one of the things we hope that we can bring out to our colleagues this evening, that perhaps even the drafters had not realized the full effect their legislation would have.

At this time I yield to the gentleman from Texas [Mr. ARMEY], because I know he has some comments on this and I always welcome the innovative comments from my good friend from the State of Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Let me begin my comments, Mr. Speaker, by expressing my appreciation to the gentleman from Illinois [Mr. FAWELL] for taking this special order. I would like to point out that I have had the privilege, since I have been in Congress, to sit next to HARRIS FAWELL on the Education and Labor Committee. It has been a privilege for me in particular because HARRIS FAWELL is always one of the most well prepared, most thoroughly disciplined researchers of the fine print of legislation of anybody in Congress, and I have found it to my advantage to sit next to the gentleman on so many occasions because by doing so I could crib off the gentleman's margin notes on the legislation and give the appearance of knowing quite often much more than I did by virtue of the gentleman's hard research. So let me thank the gentleman for that.

Mr. Speaker, I would like to talk about this legislation a little bit and put it in the context of understanding this: Who is labor in America today?

We have so many pretensions in legislative and political dialog that sometimes we lose sight of the facts, and there is a tendency, particularly in Washington, to confuse things. We tend to refer to labor, or we use the word, "labor," in Washington when we are referring to organized labor, unionized labor in general, but even more particularly, the AFL–CIO and other national union headquarters here in Washington, DC, inside the beltway. We tend to believe and in some cases we tend to represent the proposition that these institutions inside the beltway in Washington, DC, represent the American workers, and we lose sight of the fact that these institutions represent themselves before the American workers.

□ 1950

Let us make a few things clear. First of all, we can talk about working men and women of this country and talk about all of those people who get up and go to work every day, whether they like it or not, quite often to a job they do not particularly enjoy, because they have children and obligations, and in fact do that heroic thing of bringing home the family's bacon. Or we can talk about labor. If I talk about labor, I am talking about a group of people who sit in Washington, DC, primarily, collecting the dues from those working men and women who choose to join their organizations, and chronically misrepresent the best interests of those men and women as they serve their own first best self-interests.

This is what I call institutional Potomac fever. We need to be aware of this distinction, because each and every Member of Congress has in their home district a large number of working men and women who voted in their congressional election and to whom they have an obligation of representation. That representation to the folks back home is what we ought to put first.

Mr. FAWELL. If the gentleman would yield, I can recall a hearing last year on this legislation, and a member of one of our large labor unions said, "We represent the working men and women of America."

I could not help but say, "Well, certainly you represent some of them, but you represent only 12 percent of the working men and women in private firms of America."

He seemed shocked that I pointed this out to him. In the construction trades, for instance, especially in residential construction trades in my area, 95 percent are nonunion. They are just now learning, for instance, that because of this legislation they may lose the right which they always know is there in abeyance if there are egregious economic demands they cannot possibly meet, the right to be able to hire replacement workers. They are hopping mad.

I am just concerned that not enough people in this Nation are aware of that. The gentleman is so correct. In Washington we think of labor as only the professional labor organizations. Bless their heart, they do their jobs, and that is part of America. But the largest part of American working men and women are not members of labor unions.

Mr. ARMEY. I thank the gentleman for that observation. Let me remind the gentleman, the people at the AFL–CIO's headquarters downtown, the people in the legal foundation of AFL–CIO, those high-placed lawyers, they are working for themselves, just as everybody else is in this town.

We should remember that there is no working man or woman in this country today that is denied the right to join the union if they so choose. They are free to make that choice. Only 12 percent of the nonpublic employed people in this country have elected to choose the union.

If my calculations are correct, that means that 88 percent of the working men and women of this country have made a conscious choice to not join the union.

Why would they make that choice? Mr. Speaker, I have a startling revelation for you. People who are smart enough to learn the responsibilities and the skills of parenthood, to maintain themselves in employment, are smart enough to understand when they get fair value for their dollar. They sit down and they consider the option before them to join the union. If I join the union, and if by having done so I then accept the compulsion to give up some of my hard-earned earnings to the union, will they in fact use that in my best interests, so that it will translate into benefits for me and my family? And they judge it not to be.

So the fact of the matter is, the consistent decline in union membership we have seen over the years, that is such a frustration to all these union bosses here in town, is the free choice of working men and women, to take their hard-earned income and to do the best they can for themselves and their families, without having any part of it siphoned off to serve the interests of the union leaders. This has been a frustration to the union.

Mr. Speaker, I have to say I have been on the Committee on Education and Labor for over 6 years. I can tell Members there has not been a single piece of labor legislation that has been taken up and seriously considered by this committee that was not written at the AFL–CIO headquarters inside the beltway in this town.

It is not the working men and women in Chicago, Detroit, and Dallas, TX, that have said, "We want you to consider this legislation." It is the union bosses here. And they are something different.

As we looked at that, when I first came here, I was confused. I would look at a bill that was taken up by the committee. We would examine the bill, and I had, being from back home and somewhat naive in these matters, an initial impulse to examine the bill with respect to this question.

I would say, "What would the passage of this legislation do for the men and women working back in my district?" Every time I could find no answer.

When I finally began to ask the question, "What will it do for the union bosses in Washington, DC, and the AFL–CIO's high-priced union lawyers in Washington, DC," I began to understand why somebody wanted the legislation, irrespective of its negative impact on the workers in Dallas, TX. And the workers know that, too. They therefore are refusing to join the union.

So I am going to make this point at this time, and then maybe I will speak again later. But the point we need to remember here, this bill, H.R. 5, the so-called Striker Replacement Act, is not about serving the interests of the men and women that are working for a salary back home on behalf of their family. It is about trying to assuage the frustrations of the union leaders for their inability to convince those folks to join unions. It is a union membership bill. That is the reason we have it here.

Mr. Speaker, we need to understand one other thing while I am making the point. We cannot in good conscience vote for those union leaders to have a completely unchecked right to take their 12 percent of America's labor force out on strike and cripple the right of the 88 percent of those who choose not to join the union, who want to work on behalf of their children, to be on the job that day.

The fact of the matter is, while those 12 percent are trying to leverage special privilege under the law, given this legislation, to have a strike that cannot be responded to by management, and to coerce management in this strike circumstance, they will during this incident of increased numbers of strikes, with the attendant strike violence that seems always to be there, temporarily force layoffs on those nonunion workers.

We need to examine that consideration. Why would we want to pass legislation that serves the greed of a few, and forces the cost to be borne by so many?

Mr. Speaker, I thank the gentleman for yielding.

Mr. FAWELL. Mr. Speaker, I thank the gentleman from Texas, who is always articulate and knows his subject matter. In a sense, it is good to be able

to have these special orders and to realize when you speak some of these I believe truths, that sometimes I think in committee you feel like the skunk at the picnic when you utter these things that are deemed to be not utterable. But these things need to be said, I think.

Again, I hope that we will serve the purpose of apprising people in general of what Congress is about and doing here.

I would now like to yield time to my good friend from the State of Illinois [Mr. PORTER], who also has some comments in reference to this legislation.

Mr. PORTER. Mr. Speaker, I thank my esteemed colleague from Illinois for yielding to me and permitting me to address this important issue. I might say to my colleague that I have been an admirer of him ever since I was elected to the Illinois House of Representatives in 1972 and he was a member of the Illinois Senate.

Mr. Speaker, before this House considers H.R. 5, the bill to ban any permanent replacement of striking workers, we ought to take time to carefully consider the single case where our current labor laws do in fact allow permanent strike replacements. There is only one such instance.

Let me point out that permanent replacement is not allowed when employees strike against unsafe working conditions, or against an employer who refuses to bargain in good faith, or when an employer is in violation of fair labor practice laws. Workers involved in an "unfair labor practice" dispute are guaranteed full reinstatement after the strike is over, under our law, as they should be.

The single exception to the rule is the economic strike—a strike for higher wages or increased benefits. Current law says that when employees voluntarily walk off their jobs to demand higher pay, employers have the right to try to stay in business by offering permanent employment to replacement workers—workers who are willing to accept the pay and benefits the employer is offering.

Our labor laws have maintained this distinction, clearly and consistently, for over 50 years, a distinction so essential to fair and balanced labor relations that, until now, it had never been seriously questioned—even by organized labor.

House Resolution 5 would wipe out this distinction, and, in the process, wipe out any notion of fairness or equity during labor negotiations and strikes.

The reasoning is simple: In an unfair labor practices dispute, the employer has broken the law. By denying that employer the right to use permanent replacements, we deny his ability to continue "business as usual" while operating outside the law.

Likewise, when workers have been forced to the picket line by an employer's abusive and illegal labor practices, they are guaranteed automatic reinstatement with full benefits after the strike is over. Current law stacks the odds against the employer who chooses to violate his employee's legal rights, and prevents him from continuing business until the dispute has been settled.

In an economic strike, however, when the employer has not broken the law, has treated labor fairly, and has bargained in good faith—whose only offense has been to disagree with the union's economic demands—the employer has the right to try to stay in business by hiring replacement workers. To attract qualified replacements, it is often necessary to offer permanent employment.

When organized labor does resort to an economic strike, the law already prohibits discrimination based on union membership, and mandates preferential rehiring of returning strikers with full benefits as vacancies occur. Employers are also prohibited from promising preferential treatment to any prospective employees, and may not offer replacements a better deal than they offered the strikers at the bargaining table.

Current law is therefore designed to prevent every dispute and union demand from triggering a strike. When union members voluntarily walk away from $38,000 a year production jobs in Maine, or $98,000 a year jobs as pilots, or $200,000 a year job as professional football players, they know that there is a substantial risk that other workers might find such pay acceptable.

An economic strike—a strike for higher pay—is a voluntary, calculated risk on the part of the union. A union striking for economic demands, which may or may not be reasonable, should not be afforded the same immunity to risk given to workers whose legal rights have been violated by their employer.

Under the provisions of H.R. 5, unions would no longer have to weigh the risks of job loss against the reasonableness of their economic demand. Under the strike replacement ban, the risk disappears, and strikers making any sort of economic demand, no matter how outrageous, would have the same right to automatic reinstatement as workers protesting an employer's illegal labor practices.

A permanent replacements ban would abolish the mutual risk faced by the opposing sides in an economic strike—the vital mutual risk that pressures both management and labor toward compromise and conciliation, and makes both sides think twice about demands or policies likely to precipitate a strike.

H.R. 5 is not an attempt to correct some loophole or address a pervasive problem. Two General Accounting Office reports have shown that permanent replacements are used in only 15 to 17 percent of strikes, and affect less than 4 percent of all strikers.

The infrequency with which employers have exercised their option to permanently replace strikers demonstrates the effectiveness of mutual risks in bringing labor and management closer to compromise, conciliation and continued productivity.

What the proposed legislation would do is create the "no-risk economic strike," at a time when 73 percent of all Americans believe—according to a recent Time/CNN poll—that organized labor has either too much or just the right amount of power.

Disproportionate power on either side of the bargaining table is just bad public policy, and a permanent replacements ban represents an unjustified shift of power to labor's side of that table.

For over 50 years strikes have remained an option of last resort. If enacted, this legislation would make them the first.

Mr. FAWELL. Again I certainly thank my friend from Illinois [Mr. PORTER], who has written this on this subject and I appreciate very much his comments.

Mr. Speaker, what we have in this legislation is a major assault by the professional unions of this Nation representing, as has been indicated, only 12 percent of the private work force, and holding this out as what the people of this great Nation want. I hope we can begin to ring the bell and to apprise people of what is taking place.

What has not been emphasized a great deal here, though I did make some comments about it, is that section 7 of the National Labor Relations Act makes it very clear, after it recites all of the rights of labor, whether members of professional unions or not, to be able to strike, and collectively bargain, to engage in concerted activity in regard to the terms and conditions of employment and wages and so forth, it understandably and rightly recites all of those rights of the workers, but interestingly, Mr. Speaker, it leaves out one right as though it never existed, and it is right there in section 7(2). It sets forth the right of a worker not to strike. You do not have to strike, you do not have to join a union, and if there is a strike and you are not a member, or even if you are a member, you can exercise your right not to strike. That is so important.

The legislation not only takes away from the employer the right to hire permanent replacement workers, for instance, which has been brought out as what he or she must have to be able to counter an egregious economic demand, but it goes further and goes after that guy or that gal who says I am sticking with the employer, I elect my right which has been given to me

for the last 55 years, I elect the right not to strike, and they say to that person all right, you can elect not to strike, but let us tell you that when the strike is concluded and we want to, and the striker comes back, he is able to bump you out of a job, and that has not been emphasized. I think it certainly should be.

Again, Mr. Speaker, I yield to my friend, the gentleman from Texas [Mr. ARMEY].

□ 2010

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wanted to talk and to pick up on the point that we have so much rhetoric going on here surrounding this pretension that H.R. 5 is advanced in the interests of protecting the rights of the worker. You know, one of our colleagues on the Committee on Education and Labor refers to this as the right-to-bump bill.

We go to work because we need a job. Most of us appreciate having a job, and we have a certain sense of appreciation for the employer that risks their capital, investment and so forth to make a job possible and a certain loyalty to them. But our loyalty to our family and our needs of our family are even greater.

What happens in a bill like this, if it is passed into law, what you do is you not only take away the right to work from the person that might welcome the opportunity to be a replacement worker for somebody who voluntarily walked off the job in a strike but you take away the right to accumulate seniority on the part of that worker who says, "I must stay on the job. My youngsters need this salary to come in constantly. I am loyal to my employer. I appreciate the right I have to work here."

Let us say I started on the same job behind you 30 days. You went out on strike for 35 days, and I stayed on the job. In this process of accumulating seniority toward raises, advancement and so forth we would not allow me to count, under this bill, I would be prohibited from counting the time that I stayed on the job and the gentleman sat off the job. So that, in fact, the best effort that I made to improve my situation and that of my children is denied me. On behalf of the person who says, "I would go out on strike," they are saying, "We will hold at harm the person who says, 'I cannot afford to; I choose not to go on strike.'" They would hold at harm the person who said, "I would welcome the opportunity to work for a little while or perhaps permanently if I work out here given the opportunity." They hold at harm the person who, for example, maybe, let us say in the airplane industry, a steward or stewardess who does not fly because the mechanics decided to go on strike, and there is no provision in this law that says if, in fact, this strike harms other workers in the firm that we make an exception to the firm's right to hire a replacement worker in order to maintain operations so these other innocent bystanders are not victimized by this strike.

What I am going to suggest is we cannot afford to let those people who simply want to take away this very, very delicate balance between labor and management that has helped us to minimize strikes and attendant strike violence, that has helped us to work out collective bargaining negotiations in peaceful fashions in the past more frequently than not, and it is to give them, in effect, what amounts to on behalf of the union the unmitigated right to go out on strike, call the strike and then coerce the results because their point will simply be, "You must shut down operations during the period of this strike irrespective of its impact on anybody else affiliated with the firm or come to terms with us on our terms." Now, that, I think, is going to result in labor going out on strike more frequently, the strikes being more often, more violent, and I just want to give the Members a quick look here.

Here is a study done by the Wharton School from the period 1975 to 1981. Let me just take one at random. I mean, just what would surprise you most?

The top 20 unions in America were they had experienced union violence during periods of labor strife and strikes from 1975 to 1981, before PATCO, before, it is said, the apparent need for this legislation arose, if we go down this list, the Teamsters were the most violent, 384 violent incidents; the Mine Workers, 204; the Steelworkers, 130; Auto Workers, 128; State, County and Municipal Workers, 116; Machinists, 104; Food and Commercial Workers, 83, and this I was amazed at, the teachers, the National Education Association, and very likely the largest union in the Nation, but the teachers had 80 incidents of violence during that period of time.

The question is where do we have any protection for that person who is assaulted while they are walking to work, that has stones thrown at their automobile? We have had people, for example, who have been beaten with bats. People have been shot at. In one case we had rifle shots actually coming out of the union's headquarters office, and they still were unable to prove in a court of law that the union encouraged that violence.

But I have to tell the Members that I am concerned. I have had so many people visit my office and tell me the stories, truck drivers, coal-truck drivers in West Virginia. There was one gentleman that was shot in the leg as a rifle shot came right through the door of his truck and penetrated his leg.

So I would say we need to be cognizant of these real impacts of giving organized labor an unmitigated right to bully management in total disregard of the other workers in the organization.

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

Mr. FAWELL. Mr. Speaker, I thank the gentleman. I think we have another labor bill coming along.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I would simply announce to the body that we are about to offer a unanimous-consent request which will ask unanimous consent, when it is offered, for the consideration of the bill that will bring a resolution of the rail strike situation.

We believe that the matter will be brought before the House, if the unanimous-consent request is offered and is made, about 9:15 and, therefore, the vote on this matter would happen sometime after 9:15. It will call for an hour of debate. So at the latest the vote could be held about 10:15 this evening, 10:15 or 10:30, but we believe that the vote could come anytime after 9:15.

PERMISSION TO CONSIDER TONIGHT HOUSE JOINT RESOLUTION 222, RESOLVING THE RAIL STRIKE SITUATION

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it be in order tonight to consider in the House the joint resolution (H.J. Res. 222); that the joint resolution be debatable for not to exceed 1 hours, equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion except an amendment to be offered by Representative DINGELL and one motion to recommit.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Missouri?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, and I most likely would not object, I would ask the distinguished majority leader if he would just explain the amendment to be offered by the gentleman from Michigan [Mr. DINGELL], because as I understand it, and maybe the majority leader can inform us, an agreement has been reached between the administration and both sides of the aisle on the bill that will come before the floor which would not require any substantive amendment.

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

Mr. SOLOMON. Further reserving the right to object, I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, the gentleman is correct. The only reason we wanted to leave this language in was in case at the last moment a very technical amendment would have to be offered to clean up some problem that we are not seeing at the moment, but we do not expect that.

We believe there is a total agreement between all parties on what the bill should contain.

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, I would just ask the gentleman, if there were to be some technical amendment, if we could see it in advance.

Mr. GEPHARDT. Absolutely.

Mr. SOLOMON. Fine. And also there is the possibility there might not even be a recorded vote on this? Is that correct?

Mr. GEPHARDT. It is possible, but we never know.

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Mr. SOLOMON. Mr. Speaker, I thank the gentleman. I will not object, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE POLITICS OF TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, in the unseemly rush to push through two major trade agreements—Mexico Free Trade and the General Agreements on Tarriffs and Trade [GATT], we are told by proponents of the urgent need to support the Mexican Government's willingness to enter into the compact.

We hear—behind closed doors—that if we do not incorporate the Mexican economy into ours that there is a real possibility of civil unrest there in the near future, because of the country's poverty and the instability of its local governments.

It is being inferred—in all of the lobbying—that we must move very quickly on this because President Salinas has only 2 years left in office. That since he cannot succeed himself, we must deal with him because after he is gone, we do not know what we will be dealing with down there.

These arguments sound like trade policy driven by desperation or expendiency—which is always bad for a business, and Mr. Speaker, trade is business, but—in a representative form of government—it is much more.

Trade in goods and services, per se, is understood by the uninitiated to be agreements between countries to buy each other's products. To those in government, especially elected officials who must answer to constituents, the use of trade treaties for international advantage, either military or economic, becomes difficult to explain.

An American worker thrown out of his job by plant closings due to the opening of a free trade zone with Mexico doesn't give a hoot for the problems of illegal immigration from Latin America across the Mexican border. The theory that supplying jobs inside Mexico will discourage illegal immigration sounds much more reasonable inside an air-conditioned office in Washington than it sounds as a rationale in a shuttered steel town during an election year.

The Keynesian idea of redistribution of wealth through U.S. tax law seems to have been expanded through trade policy to the redistribution of U.S. wealth worldwide.

The old Marshall plan idea has undergone some Machiavellian twists. Instead of tied-aid packages going to underdeveloped countries as was the practice after the Second World War, we now send not only dollars which can be spent to buy products or agricultural goods from our competitors; but, also, we have traded off preeminence in whole industries—microelectronics, consumer electronics, machine tools, ball bearings, to name but a few—in order to satisfy the demands of U.S. diplomatic or ideological goals.

In 1984, the beginning year of staggering trade deficits, the late Secretary of Commerce, Malcolm Baldrige, made a speech before the National Conference of Governors outlining the use of this strategy. He warned that the rising balance of payments deficit would have to be borne in order to stimulate the economies of "recession bound Europe" and to transfer dollars into Third World countries staggering under the burden of debt to international banks.

Interestingly enough, this remarkable statement of the thrust of free trade policy for the 1980's received no comment in the press or by any of the pundits; and, disappointedly enough, raised no outcry from American industry.

In all fairness, few people at the time could grasp the sea change that was taking place in our national policy. The concept of opening up U.S. markets to a flood of imports whose sales would prime the pumps of foreign economies is breathtaking in scope and was audacious in its execution.

And there were a host of powerful advocates, else it would not have been so quickly implemented with so little public outrage. There were the economic ideologues who truly believe as an article of faith, that the market should decide which businesses will survive. But, as we have seen played out over the last 10 years, there is not the one free market envisioned by these theoreticians in their ivory towers. We have learned, from the devastating balance of trade deficit, that the free market, the open economy exists only in textbooks and in econometric models being run through business schools and think tanks.

The ideologues, when questioned about the growing evidence of their failed vision and the continued resistance of our trading partners to opening their markets to U.S. products, answer defensively, "They are wrong! And one of these days, they'll find out that we were right!" These pure of theory remind me of the early priests going forward to face the Indians carrying only the cross to protect their belief. It took several generations of lost churchmen to convince Spain that she had better buttress the faith with soldiers.

We have lost a generation of businesses to the free market/trade ideologues and when this idea of unrestricted play was extended into the domestic financial arena, it almost destroyed our savings and loan industry and has left many of our major corporations struggling under a burden of debt from leveraged buyouts and ill-conceived mergers. The decisions of the marketplace have proven to be about as arbitrary, and as fair, as those of the Indians, who probably sacrificed the well-meaning priests to their gods.

I can understand ideology as the basis of a theology, but not as a basis for the economic policy of a vibrant, secular nation. However, other powerful interests endorsed the radical view of the ideologues—so much quick profit can be made when an economic system is in flux that not only do entrepreneurs thrive, but speculators grow apace. After all, to the audacious, opportunity exists only in the movement of money and markets, whether up or down. Closely held, long-term investment creates no new millionaires. The high flyers wholeheartedly supported the newest economic fad. After all, it gave a legitimacy to their menacing financial schemes and if the 1980's saw some of their numbers indicted and jailed, many more took millions of dollars out of old line companies and retired before the junk bonds came due.

International business also had an interest in the new religion. Aware of the markets created by Marshall plan money in the fifties, they looked to the markets in nations newly invigorated with U.S.-exported dollars. Dollars which, when earned abroad and reinvested abroad, escaped the high corporate U.S. income tax. Large U.S. manufacturers struggling with growing environmental restrictions and increasing labor costs eagerly sought out manufacturing bases in nations where

labor and environmental law were nonexistent and where it was possible, in some industries, to lease manufacturing lines on short-term contracts if the items were fashion related and/or speculative in nature.

Large agribusiness, long experienced in international trade, welcomed the entrance of the corporate manufacturing giants of America into the global economy. Some of their more venturesome members, who from the earliest years of the cold war had pushed for sales to the enemy and had suffered a pariah treatment in certain political circles, also gained a legitimacy from the new company they were keeping and from adherence—by the ideologues—to their long-held laissez faire attitudes in international trade.

As large U.S. business interests increasingly became more international, the cost to the traditional American manufacturer was enormous. As late as 1983, 70 percent of all manufacturing employees were working in companies with 100 or less workers. The profile of the U.S. manufacturing base, forced into international competition by economic policy of this time, was not that of big business and giant corporations, but of thousands of small companies in hundreds of towns across the country engaged for the most part in making component parts for the other 30 percent.

It was these companies that the free marketplace, with its flood of imports, shook out. Targeting and dumping of specific industries had begun in the 1970's, but many of the appeals against these illegal marketing practices did not come to the Government until the early 1980's. And every appeal to the Government for protection from illegal foreign marketing practices was turned away with myriad strategies. The industrial fasteners' 232 petition and the Houdaile Corp.'s 301 petition were flatly turned down. Steel and machine tools received voluntary restraint agreement programs with questionable enforcement on the part of the Government. Other industries just withered under the onslaught with only sporadic pleas for help—forgings, shipbuilding, ball bearings, microelectronic manufacturing. The loss in consumer electronics is too grim and too long to be included in this article.

The shoe industry and the apparel industry were put on the bargaining table at every trade meeting with an underdeveloped country. After a decade of cutthroat competition against countries whose wages rarely break through $1 an hour, U.S. shoe manufacturing has virtually disappeared and 60 percent of all apparel sold in the United States is imported. The loans owed to the international banks by the Third World remain largely unpaid.

If imports were sucking out our wealth, before too long, they began to suck out our jobs creating the infamous Rust Belt in the North Central States. In order to stimulate our own economy, sluggish from the deep recession of 1982–83 and beginning to show the effects of the loss of value added industry, interest rates had to be kept high to attract the lost dollars back onshore for our growing internal debt created by the failure of supply-side economics.

In effect, an international Ponzi scheme had been created. Dollars out for imports balanced by dollars back in attracted by high interest rates and increasingly, fewer U.S.-produced products. Needless to say, once in place, every effort, every policy had to keep the two-way flow of dollars moving. Any threat of disruption, whether from protectionist legislation or foreign retaliatory action, was met by a barrage of free trade propanganda and capitulation to every foreign demand.

"Protectionist" became an ephithet, Adam Smith an icon, and agri-business laughed all the way to the bank. If we were being targeted and dumped on with subsidized manufactured products, we were the most guilty of all in targeting and dumping subsidized agricultural products.

The comparative advantage economists—those who believe that each nation should supply to the world economy only those goods which they produce best—were euphoric, the primed economy kept expanding and the flow of foreign wealth and defense dollars ringing through U.S. cash registers drowned out the pleas of our foundering domestic industries.

Over the years of the greatest peacetime expenditure for defense, our strategic position as a fortress of democracy was being eroded by a growing dependence on industrial production in countries within 1 hour's flight time from the Soviet Union. By 1989, the fourth largest U.S. defense contractor was Thomson CSF, the French giant controlled and subsidized mainly by the Government of France.

History has some lessons to teach us about the value of industry to a nation's strength. Edward Crankshaw in his book, "The Shadow of the Winter Palace," reports on the fight waged in Russia between the free traders and the protectionists in the early days of the Industrial Revolution. The protectionists desired to shelter fledgling domestic industries against manufactured imports from Europe. However, grain, Russia's major export was controlled by the wealthy landowners, influential with the Czar. They feared that industrial competition from Russia would cause barriers to be raised inside Europe against their agricultural products.

The first serious Russian economist, Heinrich Storch, the most vocal of the free trade advocates took Adam Smith's "Wealth of Nations" as his bible. He felt that Russia would be flouting her destiny if she diverted her resources from agriculture to industry. He believed, also, that the highly productive Russian soil would pay for the import of all the manufactured goods which the country could absorb.

Crankshaw reports the debate in great detail and, it is obvious from the stagnant economy of Russia in the 19th century that the free traders won. However, it should be instructive to note that this economic background and the outcome of the debate is reported as being one of the causes of the Russian Revolution at the end of the century. The agricultural economy allowed for no opportunity for the people of Russia. The entrenched elite stayed entrenched for far too long.

Strangely enough, according to the headlines of last summer, the fate of the Uraguay rounds of GATT hinges on the access of United States agricultural products to export markets. One would think we were mainly a nation of grain farmers. Modern Adam Smith economists remain unchanged after almost 200 years, despite Russia's experience.

To the American manufacturer, however, the Government's interest in trading oranges for machine tools and supplying export bonuses for grain sales abroad, has begun to prove disastrous. Faced with competition from socialist countries which subsidize their corporations and use the value added tax as export bonuses for manufactured goods, fighting for market share against the cartels and mercantilist economies of Southeast Asia, the average U.S. manufacturer feels abandoned by policymakers and a seige mentality is developing in the most vulnerable sectors.

The surprising strength of support for the 1990 textile-fiber-shoe bill, both in the House and Senate this summer, is evidence, I believe, of a fight-back mentality growing in the grassroots of America. Textiles represent jobs for 2 million American workers. Over 2 million American families will be affected by the loss of this industry, not counting the trickle-down effect through the communities to the banker, the baker, and the automobile salesrooms. Currently, textiles account for 25 percent of the trade deficit—now approaching a staggering $500 billion to the world.

The unrest in the country is being fueled, in part, by recent evidence brought out by a Ways and Means oversight subcommittee that as many as 39,000 foreign corporations operating onshore have underpaid taxes in amounts between $35 billion and $50 billion, without penalties, fines, and interest.

The budget deficit, $104 billion above the Gramm-Rudman-Hollings ceiling accepted in the 1989 winter, when investigated, should give even the most stolid free trader pause. Of the unexpected $68 billion shortfall reported

last July, $37 billion was accounted for in lower-than-expected IRS collections of corporate taxes, including payroll deductions; $19 billion was in higher-than-expected outlays for interest payments, much of that flowing offshore tax free. Coincidentally, the rock bottom figure needed to get us through this period without catastrophic cuts is approximately $50 billion—in the range of estimated underpayment of taxes by some of our foreign guests.

The Ponzi scheme, when it evolved, was fueled by a highly industrialized economy. By the end of a decade of exporting America's manufacturing base, the tax returns of a service economy are coming up short. If service industries require little long-term investment of capital contrasted with manufacturing, they also return less value added products thus creating lower tax revenues. If service industries require less skilled workers at lower cost, they also offer fewer benefits—medical coverage, retirement—to their workers and the workers pay less taxes all the while needing more government services to replace benefits once supplied by the private sector.

I am firmly convinced that the emergence of the idea of a service economy in the mid-1980's was sheer expediency. The rapid decline of our preeminence in the microelectronic industry, the industry of the future which was supposed to replace the heavy industrial sector—twilight industries they were called in those days—left our ideologists with no place to go. That we were becoming a service economy, by default, certainly could not be acknowledged. Once it became evident that we had allowed ourselves to be stripped of our manufacturing base, then services had to be lauded and heralded as the wave of the 1990's.

We would celebrate America's decline from a nation of highly skilled, highly paid workers to a country of clerks and food handlers, agricultural laborers, and health care workers. I use the word "celebrate" deliberately. Having spent most of my adult life as an editor in the newspaper business, I feel a real need to comment on a phenomenon of this period which I have never observed before: The creation of a whole jargon as a substitute for economic policy.

Think about the plethora of words and phrases we have been given to refer to complex economic issues and then think of how we have been conditioned by the opinion makers to respond to them: Free trade, supply-side economics, free marketplace, comparative advantage economics, libertarian, revenue neutral, revenue enhancing, global village, mutual dependence—international interdependence—Adam Smith, service economy, consumer in any context—all good; smokestack industries, heavy industry, protectionism, wealth creation, value-added in any context, subsidies, government regulations—all bad. Words which have almost disappeared from usage, because they are totally out of vogue: Taxes, national interest in any context, patriotism, treason, "Made in America—100 percent," solvency, American corporation, debt-free.

In the old dictionaries there is a description of jargon as being the language of thieves and Gypsies. It refers to the need to be wary of the language of the fly-by-nights passing through the village selling something which they really cannot deliver.

In offering us new meanings for old words, the modern alchemists are trying to create a new reality. However, if one takes the time to examine this offering, it is not really new. It is as old as Rousseau, Ricardo, and Marx, and yes, as old and outdated as Adam Smith. All of the hype, all of the ideals to the contrary, some economic and historical truths prevail. Debts will be paid whether in currency or by demand against real assets. Nationalism will not fade out or disappear as evidenced by the surprising resurgence of old national entities in Eastern Europe after 50 to 75 years of Russian efforts to absorb them. Jargon can substitute for belief only until it is challenged by evidence. The current economic crisis should signal the Gypsies that it is time to move on.

But, another factor putting pressure on them, one never included in their econometric models, is the democratic processes underlying this Nation. Unlike most of our other nation-competitors, we are not a cabinet government. There is a popular election every 2 years which serves as a referendum on the behavior of the Government, especially its economic behavior, and signs of unrest began to show up in the polls in the last election year. At this time there is no charismatic leader around which the disaffected can coalesce and the major issue, the loss of economic preeminence in the world, is not easily defined in political slogans; but, the unrest is such that a dramatic downturn in the economy could produce a populist leader in either party, virtually overnight.

In the interim, the next November elections may see some House Members replaced. It will be a beginning of picking-them-off-around-the-edges as everyone holds his/her breath approaching the 1992 Presidential election year.

It seems to me an unfortunate accident of timing that just as the European Community puts the final touches to its agreements on a united European block, after years of negotiations, straws in the wind predict that U.S. trade policy will be embroiled in tremendous domestic political controversy by 1992.

I think the pot is beginning to boil and if it is true that powerful Democrat chairmen in the House will be stepping down in order to keep unspent campaign contributions collected over years, the change in direction in trade policy could be radical. Contrasted with the free trade of the 1980's, any change would have to be more protectionist.

It is also reasonable to assume that the withdrawal of U.S. military support form both NATO and Southeastern Asia will cause a sigh of relief from American taxpayers at the beginning of the end of the Pax Americana. Much of the onus of our $3½-trillion internal deficit can be laid at the feet of our 40-year commitment to protecting the free world.

The efforts of this administration to raise funding from our allies to help defray the expenses of the current crisis in the Middle East tends to make my point. Such a radical change in policy, I think, anticipates the possibility of a taxpayer revolt. Because, if indeed, we are living in a global village, more than any nation in the world we made it a possibility with our microelectronic inventions and aerospace breakthroughs. Starting with the Marshall plan, followed by literally hundreds of U.S.-sponsored programs and billions of dollars, we also—more than any other nation built that global village.

In truth, we created much of our own commercial and agricultural competition and in our enthusiasm to do well while doing good, we never looked ahead to the consequences for our own country of such bountiful sharing of all of our resources. Much of the money loaned to other nations for both World War I and II was never repaid and no demand has been made by the United States for repayment.

Against this history, the economics of the international burden seems to have become too heavy for the American people to accept. I predict, increasingly, America will become more isolationist. Before too long, the cry will grow to bring home not only American troops, no matter where they are assigned, but to bring back onshore U.S manufacturing jobs so the released soldiers will have worthwhile jobs. The numbers of electronics engineers and electronics technicians freed up by demobilization not only of the military, but of the defense industries will put great strains on a service-oriented economy to accommodate the level of skills of the half million or more expected job seekers.

The cost of the Pax Americana is beginning to show up in the most obvious ways—broken bridges and pot-holed highways. It is an anomaly to me, as a member of the Transportation Committee of the House, that we are demanding the Government of Japan spend more money on building infrastructure when our own bridges and roadways are in such bad shape, when we don't have one stretch of highspeed railway in our own Nation. But, the

empty factories and overgrown industrial parks are another mark of our efforts to be the engine of the world. The bill is coming due in so many different ways, in so many different communities that my long experience on the political scene leads me to believe that some major changes will be demanded by the American electorate. The question is to find a formula acceptable to the people, yet strong enough to be effective in revitalizing the economy. Every effort must be made to accommodate and protect the unique American economic system with all of its possibilities of upward mobility economically. Socially, among the leading nations of the world, we are the only true democracy. We have no royal house, no hereditary titles, no recognized ruling families. And, we cannot move toward the economic entrenchment of an elite through the acceptance of cartel structures in our industries and the inherent tyranny of powerful international corporations unrestrained by any political body or bodies. The American people will not accept it.

George Orwell envisioned the all-powerful state with its thought control and its double-speak—jargon, of a kind—but, another writer, a screenwriter, envisioned a more brutal condition, the corporate controlled state in a movie titled "Rollerball." Using poetic license and for effect, these writers dealt in extremes, but current business writers are beginning to echo some of the themes. Hobart Rowan and Jodie T. Allen writing in the Washington Post, March 18, 1989, headlined an article on superfirms, "Brave New World, Inc.," and Business Week's, May 14 cover story was "The Stateless Corporation." Both articles are rewarding, but disturbing reading.

We cannot afford to make a mistake in the path we take out of this morass of debt and economic instability. We cannot respond to the challenge of competing with socialist and/or mercantilist nations by being copy cats.

Our antitrust laws, when they were enforced, created the unique economic mixture that gave America such a strong middle class. Smaller companies were protected from being vertically integrated into the giants, and the giants were protected from their small suppliers banding together against them to set prices. It is a simplistic explanation of 90 years of antitrust law; but, overall, by trial and error, it served to maintain a balance between the great and the small and guaranteed a fair, competitive price in the market. Startup operations could not be frozen out at either end of the spectrum since, absent patent infringement or proprietary information, all raw and semi-finished materials and component parts were available to anyone who wanted to buy them for manufacture and/or assembly.

Unfortunately, in the 1980's, the ideologues began to give new interpretations to old law. And, while the threat of possible antitrust action continued to discourage U.S. corporations from adding vertically or horizontally to their lines, foreign corporations seemed able to extend the tentacles of their well-established foreign cartels to America with impunity. The free marketplace has become the free-for-all marketplace for some foreign corporations, while many American companies watch from the sidelines unable to compete under the double standard being applied by various courts and agencies.

Despite the power of the proponents of this antique economic theory, I believe, as with all fads, it has peaked and is beginning to weaken. The results of the experiment have proven so disruptive of the economy and of communities across the country, that the time is coming when the people of America will reject it, given the chance.

My gravest concern is that the political swing not be so extreme that after years of no industrial policy, we will embrace a form of socialist industrial control in a panic to gain back that which we have lost. It is for this reason I continue to speak and write about the deplorable losses in our manufacturing base and the concomitant costs to the American way of life. The history of how this has happened is replete with evidence that no U.S. industrial policy has proved to be a windfall to other governments of the world, replete with industrial policies of all sorts. Japan has a master industrial plan that projects to the year 2015.

The challenge of the 1990's will be to develop a pluralistic approach to Government control and intervention. No purists need apply. We have had excellent results in Government-supported operations like the Defense Advanced Research Projects Agency [DARPA] and the record of the first 20 years of the space agency shine. The Chrysler bailout worked and the loan was paid off in record time. The Federal National Mortgage Association [Fanny Mae] has been a stellar performer in the investment markets.

We can do it. We must do it, lest the summer of our discontent, become the winter of the people's disillusionment with us all.

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LOOKING AT THE CHALLENGE OF THE NORTH AMERICA FREE TRADE AGREEMENT

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 25 minutes.

Mr. DREIER of California. Mr. Speaker, I take this time this evening, as we are waiting for this critically important legislation which will be designed to ensure that we have a decrease in costs to the American consumer caused by this strike which is going on, this rail strike, because virtually everyone is affected by it, and I wanted to take this time to talk about an issue which is going to be debated very vigorously in this House in the next several weeks, and we will clearly have a conclusion; I hope a positive one. I hope, just like we will have a positive solution to this strike problem that we are dealing with this evening, that we will have a solution that is brought about that will benefit the American consumer and the consumers throughout the world as we look at the challenge of what has become known as the Mexico-United States free-trade agreement, the North America free-trade agreement. It is clearly something that is designed to benefit the consumer.

Mr. Speaker, there are many items which have become very controversial as this debate has continued, and I think that we need to look at some of those problems, and at the same time we need to look at what we offer as solutions to those problems.

For starters, there has been a book that I read in the last year and a half or so which has recognized that, as we face the challenge of trying to provide a wide range of services and products to consumers, we want to provide them at the lowest possible cost, and in a fascinating volume that was written by John Naisbitt called "Megatrends 2000," which was the followup to his first "Megatrends" book, he talks early on in the book about the reduction of those barriers and how it will provide an overall benefit to consumers throughout the world.

Now we have seen some groups work closely toward a reduction of barriers so that they can provide a wider range of services and products, and most notably that is going to be coming about on December 31, 1992, with the emergence of what has become known as EC–92. The European Community has recognized that, if it is going to compete internationally, that it must reduce barriers among these countries so that they can work together as a solid, unified economic bloc.

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What will come about with that solid economic block? Well, clearly a reduction of barriers in trade among those countries in the European Community and at the same time a reduction in costs for those in surrounding areas. But the existence of that solid block has created a situation which needs to be addressed, and a response is coming about to EC–92. It is that our neighbors in the Pacific Rim, which are so often

addressed by my good friend from Baltimore, the gentlewoman from Maryland [Mrs. BENTLEY], are uniting as an economic block.

They are uniting as an economic block, and I happen to think that there will be a benefit that has accrued from that unification which has taken place. But as that happens, it is clear to me that we in this part of the world need to put together our own response so that we can provide a positive low-cost pack of services and products to consumers throughout the world.

So as we see EC–92 emerging, and as we see the Pacific Rim uniting, as they provide goods and services to other countries throughout the world, it is apparent that what we need to do in the United States is move ahead with this agreement that has been developed between Canada and the United States and expand it, expand it by including our southern neighbors. There are tremendous benefits in that not only to consumers throughout the world but to consumers on both sides of the border, north and south, as we move ahead with this kind of program.

If one looks at a lot of the problems that exist on the borders—and I happen to represent southern California, so I know that we have many problems that exist on the border—we see that one of the great things we debate in the House, and have debated for years, has been the problem of illegal immigration. We have had immigration reform bills in the past several Congresses, and we still have a problem.

I am convinced that while it may not be a panacea, the reduction of these barriers that exist in trade between the United States of America and Mexico will have a salutary effect on this problem of immigration. One of the things that we find in the border States, Texas, Arizona, New Mexico, California, we see many people from Mexico who have to come into the United States to work, and they send their salary back to Mexico. Well, if we are able to see a reduction in those barriers, that will not be necessary because there will be many United States companies which will want to invest in Mexico.

I think that if one looks at what is offered between our two countries, the United States of America and Mexico, it is clear that the United States offers both capital and technology, and Mexico offers both markets and labor.

Now, many people, those who are critical of the prospects of moving ahead with the free trade agreement between the United States and Mexico, say that we will see United States businesses simply taking advantage of this 70 cents an hour labor force in Mexico, and we will, therefore, see a tremendous loss of jobs in the United States because of it. But, if we look at the facts, I really don't believe that that will be the case, Mr. Speaker.

Canada has, of its imports, 87 percent of them coming from high-cost areas, high labor cost areas, because those items which are being imported in Canada are items which are clearly expensive items, items which are created by well-trained labor, not unskilled labor. And in this country it is 64 percent. Sixty-four percent of the imports into the United States come from high labor cost countries.

The only reason it is less than the 87 percent in our country is that we have agreements with China and Third World countries, which do not have low-cost labor, and that is the reason that it is less.

The demand in this country is clearly for those products which are created by high labor cost countries. It seems to me that we need to recognize that benefits can be accrued on both sides of the border if we move ahead with this.

I think if we look at the old adage that a rising tide lifts all ships, it is apparent that we will be able to help the people of Mexico.

Now, I have many colleagues in this Congress who, like me, are concerned about the plight of those who are less fortunate than Americans. We, of course, are anguishing over the plight of the Kurds who are starving in the north of Iraq and in southern Turkey and in Iran at this point.

We are also very concerned about people who are less advantaged in Mexico. Well, it seems to me that if we want to do what we can to enhance the quality of life for our southern neighbors, moving ahead with a free trade agreement would be a very good and positive step for us.

There are other justifiable concerns which have been raised, and I think that I met today with Dr. Blanco, who is the chief negotiator. And he, as we move ahead with the free trade agreement, he clearly wants to address the concerns that labor faces.

Another segment that is concerned is the environmental community. I am very proud of my record here in the Congress, Mr. Speaker, as it addresses the environment. I am one who believes that we clearly do have to play a role here at the Federal level in addressing environmental concerns in this country. The area I represent in southern California, the Los Angeles Basin, happens to have the highest number of first stage smog alerts in the United States. So I am one who clearly is very sensitive to addressing the environmental needs that exist in Mexico, the air pollution problems in Mexico City, as many of us have witnessed on a number of occasions. And so the argument that some have used is that United States business that does not like the kinds of environmental constraints which have been imposed on them by Federal law here will seize the opportunity to go into Mexico and pollute without any kind of responsibility to the people of Mexico. Again, a fallacious argument, Mr. Speaker. The reason being that the Mexican Government clearly does have many environmental constraints which are modeled in large part after the environmental requirements which we have here in the United States.

And the problem has been as follows, Mr. Speaker. There are many businesses in Mexico which have been existing and polluting for years. It is widely acknowledge that the Mexican Government has had a difficult time imposing the proper environmental constraints on existing businesses, but they have, Mr. Speaker, had success in putting together those kinds of requirements on new businesses in Mexico. So while some people say that United States companies will move into Mexico and seize the opportunity to pollute because of lax environmental regulations, they are wrong. As a new business, whether it is domestic, inside of Mexico, or a business that would come in under a new free trade agreement arrangement, they would have to meet the environmental constraints imposed under Mexican law.

There is another area which is of concern in my State of California. People in the agriculture industry do not want to see the Mexican labor force undercut the United States ability to deal with the sale of agricultural products, specifically those in the citrus and other areas of California. And I know in Florida and other States, they are very concerned about it. And there are some justifiable concerns which need to be addressed. Again today I brought one of those to the attention of Dr. Blanco, who is our negotiator. There is something called hydrogen glyceride, which is sprayed on grapes, and it is illegal in the United States. It cannot be used. It is not approved by the EPA, and yet it is utilized in Mexico. The spraying of this pesticide allows the grapes to come to market earlier than it would if it is not used. What has happened is that Mexican grapes have, therefore, been able to come to market beating the California market. For that reason, it seems to me that we need to have some kind of negotiated agreement on the use of that and many other items which are utilized on one side of the border and not on the other side of the border.

So what I am saying, Mr. Speaker, is that because of some concerns that have been understandably raised in the area of labor, in the area of the environment, and in the area of agriculture, it does not mean that we should penalize the consumer on both sides of the border, in the United States and Mexico, and clearly cast aside the necessity to provide those goods and services to people because of these questions.

□ 2110

What we need to do, Mr. Speaker, is answer these questions and have a negotiated settlement, so that these things can be addressed.

We in the Congress, if we move ahead with what is misnamed the fast-track provision so that our negotiators can go ahead, we in the Congress, and I will not vote for a bad agreement between Mexico and the United States, but I want us to move ahead with an agreement.

One of the arguments that another Member has given in opposition to this is why is it that we have to have a fast track? Why do we have to move ahead so quickly here if we are going to be undertaking a very serious matter, that of eliminating these barriers between Mexico and the United States.

Mr. Speaker, I argue that it is essential that we move ahead and move ahead expeditiously. That gets back to what I raised at the outset: we are seeing countries throughout the world unifying. I am talking again about the Pacific Rim and Western Europe.

Many in Western Europe are going to prepare to seize on the 100 million strong labor force, and ultimately market, that exists in Eastern and central Europe, and that again will give them an added advantage in dealing with this.

So as these parts of the world move ahead, why should the United States of America be so far behind? Some who have said that we should delay this process have not recognized that this is not a new concept. This is something that we have been discussing for years and years. It is just that the necessity for it has become greater and greater, and that is why it is now on the front burner.

President Bush has very accurately put this as one of his top domestic policy priorities. It is a top domestic priority, because he wants to help the American consumer, and also the consumer in Mexico and other parts of the world.

Mr. Speaker, it seems to me as we look at the domestic policy priorities which have been established by President Bush, that this is a very important one, because of his desire to do everything that he possibly can to assist consumers on both sides of the border, in the United States and in Mexico.

Mr. Speaker, it is obviously controversial, and it is obviously something that is going to be contentious when we proceed here in the House of Representatives with a debate. But this is something that President Bush thinks is important, and it is something I think is very important, too, and I hope a majority of this House will recognize its importance. Because we cannot stand alone. We often talk about this technology which carries the word from the floor of the Congress, not just to people throughout the United States, but to the world. We are seeing with tremendous communication advances a shrinking world. That is also happening in the area of trade.

Mr. Speaker, I do not believe that I as a Member of Congress have the right to say to a consumer in this country that you cannot buy the best quality product at the lowest possible price without my imposing a penalty on you. Frankly, those who want to stall and delay this process are getting to the point where a penalty will be imposed on that American consumer.

Mr. Speaker, we today passed out what I think is a horrible budget. It is an unfortunate thing that we passed it in this House, spending hundreds of billions of dollars, the cost of which is being passed on to future generations.

Mr. Speaker, this is Wednesday night, so I guess it was 2 days ago at this time, 9:15 in the evening, people were rushing to the U.S. Post Office with less than 2 hours and 45 minutes to go before that April 15 deadline to pay their income taxes, to send it to those of us here in Washington.

I for one happen to think that that burden is a little too high. I know very well that the ranking Republican on the Rules Committee, who is with us tonight, the gentleman from New York [Mr. SOLOMON], feels that he and the people in upstate New York pay too much in taxes and the consumer is being penalized by our spending policies here and by the taxes which they have to pay.

So President Bush has very rightfully put on the front burner this United States-Mexico Free Trade Agreement so that we can do something to benefit the American consumer, because it has been very frustrating. I think this agreement can help us clearly emerge from this very, very slow moving economy.

Mr. Speaker, the signs are that we are coming out of it. I saw that the Dow Jones industrial average closed at 3,005 today, setting an all-time record. I think that bodes well for the future. Maybe those on the floor of the stock exchange are convinced that we are going to be passing a United States-Mexico Free Trade Agreement, and that might have played a role in encouraging them to run it as high as it is.

Mr. Speaker, we have a lot of tough battles ahead. This is clearly one of the most important ones. We are going to have a lot of "Dear Colleagues" circulated. There is going to be a lot of talk about this, a lot of very good arguments given on both sides.

Mr. Speaker, I am confident that this House will do the right thing and provide President Bush with the support that he needs to bring about something that will clearly be a great boost for the American consumer and consumers throughout the world.

SUMMARY OF HOUSE JOINT RESOLUTION 222

The SPEAKER pro tempore (Mr. HAYES of Illinois). The gentleman from New York [Mr. SOLOMON] is recognized for 15 minutes.

Mr. SOLOMON. Mr. Speaker, I might just alert the membership that there has been an agreement reached on the rail strike legislation, which is House Joint Resolution 222, which will be coming before the House, hopefully any moment now. Perhaps I might just read some of the resolved clauses so that those Members that are listening in their offices or are on their way over here might understand a little bit about what is going on.

Mr. Speaker, this is an agreement, as I understand it, that has been agreed to by both Houses, by the House, the Senate, as well as the administration, as well as management and labor. The House will pass this bill, possibly without even a vote here, in a few minutes, as soon as the Members come to the floor and the managers of this bill arrive.

I understand that the Senate will take this bill up first thing tomorrow morning, and this should result in the railroads going back to work, which is absolutely critical at this time because of the recession we are in.

Mr. Speaker, we have just gone through 8 years of unparalleled growth in this country. Now we are in a recession. We certainly do not want to do anything and we do not want this Congress to be responsible for prolonging this recession. The reason we need this legislation is because of jobs and the economy in this country.

Mr. Speaker, I happen to come from an area in upstate New York where the recession first started. We have a lot of unemployment there. Certainly we want to get those people back to work.

I would just simply begin to read the resolved clauses of this legislation, which states:

The following conditions shall apply to the disputes referred to in Executive Order No. 12714 of May 3, 1990, between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) The parties to such disputes shall take all necessary steps to restore or preserve the conditions out of which such disputes arose as such conditions existed before 12:01 a.m. on April 17, 1991, except as otherwise provided in this joint resolution.

Mr. WALKER. Would the gentleman yield?

Mr. SOLOMON. I will be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Could the gentleman explain that clause to us?

Mr. SOLOMON. I will, as I get a little further into the bill. This legislation is just out of the printers. It is still hot to handle. But let me just continue for a minute.

Mr. WALKER. I was having trouble understanding what the bill was really saying there. I was just wondering whether the gentleman could explain what the effect of the language is that he just read to the House.

□ 2120

Mr. SOLOMON. It will.

It goes on to say that except as otherwise provided in this joint resolution, it goes on with some other technical information. But I think one of the things that people are interested in hearing is that under section 2, appointment of special board, what this does is set up another Presidential Emergency Board. It says that:

The President shall promptly appoint a 3-member special board. One member of the special board shall be an individual who was a member of Presidential Emergency Board No. 219. The remaining 2 members shall be appointed by the President from a list of arbitrators compiled by the National Mediation Board. No member appointed to such special board shall be pecuniarily or otherwise interested in any organization of employees or any railroad. The compensation of the members of the special board shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of the special board appointed under this subsection as if such special board were a board created under such section 10.

Section 3 deals with the resolution of issues in disagreement, and it goes on to say that requests for clarification or interpretation of ambiguities—"within 5 days after the special board is appointed under section 2, any party to the disputes referred to in Executive Order No. 12714 may request the special board to clarify or interpret any ambiguities in the recommendations of Presidential Emergency Board No. 219."

Section B, clarification and interpretation report, says that "within 15 days after the special board is appointed under section 2, the special board shall issue a report addressing requests made under subsection (a)."

Then it goes on with another section, requests for modification.

Within 10 days after the special board issues its report under subsection (b), any party to the disputes referred to in the executive order may request the special board to modify any special recommendation of Presidential Emergency Board No. 219 with respect to any issue on which the parties may remain in disagreement. Issues on which Presidential Emergency Board No. 219 made no specific recommendation shall not be subject to consideration by the special board.

I just look around the room here to see where the managers of the bill are from the Energy and Commerce Committee. I assume they are on their way over because we want to dispose of this legislation and get it over to the Senate as soon as we possibly can.

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

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I hope they are not in their offices waiting for the gentleman to finish reading their bill for them.

Mr. SOLOMON. I hope they are not either, because I still have a couple of long pages to go.

But in anticipation of their arrival, Mr. Speaker, I will just say that subsection (d), procedure and determination says, "The special board shall conduct such proceedings as it considers necessary to review requests made under subsection (c)."

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

Mr. SOLOMON. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I just wanted to make the gentleman aware, since it is somewhat different than the information that he had a few minutes ago, that we understand that the Senate is in session, and as soon as the House has cleared action on this legislation the Senate will deem it to have been passed so that the action can be completed on it yet tonight.

Mr. SOLOMON. That is very good news, because we were worried that as long as this strike stays in effect it does severely affect the economy throughout the country. Just, for example, I was on the phone with an automobile dealer from upstate New York a few minutes ago and they are on a just-in-time order situation now. Because of the recession they have not stocked up on automobiles, and as they have been selling them, they have been ordering them from Detroit. Should the strike, of course, continue in effect, they would not have automobiles to sell. And if we just magnify this all over the country, the automobile industry is a major, major part of the economy of this country. That is why we cannot afford to have this strike stay in effect.

Mr. WALKER. If the gentleman will yield, that is also true, of course, of the manufacturing process for automobiles. Most of the automobile factories have gone to a just-in-time ordering system for parts that they put into automobiles so that a rail strike affects the ability of the automobile manufacturers to make the cars in the first place. So this indeed is a situation which can rapidly escalate into major layoffs in the country.

But it does appear as though the Senate is prepared to act yet tonight. The bill should be enrolled and be sent to the White House sometime in the course of the night or early tomorrow morning. So we should have the action underway.

I did not hear, in what the gentleman was telling us about the nature of the bill, a time frame. It is my understanding that this new board will essentially act for a 65-day period. Is that the gentleman's understanding as well?

Mr. SOLOMON. That is correct. As a matter of fact, that would be a cooling off period when all parties could get back together, and that the new presidential emergency board could then attempt to negotiate a settlement of all of the involved issues.

Mr. WALKER. That of course should give some time for some of the issues that have been outstanding to be resolved and for some of the things that have exacerbated the process to perhaps be worked out.

I think the gentleman has described the nature of the board which is going to be put together to do this, and I agree with him. I think it is good news that the situation with regard to presidential appointment was resolved in the legislation. But it does appear as though we are creating a time frame that hopefully will resolve the issues before we have to come back again in a similar situation.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from New York for yielding.

Mr. SOLOMON. I would take notice that the ranking Republican on the Energy and Commerce Committee has just arrived in the chamber. We are very, very happy to see him. But I yield to the gentleman from Texas.

Mr. BARTON of Texas. The ranking member may want to speak. I would just like to report that the committee has just met. Chairman DINGELL should be on the floor in the next 5 minutes. We reported by unanimous consent, without any negative votes, the compromise legislation. And we are very hopeful that the train will leave the track and we will move forward.

Mr. SOLOMON. I appreciate that information from the gentleman from Texas, and since the gentleman from New York [Mr. LENT] has just arrived on the floor, perhaps the gentleman from Pennsylvania [Mr. WALKER] could repeat the information he just received from the Senate as far as the Senate's action.

Mr. WALKER. I was just telling the other gentleman from New York that it is our understanding that the Senate is in session and that as soon as we complete action here that they will deem the action taken by the House to have passed the Senate, which means we will complete action on this matter tonight. And it is my understanding that the President will sign this as soon as it reaches the White House. Is that the understanding of the gentleman from New York?

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

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, that is my understanding. I just wanted to report

that the full Energy and Commerce Committee within recent minutes has reported out legislation, House Joint Resolution 222, with some very minor technical amendments to settle the national railroad strike.

□ 2130

For any of our Members who may be en route to the House Chamber, the sooner they get here the better, because we will be in a position to take this legislation up momentarily.

Mr. SOLOMON. I have just been reading a draft of the legislation, but to put it in layman's language, perhaps the gentleman could just give us a brief summary of what the agreement contains.

Mr. LENT. If the gentleman will yield further, very, very briefly, what we are doing here is the President will appoint a Special Board to review the situation as between the parties, and that that Special Board will settle ambiguities in the Presidential Emergency Board. It will consider issues on which there is disagreement between the parties where the Presidential Emergency Board issues specific recommendations, and it will also clarify other issues as requested by the parties.

The main thing is the railroad workers, under the terms of this legislation, will return to work as soon as possible under conditions in effect prior to April 17, 1991, except where there is a mutual agreement between the individual labor union and the railroads.

As I mentioned a moment ago, a special three-person Special Board shall be appointed by the President. Any party seeking modification of the existing PEB, or Presidential Emergency Board, recommendation can overcome the presumptive validity of the recommendation if the party shows to the Board that the outcome of the PEB recommendation was based on a material error or a material mistake or is demonstrably inequitable.

The time line for the Board's considerations is as follows: Following the appointment of the board during the first 5 days, the parties present clarification issues to the board. During the 6th to 15th day, the board considers and rules on clarification issues. Between the 16th and the 25th day the parties present remaining disagreements to the board. Between the 26th and the 55th day, the board considers and rules on remaining disagreements, and between the 56th and 64th day, the parties would be allocated a cooling-off period where they may negotiate and conclude agreements, and by the 65th day, the Presidential Emergency Board, with revisions, if any, by the board, minus any issues the parties have mutually agreed are settled as imposed and have the same effect as if the parties had arrived at a mutual agreement under the Railway Labor Act.

That is a simplified version of what is in the legislation.

Mr. SOLOMON. Mr. Speaker, I thank the ranking member on the Committee on Energy and Commerce, because that is really good news, I think, for everyone out there, for business, for labor and management together.

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

Mr. SOLOMON. I am happy to yield to the gentleman from Texas.

Mr. FIELDS. Mr. Speaker, I appreciate the gentleman yielding. Here comes our chairman.

We had an extraordinary crisis that Congress dealt with in literally 1 day. We began at 8 a.m. this morning, and I think tribute must be paid to the chairman, the gentleman from Washington [Mr. SWIFT], and the chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], and the gentleman from Pennsylvania [Mr. RITTER], because this crisis had the potential of costing this Nation $50 million to $1 billion a day, and to be able to handle it in such a short period, I think, is a tribute to the gentlemen I mentioned. I think it is a tribute to the Congress.

I wish we took some of the other problems that we confront as seriously and dealt with them as expeditiously.

Mr. SOLOMON. I thank the gentleman.

I also would like to commend the gentleman from Washington [Mr. SWIFT] for the swift action that they took on this bill today, because, as the gentleman said, if this had carried on for another 3 or 4 days, it could have been an economic catastrophe for this country at a time when we can ill afford to have that happen. So, again, I commend the gentleman from Washington [Mr. SWIFT], and certainly the ranking member of the full committee, the gentleman from New York [Mr. LENT].

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

Mr. SOLOMON. I am happy to yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, I just wanted to thank the gentleman for the colloquy that has been going on. The chairman of the full committee is handling a couple of details, and he will be here immediately to bring up the bill.

But I think that the opportunity that you had to talk with the gentleman from New York [Mr. LENT], who is the ranking Republican on the full committee, has been very helpful in layout out what the issues are.

Very shortly we will get to the consideration itself of the legislation, and at that point we will have a detailed explanation.

I think the important thing here is that the House is ready to act and hopefully within about an hour we will have this resolved. We will have done our part with the possible exception of a brief conference.

I am still very hopeful that we will be able to have this bill on the President's desk before midnight tonight.

Mr. SOLOMON. I really do appreciate the gentleman's response. Again, this House, every Member, owes the gentleman and the committee, the gentleman from Michigan [Mr. DINGELL], the chairman of the committee, and all of the Members a debt of gratitude for getting it to the floor.

PROVIDING FOR SETTLEMENT OF RAILROAD LABOR-MANAGEMENT DISPUTES

Mr. DINGELL. Mr. Speaker, pursuant to the order of the House earlier today, I call up the joint resolution (H.J. Res. 222) to provide for a settlement of the railroad labor-management disputes between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees, and ask for its immediate consideration.

The text of House Joint Resolution 222 is as follows:

H.J. RES. 222

Whereas the labor disputes between certain railroads represented by the National Carriers Conference Committee of the National Railway Labor Conference and certain of their employees represented by certain labor organizations threaten essential transportation services of the United States;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the President, pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), by Executive Order No. 12714 of May 3, 1990, created Presidential Emergency Board No. 219 to investigate the disputes and report findings;

Whereas the recommendations of Presidential Emergency Board No. 219 issued on January 15, 1991, have formed the basis for tentative agreements between some, but not all, of the parties to the disputes;

Whereas the recommendations of Presidential Emergency Board No. 219 issued on January 1991, have not resulted in a settlement of all the disputes;

Whereas all the procedures provided under the Railway Labor Act, and further procedures agreed to by the parties, have been exhausted and have not resulted in settlement of all the disputes;

Whereas it is desirable to resolve such disputes in a manner which encourages solutions reached through collective bargaining;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services;

Whereas the Congress finds that emergency measures are essential to national security and continuity of transportation services by such railroads; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS DURING RESOLUTION OF DISPUTES.

The following conditions shall apply to the disputes referred to in Executive Order No. 12714 of May 3, 1990, between certain railroads represented by the National Carriers' Conference Committee on the National Railway Labor Conference and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) The parties to such disputes shall take all necessary steps to restore or preserve the conditions out of which such disputes arose as such conditions existed before 12:01 a.m. on April 17, 1991, except as otherwise provided in this joint resolution.

(2) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to the disputes referred to in Exective Order No. 12714 of May 3, 1990, so that no change shall be made before the expiration of the period described in section 3(e) of this joint resolution by such parties, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on April 17, 1991.

(3) Except as provided in section 3 of this joint resolution, the report and recommendations of Presidential Emergency Board No. 219 shall be binding on the parties upon the expiration of the period described in section 3(e) of this joint resolution, and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 2. APPOINTMENT OF SPECIAL BOARD.

The President shall promptly appoint a 3-member special board. One member of the special board shall be an individual who was a member of Presidential Emergency Board No. 219. The remaining 2 members shall be appointed by the President from a list of arbitrators compiled by the National Mediation Board. No member appointed to such special board shall be pecuniarily or otherwise interested in any organization of employees or any railroad. The compensation of the members of the special board shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of the special board appointed under this subsection as if such special board were a board created under such section 10.

SEC. 3. RESOLUTION OF ISSUES IN DISAGREEMENT.

(a) REQUESTS FOR CLARIFICATION OR INTERPRETATION OF AMBIGUITIES.—Within 5 days after the special board is appointed under section 2, any party to the disputes referred to in Executive Order No. 12714 of May 3, 1990, may request the special board to clarify or interpret any ambiguities in the recommendations of Presidential Emergency Board No. 219.

(b) CLARIFICATION AND INTERPRETATION REPORT.—Within 15 days after the special board is appointed under section 2, the special board shall issue a report addressing requests made under subsection (a).

(c) REQUESTS FOR MODIFICATION.—Within 10 days after the special board issues its report under subsection (b), any party to the disputes referred to in Executive order No. 12714 of May 3, 1990, may request the special board to modify any specific recommendation of Presidential Emergency Board No. 219 with respect to any issue on which the parties remain in disagreement. Issues on which Presidential Emergency Board No. 219 made no specific recommendation shall not be subject to consideration by the special board.

(d) PROCEDURE AND DETERMINATION.—The special board shall conduct such proceedings as it considers necessary to review requests made under subsection (c). In making a determination under this subsection, the special board shall accord a presumption of validity to the recommendations of Presidential Emergency Board No. 219. The party requesting a modification of a particular Presidential Emergency Board recommendation shall bear the burden of persuasion with respect to the modification of such request. In order to overcome such presumption of validity, the party requesting a modification must show that the Presidential Emergency Board recommendation is demonstrably inequitable or was based on a material error or material misunderstanding. No later than 30 days after the 10-day period described in subsection (c), the special board shall complete its review and issue a final determination on all requests made under subsection (c), modifying in whole or in part the recommendation of Presidential Emergency Board No. 219 as to which the request was made, or denying such request.

(e) EFFECT OF DETERMINATION.—Upon the expiration of 10 days after the issuance of the determination of the special board under subsection (d), such determination shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

(f) CLARIFICATION OF DETERMINATION.—In the event of disagreement as to the meaning of any part or all of the determination by the special board under subsection (d), or as to the terms of the detailed agreements or arrangements necessary to give effect thereto, any party may, by December 31, 1991, apply to the special board for clarification of its determination, whereupon the special board shall reconvene and shall promptly issue a further determination with respect to the matters raised by any application for clarification. Such further determination may, in the discretion of the special board, be made with or without a further hearing.

(g) PRECLUSION OF JUDICIAL REVIEW.—There shall be no judicial review of any report or determination of the special board under this section.

SEC. 4. MUTUAL AGREEMENTS PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DINGELL: Strike all after the resolving clause and insert in lieu thereof the following:

SECTION 1. CONDITIONS DURING RESOLUTION OF DISPUTES.

The following conditions shall apply to the disputes referred to in Executive Order No. 12714 of May 3, 1990, between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) The parties to such disputes shall take all necessary steps to restore or preserve the conditions out of which such disputes arose as such conditions existed before 12:01 a.m. on April 17, 1991, except as otherwise provided in this joint resolution.

(2) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to the disputes referred to in Executive Order No. 12714 of May 3, 1990, so that no change shall be made before the expiration of the period described in section 3(e) of this joint resolution by such parties, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on April 17, 1991.

(3) Except as provided in sections 3 and 4 of this joint resolution, the report and recommendations of Presidential Emergency Board No. 219 shall be binding on the parties upon the expiration of the period described in section 3(e) of this joint resolution, and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 2. APPOINTMENT OF SPECIAL BOARD.

The President shall promptly appoint a 3-member Special Board. One member of the special Board shall be an individual who was a member of Presidential Emergency Board No. 219. The remaining 2 members shall be appointed by the President from a list of arbitrators compiled by the National Mediation Board. No member appointed to such Special Board shall be pecuniarily or otherwise interested in any organization of employees or any railroad. The compensation of the members of the Special Board shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of the Special Board appointed under this subsection as if such Special Board were a board created under such section 10.

SEC. 3. RESOLUTION OF ISSUES IN DISAGREEMENT.

(a) REQUESTS FOR CLARIFICATION OR INTERPRETATION OF AMBIGUITIES.—Within 5 days after the Special Board is appointed under section 2, any party to the disputes referred to in Executive Order No. 12714 of May 3, 1990, may request the Special Board to clarify or interpret any ambiguities in the recommendations of Presidential Emergency Board No. 219.

(b) CLARIFICATION AND INTERPRETATION REPORT.—Within 15 days after the Special Board is appointed under section 2, the Special Board shall issue a report addressing requests made under subsection (a).

(c) REQUESTS FOR MODIFICATION.—Within 10 days after the Special Board issues its report under subsection (b), any party to the disputes referred to in Executive Order No. 12714 of May 3, 1990, may request the Special Board to modify any specific recommendation of Presidential Emergency Board No. 219 with respect to any issue on which the parties remain in disagreement. Issues on which Presidential Emergency Board No. 219 made no specific recommendation shall not be subject to consideration by the Special Board.

(d) PROCEDURE AND DETERMINATION.—The Special Board shall conduct such proceedings as it considers necessary to review requests made under subsection (c). In making a determination under this subsection, the Special Board shall accord a presumption of validity to the recommendations of Presidential Emergency Board No. 219. The party requesting a modification of a particular Presidential Emergency Board recommendation shall bear the burden of persuasion with respect to the modification of such recommendation. In order to overcome such

presumption of validity, the party requesting a modification must show that the Presidential Emergency Board recommendation is demonstrably inequitable or was based on a material error or material misunderstanding. No later than 30 days after the 10-day period described in subsection (c), the Special Board shall complete its review and issue a final determination on all requests made under subsection (c), modifying in whole or in part the recommendation of Presidential Emergency Board No. 219 as to which the request was made, or denying such request.

(e) EFFECT OF DETERMINATION.—Upon the expiration of 10 days after the issuance of the determination of the Special Board under subsection (d), such determination shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

(f) CLARIFICATION OF DETERMINATION.—In the event of disagreement as to the meaning of any part or all of the determination by the Special Board under subsection (d), or as to the terms of the detailed agreements or arrangements necessary to give effect thereto, any party may, by December 31, 1991, apply to the Special Board for clarification of its determination, whereupon the Special Board shall reconvene and shall promptly issue a further determination with respect to the matters raised by any application for clarification. Such further determination may, in the discretion of the Special Board, be made with or without a further hearing.

(g) PRECLUSION OF JUDICIAL REVIEW.—There shall be no judicial review of any report or determination of the Special Board under this section.

SEC. 4. MUTUAL AGREEMENTS PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by this joint resolution.

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. WILLIAMS). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House earlier today, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my remarks will not explain the legislation except to indicate that this amendment is essentially a technical amendment which cleans up certain defects which crept into the legislation as the drafting process went on. It has been cleared with and discussed with my colleagues on the minority who are well familiar with it. There is nothing in the bill here which is changed except defects in the draftsmanship and in misspellings and things of that sort.

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

Mr. DINGELL. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Speaker, I would just like to confirm the statement that the gentleman has made that the amendments are purely technical in nature, and the minority has no objection to them.

Mr. DINGELL. Mr. Speaker, my purpose here is to pay tribute, first, to the distinguished gentleman from Washington [Mr. SWIFT], who has processed this legislation within the committee, and his very able staff; also, the very able staff of the full committee, my two dear friends on the side of the minority, the gentleman from New York [Mr. LENT], the distinguished ranking member, and the gentleman from Pennsylvania [Mr. RITTER], ranking member of the subcommittee.

The staffs of the minority, I think, deserve special tribute as does the distinguished Secretary of Transportation, who has worked with us most closely, and his staff. I would like to pay tribute also to my colleagues in the Senate who have worked upon this legislation.

Mr. Speaker, while not all are happy with the legislation, the bill was reported unanimously from the full committee, unanimously from the subcommittee, and it is my belief that, consistent with the way that similar resolutions have worked in the time since 1962 when this committee has brought some 16 of them to the floor, it will work to resolve the issues and see to it that rail service commences.

□ 2140

It is my belief that this will effectively be a process which over a very brief period of time will rationalize the differences, will leave with Members a work arrangement between management and labor on the railroads which will resolve the question which vex all parties at this time, and will terminate the strike.

I commend all of my colleagues on the committee, their staffs, and all who worked with Members, under some very remarkable time pressure. We have brought this bill to the floor from the committees at a speed which I have never, never often seen.

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

The SPEAKER pro tempore (Mr. WILLIAMS). The Chair is advised that the gentleman from Pennsylvania [Mr. RITTER] will control 30 minute on the minority side. The Chair recognizes the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, as I understand it, the gentleman from Washington [Mr. SWIFT] wishes to explain the overall bill at this time.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I will make two points. Let me make a preamble. I think that often Congress is accused of being unnecessarily and too frequently partisan. We are sometimes guilty of that. Sometimes I think we are misunderstood. We are carrying out legitimate differences of opinion that exist between the parties.

This is an issue that is complex and dire. It is one on which the temptation for trying to make partisan advantage is great, and it is one in which no one, either side, the administration or Congress, House or Senate, try to do that. Resolving this issue quickly is terribly important to the health of our economy, and I think that all of my colleagues can be proud in the expeditious way in which we addressed the issue, the flexibility in which we addressed the issue so that the compromises which can take days and sometimes months in this institution, in effect, can be honestly worked out in a period of hours.

With that, let me describe the provisions of the agreement that has been worked out between Members of the Senate, Members of the House, and with the concurrence of the administration. First of all, the railroad workers will return to work as soon as this bill is enacted and signed into law, under conditions that prevailed immediately prior to the strike.

Second, a three-person special Board will be appointed. That Board will, first of all, settle ambiguities in the Presidential Emergency Board; second, consider issues on which there is disagreement between the parties where the PEB issued specific recommendations; third, clarify other issues as requested by the parties. The Board will not consider issues on which the PEB makes no specific recommendations and which parties did not raise an issue.

There is presumptive validity given to the PEB report, and the burden of persuasion rests upon the party seeking modification of a particular PEB recommendation.

The party seeking modification of a PEB recommendation can overcome the presumptive validity of the recommendation if the party shows to the Board that the outcome of the PEB recommendation was based on a material error or material misunderstanding, or is demonstrably inequitable.

The time line for the Board's consideration is as follows: Following appointment of the Board, there are 5 days for the parties to present clarifying issues to the Board, followed by 10 days during which the Board continues and rules on the clarification issues. Following that, 10 more days are devoted to the parties presenting the remaining disagreements to the Board. Then the Board has 30 days to consider

and rule on the remaining disagreements. Finally, there is a 10-day cooling off period for the parties, where they may negotiate and conclude agreements. That takes a total of 65 days.

With the revisions by the Board, if any, minus any issues the parties have mutually agreed to, the PEB is imposed and shall have the same effect as if the parties arrived at a mutual agreement under the Railway Labor Act.

That is the agreement that was developed. It is a fair one. I heartily recommend to my colleagues to support it.

Mr. RITTER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT], the ranking member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, the passage of this bill means the strike is over. The strike that began at 12:01 this morning concerns more than management or labor; it means the disruption of rail service for thousands of commuters who must find alternative ways of getting to work; it means the tremendous waste of fruits, vegetables, and poultry that will spoil before getting to market; it means the loss of potentially billions of dollars to the American economy.

I support this legislation and urge my colleagues to join me in voting to get America on the move again. I want to commend the chairman of the Energy and Commerce Committee, JOHN DINGELL, as well as subcommittee chairman AL SWIFT, for their efforts in moving this process along expeditiously and fairly. I also want to note the able assistance of my good friend and colleague, DON RITTER, who is the ranking Republican on this subcommittee. We have been able to work together in a bipartisan manner to ensure that American lives will not be further disrupted.

The legislation before us isn't perfect; no compromise ever is. But it does accomplish several goals. First, it stops the strike and gets America moving again. However, it does so without unduly interfering with the collective bargaining process, and without tilting the scales toward either labor or management. In addition, this bill does not set the dangerous precedent of making Congress the final arbiter in all future contract disputes.

Mr. Speaker, the members of the Energy and Commerce Committee have worked tirelessly with our other colleagues and our friends in the Senate. Our actions have been swift, decisive, and fair. The result is a compromise that deserves our support.

My understanding is that the bill we are considering tonight could be on the President's desk by midnight tonight.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. BRUCE].

Mr. BRUCE. Mr. Speaker, first of all my congratulations to the gentleman from New York [Mr. LENT], the gentleman from Michigan [Mr. DINGELL], the gentleman from Pennsylvania [Mr. RITTER], and the gentleman from Washington [Mr. SWIFT], for some excellent work.

A number of Members have said that enactment of legislation that developed from the Presidential Emergency Board recommendation builds on a number of precedents which have been set in the past. One of the precedents often cited is the most recent precedent, involving the Chicago and Northwestern Railroad. As a sponsor of legislation implementing the Emergency Board recommendations in that case, I would like to point out a difference between the Chicago and Northwestern and this case, which I believe has a great deal of merit.

For this purpose, I would like to engage in a colloquy with the chairman of the Subcommittee on Transportation and Hazardous Materials, the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT, the Emergency Board recommends in this case that crew issues be decided through local arbitration. My understanding is that the PEB does not recommend any specific cash settlement for those workers who no longer have jobs after any arbitration is completed. Is that understanding correct?

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, that understanding is correct.

Mr. BRUCE. Mr. Speaker, when I agreed to sponsor legislation implementing the Presidential Emergency Board recommendations in the Chicago and Northwestern case, I did so in great part because those recommendations contained $50,000 cash settlements for those union members who voluntarily decided to resign their positions.

□ 2150

It was my belief that a cash settlement of that size would induce a significant number of union members to voluntarily move to new careers. While the cash settlement was significant, it was also a very worthwhile investment by rail management. It allowed the CNW to streamline its operations and improve its competitive capabilities. At the same time, it did not take the costs of the competitive improvements out of the pockets of railway workers. My belief that this would induce significant voluntary departures was correct and many employees sought retirement, to the benefit of workers and management.

Does the gentleman agree that in passing this legislation it is the sense of Congress that any local arbitration on crew consist issues build on the success of the $50,000 voluntary payments made and make those job losses voluntary?

Mr. SWIFT. Mr. Speaker, I agree that the gentleman's understanding is certainly the sense of Congress.

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

Mr. Speaker, we meet this evening to vote on legislation designed to end the railroad strike and reaffirm the integrity of the Railway Labor Act and particularly the integrity of the Presidential Emergency Board process. The rail strike affects everyone, not only those who are employed or who manage or who ride the railroads; if this strike were allowed to continue, jobs in the railroad industry and manufacturing across the board and in agriculture would be imperiled.

We have heard that as many as a half million jobs above and beyond the 250,000 jobs in the railroad industry would be at stake. As much as a billion dollars a day could be lost.

As Secretary Skinner told the Transportation and Hazardous Materials Subcommittee this morning at 8 a.m., a fragile economy cannot long endure the effects of a national railway shutdown.

My own district, the Lehigh Valley of Pennsylvania is the home of a major Conrail marshalling yard, an intermodal facility, Union Pacific's corporate headquarters, Bethlehem Steel, and many smaller and mid-size manufacturers who depend on railroads. Thousands of jobs depend on the ability to get materials of production and finished goods into the marketplace. The same is true across America.

In an age of just-in-time inventory when railroad cars back up to factories, unload, and the material goes on to the production line, we can ill-afford a national strike.

Mr. Speaker, the Presidential Emergency Board recommendations are at the nucleus of the bill that we will vote on shortly.

The gentleman from New York [Mr. LENT] talked about presumptive validity given the PEB report and recommendations. That is important, because this Presidential Emergency Board worked for 10 months. Their report extended to 21,000 pages.

The burden of persuasion rests upon the party that seeks to modify this long and durable process and seeks to modify any particular Board recommendations. The party seeking modification of a PEB recommendation can overcome the presumptive validity of the recommendation if that party shows to the board that the outcome of the Emergency Board recommendation was based on a material error or a material misunderstanding or is demonstrably inequitable.

Again, this preserves the integrity of the Presidential Emergency Board process. The bill also establishes a fair and equitable mechanism for the resolution of disputes that are at this time still unsettled. The bill favors neither management nor labor, but is fair to both.

Mr. Speaker, my colleagues and our staffs have worked diligently throughout recent days and nights to bring this legislation to the floor this evening and save the United States from an economic catastrophe when our economy is in soft shape.

The House leadership and the administration have worked with us in our efforts to bring legislation to the floor tonight.

I want to commend the hard work and leadership of Chairman DINGELL and our ranking minority member, the gentleman from New York [Mr. LENT].

For Chairman SWIFT and myself, this was a kind of maiden voyage. I must say, the two of us had able captains in Chairman DINGELL and ranking minority member LENT.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I rise in support of this resolution, House Joint Resolution 222.

Mr. Speaker, I rise to express my support of House Joint Resolution 222 dealing with the current situation with our Nation's freight railroad carriers and railroad workers. On April 16, 1991 at 12:01 a.m., negotiations between 11 major railroad unions and freight carriers ceased. We are now confronted with a major railroad strike or shutout while this Nation is struggling to break the bonds of an economic recession. The economic realities will be devastating. Equally as important is the fact that, railroad laborers have not received a pay increase in 3 years and are confronted with unreasonable recommendations that were issued by Presidential Emergency Board No. 219. I strongly believe that a reasonable agreement could have been reached if the carriers had exhibited more concern for its workers, where wages, work rules, and health benefits were concerned.

The parties involved in this agreement began negotiations 3 years ago.

Mr. Speaker, the negotiations process properly followed the procedures governing railroad labor disputes. The parties began negotiating a settlement 3 years ago. However the negotiations broke down. Subsequently, the National Mediation Board intervened and ultimately recommended the appointment of a Presidential Emergency Board to study the issues. President Bush's Presidential Emergency Board No. 219 issued its report and I believe that PEB No. 219 went too far in agreeing with the carrier's bargaining positions.

As of today, the labor laws that govern railroad disputes have been exhausted and the Congress has authority to step in and stop a transportation strike. The participation of the Congress, I feel, should focus on two key issues: The interruption of interstate commerce, and privilege of railroad laborers to bargain collectively for wages, health care benefits, and work rules.

Mr. Speaker, I am very concerned about interruptions in interstate commerce. A protracted railroad labor strike will have a devastating impact on our economy and national security. The railroads are essential in moving our Nation's auto parts, paper products, steel, lumber, coal, glass products, chemicals, and plastics. Even more important, our troops are still in the Persian Gulf and may need vital equipment and other essentials that are transported by the freight railroad carriers.

However, the concern for interruptions in interstate commerce must not overshadow the concerns for the laborers who dedicate their lives to their respective carriers. The unions, using the collective bargaining process, have taken a strong stand on their wages, health and welfare benefits, and work rules. The freight carriers contend that they are unable to provide pay increases and health benefits. This is far from the truth. Freight carriers are financially sound due to increasing profits and favorable tax laws. I strongly feel that the Congress should respect these vital wishes of the 235,000 railroad workers.

I urge the Congress to move quickly to pass House Joint Resolution 222 to extend negotiations and set up a board to further study the issues in dispute. For the Congress to accept the recommendation of Presidential Emergency Board No. 219, I believe, would be tantamount to voting away railroad jobs, wages, and health care benefits without the consent of railroad workers.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, when we started out in these negotiations, there were two issues: How many people does it take to safely operate a train, and how many miles must a crew travel to earn a day's pay?

Mr. Speaker, this is a good agreement. What it does, first of all it says that this issue should not be returned to the Congress anymore.

Second, it says that we do not reopen the Presidential Board anymore.

Third, it is a bipartisan solution, and lastly, it is a responsible proposal.

What this legislation does, is stops the strike. It does not interfere with the collective bargaining process and it makes the Congress no longer the ultimate arbiter.

This is a good resolution. It brings pain to both sides and it is something that is needed to rescue economic stagnation in this country.

SETTLEMENT OF RAILROAD DISPUTE, APRIL 17, 1991

(PRESIDENTIAL EMERGENCY BOARD NO. 219)

(1) Railroad workers return to work under conditions in effect prior to April 17, 1991, except where there is a mutual agreement between the individual labor union and the railroads.

(2) A three person Special Board shall be appointed.

(3)(a) The Special Board will:

(1) Settle ambiguities in the Presidential Emergency Board (PEB).

(2) Consider issues on which there is disagreement between the parties where the PEB issued specific recommendations.

(3) Clarify other issues as requested by the parties.

(b) The Board will not consider issues on which the PEB made no specific recommendations (i.e. line sales, etc.).

(4) There is presumptive validity given to the PEB report and recommendations. The burden of persuasion rests upon the party seeking modification of a particular PEB recommendation.

(5) The party seeking modification of a PEB recommendation can overcome the presumptive validity of the recommendation if the party shows to the Board that the outcome of the PEB recommendation was based on a material error, or material mistake, or is demonstrably inequitable.

(6) The time line for the Board's considerations is as follows: Following appointment of the Board—

Days 1-5—Parties present clarification issues to the Board.

Days 6-15—Board considers and rules on clarification issues.

Days 16-25—Parties present remaining disagreements to the Board.

Days 26-55—Board considers and rules on remaining disagreements.

Days 56-64—Parties have a "cooling off" period where they may negotiate and conclude agreements.

Day 65—PEB, with revision by the Board (if any), minus any issues the parties have mutually agreed as settled, is imposed and shall have the same effect as if the parties had arrived at a mutual agreement under the Railway Labor Act.

Mr. RITTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, we have been working all day on this agreement in a bipartisan manner. I think this agreement really reflects the best process of this House. I think it is important to commend our chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from Washington [Mr. SWIFT], the gentleman from Pennsylvania [Mr. RITTER], and the gentleman from New York [Mr. LENT], who just did a tremendous job.

This issue was very important to me. I must have one of the largest rail labor populations in America, some people who deserve a good compensation and health care package, people who are some of the most hard-working and productive people in my congressional district, people who want to work and people who want to provide service to the people in the Houston area and all of Texas.

I was very concerned that if this strike were prolonged, there would be a great deal of diversion of cargo from our rail system and that would have a long-term negative effect on the railroad; so it is great to report that tonight there will be an agreement, not only in the House but also in the Senate, and an agreement that the President can sign.

In addition to being worried about the rail employees in my district, I was worried about other workers. In Houston, we are one of the largest port cities in America, in fact the largest in terms of import tonnage; 28 percent of the cargo that moves out of the Port of Houston moves by rail.

It was reported that as much as a million dollars per day could be lost by some of our petrol-chemical companies, and it was reported that if this strike were prolonged, if it did take several days or actually go into weeks, that some of those refineries would shut down and jobs would be lost.

So again, I think it is wonderful that we can report to the country and particularly to my home district that we have reached an agreement, that we will go forward and work out the differences that remain.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I would first like to express my deep gratitude to the chairman of the committee, to Chairman SWIFT and our friends on the other side of the aisle for their hard work in developing this piece of legislation which is before us for consideration this evening.

Now, Mr. Speaker, I would like to enter into a colloquy with the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL].

Mr. Speaker, I will ask the chairman, the Presidential Emergency Board, on page 78 of the report, states that it is clear that the retroactive payment which will be recommended as well as the general wage increases imposed, may be larger than one or two carriers can afford. Further, the Board cites in this connection uncertain and possible loss of jobs that the inability of a railroad to meet its financial obligations would entail. In other words, the Board appears concerned that it is possible that the inability of one or two carriers to afford the recommended wage and payment levels could go so far as to contribute to the carriers failure. It is my firm understanding that the only carrier which has sought and which would be covered by this language on page 78 is the Southern Pacific Railroad Co.

The Board recommends that the parties negotiate "to adapt the Board's recommendations to the particular circumstances present in each railroad." That recommendation makes perfect sense in the context of the PEB, which is, first and foremost, meant to provide a structure for negotiation, for voluntary settlement by the parties.

The problem arises when we convert the PEB into a legislative imposition. In the absence of a voluntary agreement on individual adaptation, we could be imposing upon the carrier "impracticable," even fatal, wage and benefit levels.

It is my understanding, Mr. Chairman, that the legislation we are considering today does not impose on the Southern Pacific Railroad Co. the wage levels set forth in the PEB, but instead establishes a binding process under which the Special Board would have full authority to adapt the wage and benefit levels to that which the Southern Pacific's operations can sustain, if the parties do not reach voluntary agreement on the matter.

It is my further understanding that the Special Board would have authority to decide that the matter of adaptation to the carrier's financial circumstances should be referred to binding arbitration, should the Board believe that is the most appropriate method to accomplish the task.

I ask the Chairman, Mr. DINGELL, if my understanding is correct.

□ 2200

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

Mr. SLATTERY. I yield to the chairman of the committee, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Speaker, the understanding of my friend from Kansas is correct. The Congress is well aware from its experience with Conrail, the Rock Island, and the Milwaukee, of the consequences when income from operations is not adequate to sustain a railroad. This is a matter of grave importance to the national transportation system. But I emphasize to the gentleman from Kansas that the Southern Pacific is the only railroad qualified under the PEB's page 78 language to raise this issue.

Mr. SLATTERY. I thank the chairman for his clarification.

Mr. Speaker, again I commend the chairman for his hard work and his leadership.

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

Mr. SLATTERY. I yield to the gentleman from Colorado.

Mr. SCHAEFER. I thank the gentleman for yielding.

Mr. Speaker, I would like to thank the two gentlemen for entering into their colloquy. This side of the aisle wholeheartedly supports the outcome of this situation.

Mr. SLATTERY. I thank the gentleman.

Mr. RITTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, the railroad strike has been ended because the Congress of the United States was able to muster its collective will and work on a bipartisan basis to end it to the satisfaction, at least temporarily, of the parties involved. Would it that this could occur on budgetary matters and other kinds of crises that we face on a daily basis in this body. But for once we can feel proud that the rush to action, the call to action was answered by the Members in a bipartisan way and one in which they worked with the White House itself and with all the parties.

This should be considered a banner day for the Congress of the United States and should signal new efforts on a whole host of other issues on which we could work in the same manner.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio, [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I thank the gentleman for yielding.

Seven years ago rail labor/rail management first started debating the questions of health and welfare issues.

Forty months ago they first filed their notices to negotiate these matters. Then on January 17 PEB issued their report. On the 17th the time ran out, and people agreed not to strike. It has been a long time to get to this point, and people wonder why did it take so long? Well, it was 15 hours ago that the strike began. It was 14 hours ago that the committee began its work. Now, just shortly after 10 p.m., the strike will end. The strike will end and send a very powerful message to railroad workers across this country that you are going to get what you thought you could not get, and that is, a second chance. The strike will end, and rail management will get what they did not think that they could get, and that is, an end to a strike that was going to cost them $50 million a day, and some certitude to the negotiating process.

This is the largest, most complicated negotiation that has gone on in 29 years; 10 unions, 200 railroads, 200,000 railroad workers.

Mr. Speaker, with this bill, railroaders will go back to work, the country will get back about the business of moving the business and commerce, and we will send a very powerful message that the playing field is level, that the negotiations will be fair and we will balance the needs and the opportunities for all those who seek to participate in the collective-bargaining process.

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

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume, only to observe that great credit belongs to members of the committee, certainly the gentleman from Pennsylvania, who has been most cooperative and helpful in this and has done very well; the distinguished gentleman from New York, the ranking member who has done an outstanding job; the chairman of the subcommittee, the gentleman from Washington [Mr. SMITH] and all the other members and the staff which worked very hard.

Certainly the Secretary of Transportation has been an outstanding force in accomplishing this legislation.

One last thought I would like my colleagues to keep in mind: Never, never, never during the consideration of this legislation was there one moment of partisan behavior or recriminations. That does great credit, I think, to the members of the committee, members of the subcommittee, and to the institution.

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 222, legislation to resolve the current railway strike. And I would like to take this opportunity to commend the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from Washington [Mr. SWIFT] and the gentleman from Pennsylvania [Mr. RITTER] for their Herculean efforts to bring this improtant legislation to the floor today.

Since January 1988, there has existed a dispute between our Nation's railway unions and our class I freight transporters. Unfortunately, as of 12:01 a.m. on Wednesday, April 17, 1991, all existing channels of resolution had been exhausted, and the unions and their 235,0000 workers decided to strike.

Unfortunately, at this time our economy is currently experiencing a period of recession and the railway strike could devastate our Nation. The Department of Transportation estimates that the strike could idle as much as 550,000 workers in industries directly affected by rail transporation. The effect of this sudden shock to the economy is a test we would all like to avoid.

In my own 22d District of New York, among other industries, my constituents depend on the General Motors plant in Tarrytown, NY, for their livelihoods. Unfortunately, General Motors estimates that within the next 24 hours, the company will be forced to curtail approximately 75 percent to 80 percent of their operations. During this time of economic hardship, such a curtailment would be an additional burden that could devastate these working families.

The legislation before us would allow our Nation's railway workers to return to their jobs and provide the services that our Nation so desperately needs. At the same time, the legislation creates a Special Emergency Board to resolve the remaining disputes between our railway workers and the railroads. Furthermore, the legislation establishes a 65-day cooling off period during which the Board, the unions, and the railroads will have an opportunity to resolve this crisis.

We sympathize with the concerns of both the unions and the railroads and it is our hope that the new Special Board will resolve those issues and our Nation can return to work.

Mr. Speaker, I urge my colleagues to support this legislation in order to allow our Nation to return to work.

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

The SPEAKER pro tempore (Mr. WILLIAMS). Pursuant to the order of the House of earlier today, the previous question is ordered.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. DINGELL].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RITTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 5, not voting 26, as follows:

[Roll No. 72]

YEAS—400

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—5

DeFazio
Edwards (CA)
Gonzalez
Moody
Perkins

NOT VOTING—26

Aspin
Berman
Bryant
Dornan (CA)
Dymally
Flake
Ford (TN)
Hall (OH)
Hughes
Lehman (FL)
Levine (CA)
Markey
Martin
McDade
McDermott
Miller (OH)
Molinari
Murphy
Sharp
Solarz
Udall
Vander Jagt
Waxman
Weber
Yates
Young (AK)

□ 2235

Mr. DEFAZIO and Mr. MOODY changed their vote from "yea" to "nay."

Mr. BENNETT changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MCDERMOTT. Mr. Speaker, I was present during rollcall No. 72 on House Joint Resolution 22 and voted "yea." However, the RECORD indicates that I did not vote.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 222, the joint resolution just passed.

The SPEAKER pro tempore (Mr. WILLIAMS). Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I do not intend to object, I take the time simply to ask the gentleman from Michigan whether or not we are going to take some action with regard to enrolling the bill, so that it can be acted upon as quickly as possible?

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

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I can advise the gentleman from Pennsylvania [Mr. WALKER] that the Speaker has advised me he is going to have the bill enrolled just as fast as he can, get it to the Senate, and hopefully the Senate will act on it tonight so it will go to the White House at the earliest possible moment.

Mr. WALKER. Mr. Speaker, reclaiming my time, I thank the gentleman. I did not know whether we needed a unanimous request for hand enrollment or not.

Mr. DINGELL. If the gentleman will yield further, I am advised that if we were to do that, we might actually slow the process.

Mr. WALKER. Mr. Speaker, I do not want to do that.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of today, Wednesday, April 17, 1991, the House will now stand in recess subject to the call of the Chair.

The House is now in recess.

Accordingly (at 10 o'clock and 38 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 2335

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. TAYLOR of Mississippi) at 11 o'clock and 35 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 222. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DREIER of California, for 25 minutes, today.

Mr. SOLOMON, for 15 minutes, today.

(The following Members (at the request of Mr. BACCHUS) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of Utah, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. KLUG.

Mr. DUNCAN.

Mr. GOODLING.

Mr. MCEWEN.

Mr. SCHULZE.

Mr. COUGHLIN.

Mr. CRANE in two instances.

Mr. LOWERY of California in two instances.

Mr. GALLEGLY in two instances.

Mr. MCGRATH.

Mr. CAMP.

Mr. GOSS.

Mr. OXLEY.

Mr. GEKAS.

Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. BACCHUS) and to include extraneous material:)

Mrs. KENNELLY.

Mr. STARK.

Mr. ERDREICH.

Mr. HAMILTON in two instances.

Mr. DONNELLY.

Mr. CAMPBELL of Colorado.

Mr. PENNY.

Mr. TRAFICANT in two instances.

Mr. SMITH of Florida in two instances.

Mr. KLECZKA.

Mr. SKELTON in two instances.

Mr. PALLONE.

Mr. BERMAN.

Mr. TALLON.

Mr. APPLEGATE.

Mr. MINETA.

Mr. LUKEN.

Mr. LAFALCE.

Mr. JOHNSON of South Dakota.

Mr. WEISS.

Mrs. SCHROEDER.

Mr. DORGAN of North Dakota.

Mr. MAZZOLI.

Mr. WAXMAN.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 248. An act to amend the Wild and Scenic Rivers Act to designate certain sements of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 740. An act to provide a new civil cause of action in Federal law for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against United States nationals; to the Committee on the Judiciary.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 36 minutes p.m.), under its previous order, the House adjourned until Thursday, April 18, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from

the Speaker's table and referred as follows:

1101. A letter from the Secretary of Education, transmitting a notice of Final Priorities for Technology, Educational Media, and Materials for Individuals With Disabilities Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1102. A letter from the Secretary of Health and Human Services, transmitting the Family Planning and 5-Year Plan reports for the two most recently ended fiscal years, pursuant to 42 U.S.C. 300a-6a(a); to the Committee on Energy and Commerce.

1103. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to exercise authority under section 506(a)(2) of the Foreign Assistance Act of 1961, as amended, in order to provide international assistance in the Persian Gulf region, pursuant to 22 U.S.C. 2318(a)(2); to the Committee on Foreign Affairs.

1104. A letter from the Secretary of Commerce, transmitting his notification that, pursuant to Executive Order No. 12730, foreign policy controls will be expanded to include 39 chemicals that can be used in the production of chemical weapons, pursuant to 50 U.S.C. app. 2405(o)(1); to the Committee on Foreign Affairs.

1105. A letter from the Office of Management and Budget, transmitting the CBO and OMB report estimating the change of outlays in each fiscal year through 1995 as a result of the passage of Public Law 102–26, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

1106. A letter from the Office of Management and Budget, transmitting the CBO and OMB report estimating the change of outlays in each fiscal year through 1995 as a result of the passage of Public Law 102–27 and Public Law 102–28, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

1107. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1108. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1109. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the second report on the extent to which Federal agencies are using the authorities vested in them by the Federal Technology Transfer Act of 1986, pursuant to 15 U.S.C. 3710(b); to the Committee on Science, Space, and Technology.

1110. A letter from the Secretary of Veterans Affairs; transmitting a draft of proposed legislation to amend title 38, United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Secretary notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000; to the Committee on Veterans' Affairs.

1111. A letter from the Assistant Secretary for Fossil Energy, Department of Energy; transmitting a report on Candidate Sites for Expansion of the Strategic Petroleum Reserves to 1 Billion Barrels; jointly, to the Committees on Appropriations and Energy and Commerce.

[Omitted from the Record of April 9, 1991]

1112. A letter from the Secretary of the Army and Acting Secretary of Agriculture, transmitting notification of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of lands and facilities surrounding Lake Isabella and Pine Flat Lake, CA, pursuant to 16 U.S.C. 505a, jointly, to the Committees on Agriculture, Public Works and Transportation, and Interior and Insular Affairs.

PUBLIC BILLS AND RESOLUTIONS

By Mr. ANTHONY:

H.R. 1840. A bill to suspend until January 1, 1995, the duty on N,N'-Ethylenebis(5,6-dibromo-2,3-norbornanedicarboximide; to the Committee on Ways and Means.

H.R. 1841. A bill to suspend until January 1, 1995, the duty on 1,2-Dibromo-4-(1,2-dibromoethyl)cyclohexane; to the Committee on Ways and Means.

H.R. 1842. A bill to suspend until January 1, 1995, the duty on Tetrabromocyclooctane; to the Committee on Ways and Means.

H.R. 1843. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Ways and Means.

H.R. 1844. A bill to extend until January 1, 1995, the existing suspensions of duty on certain chemicals; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 1845. A bill to amend the Federal Election Campaign Act of 1971 to prohibit contributions by multicandidate political committees and to limit contributions in House of Representatives elections from persons other than individual in-State residents; to the Committee on House Administration.

By Mr. BALLENGER:

H.R. 1846. A bill to suspend until January 1, 1995, the duty on 3-amino-acetanilide-4-sulfonic acid; to the Committee on Ways and Means.

H.R. 1847. A bill to suspend until January 1, 1995, the duty on 2,4-dinitroaniline; to the Committee on Ways and Means.

H.R. 1848. A bill to suspend until January 1, 1995, the duty on chloranil; to the Committee on Ways and Means.

H.R. 1849. A bill to suspend until January 1, 1995, the duty on diazo-2,1,4-sulfonic acid and its salts; to the Committee on Ways and Means.

H.R. 1850. A bill to suspend until January 1, 1995, the duty on acet-p-anisidine; to the Committee on Ways and Means.

By Mr. BARNARD (for himself and Mr. JENKINS):

H.R. 1851. A bill to extend until January 1, 1995, the existing suspension of duty on certain piston engines; to the Committee on Ways and Means.

By Mrs. BOXER (for herself, Mr. AUCOIN, Mr. BRYANT, Mr. SCHEUER, Mr. DEFAZIO, Mr. JONTZ, and Mr. STOKES):

H.R. 1852. A bill to amend title 10, United States Code, to improve Department of Defense oversight of special access programs; to the Committee on Armed Services.

By Mr. BUSTAMANTE:

H.R. 1853. A bill to provide for the duty-free liquidation or reliquidation of, and the refund of customs duties for, certain entries of tissue paper products; to the Committee on Ways and Means.

By Mrs. BYRON:

H.R. 1854. A bill to amend the Magnuson-Moss Warranty Federal Trade Commission Improvement Act to require that consumer product warranties include a statement of the availability from the manufacturer of spare parts; to the Committee on Energy and Commerce.

By Mr. CARDIN:

H.R. 1855. A bill to extend through December 31, 1994, the suspension of import duties on synthetic rutile; to the Committee on Ways and Means.

H.R. 1856. A bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, of student loans of students who agree to perform services in certain professions; to the Committee on Ways and Means.

By Mr. COUGHLIN:

H.R. 1857. A bill to extend for 3 years the existing suspension of duty on Ala Pro; to the Committee on Ways and Means.

By Mr. CRAMER:

H.R. 1858. A bill to suspend until January 1, 1995, the duty of Basic Blue 1; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.R. 1859. A bill to make a technical correction with respect to the temporary duty suspension for clomiphene citrate; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota (for himself, Mr. JENKINS, Mr. GRANDY, and Mr. MOODY):

H.R. 1860. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members; to the Committee on Ways and Means.

By Mr. DWYER of New Jersey:

H.R. 1861. A bill to suspend for a 3-year period the duty on famotidine; to the Committee on Ways and Means.

H.R. 1862. A bill to extend the existing suspension of duty on D-carboxamide; to the Committee on Ways and Means.

H.R. 1863. A bill to extend the existing suspension of duty on amiloride hydrochloride; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 1864. A bill to amend the Internal Revenue Code of 1986 to allow small builders to compute on the installment sales method income from the sale of certain residential real property, and for other purposes; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 1865. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Ways and Means.

By Mr. HATCHER:

H.R. 1866. A bill to suspend until January 1, 1995, the duty on pyrmethyl alcohol; to the Committee on Ways and Means.

H.R. 1867. A bill to suspend until January 1, 1995, the duty on TAC; to the Committee on Ways and Means.

H.R. 1868. A bill to suspend until January 1, 1995, the duty on metmercazole; to the Committee on Ways and Means.

By Mr. HATCHER (for himself and Mr. COBLE):

H.R. 1869. A bill to suspend temporarily the duty on fluometuron and IBTF; to the Committee on Ways and Means.

By Mr. JACOBS (for himself, Mr. LEACH, Mr. DELLUMS, Mrs. UNSOELD, Mr. PERKINS, Mrs. COLLINS of Illinois, Mr. ROYBAL, Mr. TOWNS, Mr. WEISS, Mr. CLAY, Mr. MOODY, Mr. DEFAZIO, Ms. PELOSI, Mr. MFUME, Mr. OBERSTAR, Mr. RAHALL, Mr. BROWN, Mr. FRANK of Massachusetts, Mr. EDWARDS of California, Mrs. SCHROEDER,

Mr. ACKERMAN, Mr. PAYNE of New Jersey, Mr. HAYES of Illinois, Mr. CONYERS, Mr. AUCOIN, Ms. NORTON, Mr. OWENS of New York, Mr. FOGLIETTA, Mr. MARKEY, Mr. STUDDS, Mr. WASHINGTON, Mr. LEHMAN of Florida, and Mr. KOPETSKI):

H.R. 1870. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the U.S. Peace Tax Fund to receive such tax payments; to establish a U.S. Peace Tax Fund Board of Trustees; and for other purposes; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 1871. A bill to suspend temporarily the duty on Tralomethrin; to the Committee on Ways and Means.

H.R. 1872. A bill to suspend temporarily the duty on Fenbendazole; to the Committee on Ways and Means.

H.R. 1873. A bill to suspend temporarily the duty on halofuginone hydrobromide; to the Committee on Ways and Means.

H.R. 1874. A bill to extend until January 1, 1995, the existing suspension of duty on certain sulfonaides; to the Committee on Ways and Means.

H.R. 1875. A bill to suspend temporarily the duty on fenoxaprop-ethyl and fenoxaprop-p-ethyl; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 1876. A bill to suspend until January 1, 1995, the duty on ceramic (non-porcelain) mugs; to the Committee on Ways and Means.

H.R. 1877. A bill to suspend until January 1, 1995, the duty on imitation non-metal jewelry; to the Committee on Ways and Means.

H.R. 1878. A bill to suspend until January 1, 1995, the duty on porcelain ornaments; to the Committee on Ways and Means.

By Mr. KLECZKA (for himself and Mr. DURBIN):

H.R. 1879. A bill directing the Secretary of State and the Director of the Foreign Commercial Service to appoint permanent cultural and commercial representatives to the Baltic States, to encourage the President to appoint a special envoy to encourage Baltic-Soviet negotiations, and to extend certain assistance to the Baltic States; to the Committee on Foreign Affairs.

By Mr. LAFALCE:

H.R. 1880. A bill to increase the amount of deduction for health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mrs. LOWEY of New York:

H.R. 1881. A bill to suspend until January 1, 1995, the duty on vigabatrin, nitrazepam, and clobazam; to the Committee on Ways and Means.

By Mr. MCCURDY (for himself, Mr. CONDIT, Mr. HAMILTON, Mr. ZELIFF, Mr. LIVINGSTON, Mr. DICKINSON, Mr. SCHUMER, Mr. ENGLISH, Mr. BRYANT, Mr. HYDE, Mr. HANCOCK, Mr. MCCANDLESS, Mr. PETRI, Mr. PAYNE of Virginia, Mr. BLILEY, Mr. KLECZKA, Mr. BEREUTER, Mr. RAVENEL, Mr. FRANK of Massachusetts, Mr. SANTORUM, Mr. SWIFT, Mr. SKELTON, Mr. INHOFE, Mr. HARRIS, Mr. HOLLOWAY, Mr. ROWLAND, Mrs. MEYERS of Kansas, Mr. PENNY, Mr. MCDERMOTT, Mr. SKEEN, Mr. ARMEY, Mr. SABO, Mr. SIKORSKI, Mr. OLIN, Mr. ROEMER, Mr. SLATTERY, Mr. BROOMFIELD, Ms. PELOSI, Mr. SMITH of Texas, Mr. TALLON, Mr. OWENS of Utah, Mr. BOEHNER, Mr. SANGMEISTER, Mr. FASCELL, Mr. KOLBE, Mr. GLICKMAN, Mr. CAMPBELL of Colorado, Mr. PEASE, Mr. GIBBONS, Mr. SHAW, Mr. RUSSO, Mrs. LOWEY of New York, Mr. SCHAEFER, Mrs. VUCANOVICH, and Mr. FROST):

H.R. 1882. A bill to establish a commission to advise the President on proposals for national commemorative events; to the Committee on Post Office and Civil Service.

By Mr. MCEWEN:

H.R. 1883. A bill to amend the Internal Revenue Code of 1986 to permanently extend the special employment tax treatment of certain family services providers; to the Committee on Ways and Means.

H.R. 1884. A bill to amend the Harmonized Tariff Schedule of the United States to extend the suspension of the duties on certain bicycle parts, and for other purposes; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. RINALDO, and Mr. DINGELL):

H.R. 1885. A bill to amend the Securities Exchange Act of 1934 to protect investors in limited partnerships in rollup transactions, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MINETA:

H.R. 1886. A bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR:

H.R. 1887. A bill to suspend until January 1, 1995, the duty on Peridur; to the Committee on Ways and Means.

By Mrs. PATTERSON:

H.R. 1888. A bill to suspend until January 1, 1995, the duty on Phospholan; to the Committee on Ways and Means.

By Mrs. PATTERSON (for herself, Mr. STENHOLM, Mr. PAYNE of Virginia, Ms. LONG, Mr. PENNY, Mrs. LLOYD, Mr. PARKER, Mr. LANCASTER, Mr. JOHNSON of South Dakota, Mr. WILSON, Mr. ZIMMER, Mr. HUGHES, Mr. BROWDER, Mr. SANTORUM, and Mr. VALENTINE):

H.R. 1889. A bill to amend the Congressional Budget Act of 1974 to reform the Federal budget process, and for other purposes; jointly, to the Committee on Government Operations and Rules.

By Mr. PETERSON of Minnesota (for himself, Mr. OBEY, Mr. JOHNSON of South Dakota, and Mr. SANDERS):

H.R. 1890. A bill to increase the minimum basic formula price for class I milk, to provide payments to producers of milk that is not used for fluid milk products, and to establish the solid content of packaged fluid milk products; to the Committee on Agriculture.

By Mr. ROE:

H.R. 1891. A bill to extend until January 1, 1995, the existing suspension of duty on certain sulfonamides; to the Committee on Ways and Means.

H.R. 1892. A bill to suspend temporarily the duty on N,N-dithio-di-(2,1-phenylene) bis benzamide until January 1, 1995; to the Committee on Ways and Means.

H.R. 1893. A bill to suspend temporarily the duty on dephenyl guanidine until January 1, 1995; to the Committee on Ways and Means.

H.R. 1894. A bill to suspend temporarily the duty on di-o-tolyl guanidine until January 1, 1995; to the Committee on Ways and Means.

By Mr. ROTH:

H.R. 1895. A bill to repeal the United States prohibition on air transportation with South Africa; to the Committee on Works and Transportation.

H.R. 1896. A bill relating to the tariff treatment of certain weaving machines for fabrics in excess of 4.9 meters in width; to the Committee on Ways and Means.

By Mr. THOMAS of Wyoming (for himself, Mr. ROHRABACHER, Mr. COX of California, Mr. KYL, Mr. BUNNING, Mr. GINGRICH, Mr. WALKER, Mr. DELAY, Mr. BALLENGER, Mr. HANCOCK, and Mr. TAYLOR of North Carolina):

H.R. 1897. A bill to limit the growth in the number of civilian employees within each branch of the Government; jointly, to the Committees on Post Office and Civil Service, House Administration, and the Judiciary.

By Mr. TOWNS:

H.R. 1898. A bill to amend the Social Security Act to repeal the reduced Medicare reimbursement for new physicians; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. VALENTINE:

H.R. 1899. A bill to extend until January 1, 1995, the existing suspension of duty on Tfs Lys Pro in free base and tosyl salt forms; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Mr. BROOMFIELD, and Mr. CAMP):

H.R. 1900. A bill to provide for the granting of asylum in the United States to nationals of Laos, Vietnam, Cambodia, and Burma who assist in the return to the United States of living Vietnam POW/MIA's; to the Committee on the Judiciary.

By Mr. VALENTINE:

H.R. 1901. A bill to extend until January 1, 1995, the existing suspension of duty on norfloxacin; to the Committee on Ways and Means.

H.R. 1902. A bill to suspend until January 1, 1995, the duty on keto ester; to the Committe on Ways and Means.

H.R. 1903. A bill to suspend until January 1, 1995, the duty on lisinopril; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 1904. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 1905. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Ways and Means.

H.R. 1906. A bill to suspend for a 3-year period the duty on certain sheet glass; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 1907. A bill to suspend temporarily the duty on oxalacetic acid diethyl ester sodium salt; to the Committee on Ways and Means.

H.R. 1908. A bill to extend until January 1, 1995, the existing suspension of duty on difenzoquat methyl sulfate; to the Committee on Ways and Means.

H.R. 1909. A bill to extend until January 1, 1995, the existing suspension of duty on sulfathiazole; to the Committee on Ways and Means.

H.R. 1910. A bill to extend until January 1, 1995, the existing suspension of duty on sulfamethazine; to the Committee on Ways and Means.

By Mr. VOLKMER (for himself, Mr. POSHARD, Mr. WOLF, Mr. DEFAZIO, and Mr. JONTZ):

H.R. 1911. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to provide grants for the purchase of recycling equipment; to the Committee on Energy and Commerce.

H.R. 1912. A bill to amend the Internal Revenue Code of 1986 to provide a 25-percent investment tax credit for recycling equipment; to the Committee on Ways and Means.

By Mr. CARPER:

H.R. 1913. A bill to suspend until January 1, 1995, the duty on PCMX; to the Committee on Ways and Means.

By Mr. MFUME:

H.R. 1914. A bill to provide for the acquisition and publication of data on police brutality complaints, and for other purposes; to the Committee on the Judiciary.

By Mr. SPRATT:

H.R. 1915. A bill to suspend for a 3-year period the duty on omega-dodecalactam; to the Committee on Ways and Means.

By Mr. WYDEN (for himself, Mrs. COLLINS of Illinois, Mr. ROYBAL, Mr. MARKEY, Mr. RANGEL, Mr. BEREUTER, and Mr. MCCLOSKEY):

H.R. 1916. A bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies; to the Committee on Energy and Commerce.

By Mr. ANDERSON (for himself, Mr. HORTON, Mr. RAHALL, Mr. ROYBAL, Mr. MURPHY, Mr. KILDEE, Mr. NEAL of Massachusetts, Mr. WOLF, Mr. MACHTLEY, Mr. LENT, Mr. WELDON, Mr. JONTZ, Mr. TORRES, Mr. POSHARD, Mr. DORNAN of California, Mr. LAGOMARSINO, Mr. KOLTER, Mr. HUTTO, Mr. STOKES, Mr. GONZALEZ, Mr. ROE, Mr. MCCANDLESS, Mr. LEHMAN of Florida, Mr. DE LUGO, Mr. BUSTAMANTE, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. STAGGERS, Mr. OBERSTAR, Mr. JONES of North Carolina, and Mr. DELLUMS):

H.R. 1918. A bill to amend title 38, United States Code, to provide a service pension of $100 per month for veterans of World War I; to the Committee on Veterans' Affairs.

By Mr. DINGELL (for himself, Mr. LENT, Mr. SWIFT, and Mr. RITTER):

H.J. Res. 222. Joint resolution to provide for a settlement of the railroad labor-management disputes between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees; to the Committee on Energy and Commerce.

By Mr. FOGLIETTA (for himself, Mr. KENNEDY, Mr. RIGGS, Mr. SKEEN, Mr. ANNUNZIO, Mr. HASTERT, Mr. RAVENEL, Mr. MCDERMOTT, Mr. RAMSTAD, Mr. CLEMENT, Ms. KAPTUR, Mr. MCNULTY, Mr. LEVINE of California, Mr. SCHEUER, Mr. HANSEN, Mr. ROE, Ms. NORTON, Mr. BONIOR, Mr. GUARINI, Mrs. MINK, and Mr. RANGEL):

H.J. Res. 223. Joint resolution to designate September 17, 1991, as "Constitution Day"; to the Committee on Post Office and Civil Service.

By Mrs. PATTERSON (for herself, Mr. GORDON, Mr. RAVENEL, Mr. GOODLING, Mr. BENNETT, Mr. TALLON, and Mr. HUTTO):

H.J. Res. 224. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, State, and local elections; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself, Mr. THOMAS of Georgia, Mr. ROTH, Mr. TANNER, Mr. MONTGOMERY, Mr. MCDADE, Mr. LAGOMARSINO, Mr. DINGELL, Mr. HASTERT, Mr. JONTZ, Mr. WILSON, Mr. HANSEN, Mr. ROBERTS, Mr. YATRON, Mr. RAVENEL, Mr. POSHARD, Mr. OWENS of Utah, Mr. RAY, Mr. MARTIN, Mr. PETERSON of Minnesota, Mr. QUILLEN, Mr. FIELDS, Mr. STUMP, Mr. PAYNE of Virginia, Mr. MOLLOHAN, Mr. OBERSTAR, Mr. COSTELLO, Mr. MARLENEE, Mr. HUCKABY, Mr. FAZIO, Mr. YOUNG of Alaska, Mr. CLEMENT, Ms. KAPTUR, Mr. KOLTER, Mr. CAMP, Mr. HARRIS, Mr. HEFLEY, Mr. RANGEL, Mr. ROE, Mr. VOLKMER, Mr. PANETTA, Mr. CRANE, Mr. BAKER, Mr. RHODES, Mr. LANCASTER, Mr. JENKINS, Mr. BUNNING, Mr. LIVINGSTON, Mr. HATCHER, Mr. DICKINSON, Mr. BREWSTER, Mr. PAXON, Mr. GALLO, Mr. RAMSTAD, Mr. SANTORUM, Mr. GUARINI, Mr. DERRICK, Mr. DELAY, Mr. HANCOCK, Mr. GILLMOR, Mr. JOHNSON of South Dakota, Mr. SMITH of Oregon, Mr. MARTINEZ, Mr. FISH, Mr. SOLOMON, Mr. SUNDQUIST, Mr. ECKART, Mr. RAHALL, Mr. BROOKS, Mr. CLINGER, Mr. VANDER JAGT, Mr. KASICH, Mr. KOPETSKI, Mr. DOOLITTLE, Mr. CARDIN, Mr. GILCHREST, Mr. PALLONE, Mr. JEFFERSON, Mr. DE LA GARZA, Mr. DEFAZIO, Mrs. BYRON, Mrs. MEYERS of Kansas, Mrs. VUCANOVICH, Mr. OXLEY, Mr. REGULA, Mr. WEBER, and Mr. ZIMMER):

H.J. Res. 225. Joint resolution to designate September 28, 1991, as "National Hunting and Fishing Day"; to the Committee on Post Office and Civil Service.

By Mr. STALLINGS (for himself, Mr. CALLAHAN, Mr. LAROCCO, Mr. MARLENEE, Mr. MORRISON, Mr. THOMAS of Georgia, Mr. VENTO, Mr. VOLKMER, and Mr. WYDEN):

H.J. Res. 226. Joint resolution designating the month of June 1991 as "National Forest System Month"; to the Committee on Post Office and Civil Service.

By Mr. LIPINSKI (for himself and Mr. KLECZKA):

H.J. Res. 227. Joint resolution to designate October 1991 as "Polish-American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS (for himself and Mr. BROOMFIELD):

H. Con. Res. 127. Concurrent resolution calling upon the President to take action through the United Nations to bring Iraqi officials, including President Saddam Hussein, before an appropriate international tribunal to be judged for war crimes and crimes against humanity; to the Committee on Foreign Affairs.

By Mr. PENNY (for himself, Mr. MCCURDY, Mr. MOODY, Mr. BROWDER, and Mr. ANDREWS of New Jersey):

H. Con. Res. 128. Concurrent resolution expressing the sense of the Congress regarding the need for a new approach to controlling the growth of Federal spending and reforming the priorities of such Federal spending in order to revive the progressive goal of national fiscal policy; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. TALLON (for himself, Mr. ROTH, Mr. OBERSTAR, Mr. SWETT, Mr. BROWDER, Mr. ABERCROMBIE, Mr. LANTOS, Mr. JEFFERSON, Mr. LANCASTER, Mr. SYNAR, Mr. NEAL of Massachusetts, Mr. RIGGS, Mr. BOEHLERT, Mrs. UNSOELD, Mr. LOWERY of California, Mr. HEFNER, Mr. QUILLEN, Mr. UPTON, Mr. CARR, Mr. DE LUGO, Mr. SKELTON, Mr. BATEMAN, Mr. BACCHUS, Mr. MAVROULES, Mr. RAVENEL, Mr. RAHALL, Mr. FUSTER, Mr. ZELIFF, Mr. HUGHES, Mr. HORTON, Mr. STENHOLM, Mr. GILLMOR, Mr. VALENTINE, Mr. APPLEGATE, Mr. JENKINS, Mr. HUTTO, Mr. CAMP, Mr. BOUCHER, Mr. GEKAS, Mr. BREWSTER, and Mr. SLAUGHTER of Virginia):

H. Con. Res. 129. Concurrent resolution expressing the sense of Congress that employers resume normal business travel and that travel and tourism-related businesses intensify efforts to promote travel both to and within the United States; to the Committee on Energy and Commerce.

Mr. EDWARDS of Oklahoma (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. LEWIS of California, Mr. HUNTER, Mr. MCCOLLUM, Mr. WEBER, Mr. VANDER JAGT, Mr. ARCHER, Mr. GRADISON, and Mr. SOLOMON):

H. Res. 127. Resolution to amend the Rules of the House of Representatives, and for other purposes; to the Committee on Rules.

By Mr. HASTERT:

H. Res. 128. Resolution applauding the Architect of the Capitol and the Committee on House Administration for developing an effective recycling program in the House office buidings, and supporting ongoing efforts to expand and update source separation and recycling in the House office buildings during the 102d Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LOWERY of California:

H.R. 1917. A bill for the relief of Michael Wu; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mrs. JOHNSON of Connecticut and Mr. SAVAGE.

H.R. 5: Mr. ROEMER.

H.R. 34: Mr. BURTON of Indiana, Mr. KYL, Mr. GALLEGLY, Mr. JOHNSON of South Dakota, Mr. SANDERS, Mr. SHAYS, Mr. HEFLEY, Mr. MILLER of Washington, Mrs. JOHNSON of Connecticut, Mr. COX of California, Mr. MORRISON, Mr. HALL of Texas, Mr. HASTERT, Mr. EMERSON, and Mr. ROE.

H.R. 44: Mr. WELDON and Mr. AUCOIN.

H.R. 68: Mr. MACHTLEY, Mr. TRAXLER, Mr. SKAGGS, and Mr. GRAY.

H.R. 77: Mr. GILCHREST, Mr. LIGHTFOOT, Mr. GILMAN, Mr. ROE, and Mr. HANSEN.

H.R. 78: Mr. GEKAS, Mr. UPTON, Mr. MILLER of Ohio, and Mr. GRANDY.

H.R. 81: Mr. HALL of Ohio, Mr. WEISS, Mr. HERTEL, Mr. SCHEUER, and Mr. ENGEL.

H.R. 173: Mr. APPLEGATE, Mr. EVANS, Mr. RAVENEL, Mrs. UNSOELD, and Mrs. LOWEY of New York.

H.R. 179: Mr. DWYER of New Jersey, Mr. GORDON, Mr. STEARNS, and Mr. STALLINGS.

H.R. 187: Mr. SHAYS, Mr. PAXON, Mr. OWENS of New York, Mr. MANTON, Ms. KAPTUR, Mr. JACOBS, Mr. CLAY, and Mr. KILDEE.

H.R. 298: Mr. WEBER, Mr. SAXTON, Mr. MILLER of Ohio, and Mr. GILCHREST.

H.R. 303: Mr. DWYER of New Jersey, Mr. CAMP, Mr. CHAPMAN, and Mr. MCCRERY.

H.R. 310: Mr. SMITH of Texas, Mr. DOOLITTLE, Mr. QUILLEN, Mr. MACHTLEY, and Mr. SENSENBRENNER.

H.R. 350: Mr. WILSON, Mr. SERRANO, Mrs. KENNELLY, and Mr. FISH.

H.R. 351: Mr. BLAZ, Mr. JONTZ, Mr. RAVENEL, Mr. WOLF, Mr. MORAN, Mr. DWYER of New Jersey, Mr. BLILEY, Mr. THOMAS of Wyoming, Mr. SCHEUER, Mr. HUGHES, Mr. KYL, Mr. COSTELLO, Mr. DE LUGO, Mr. GORDON, Mr. HYDE, Mrs. MEYERS of Kansas, Mr. JEFFERSON, Mr. ECKART, Mr. FISH, Mr. WEISS, and Mr. DREIER of California.

H.R. 352: Mr. HERGER, Mr. ROE, Mr. THOMAS of Wyoming, Mr. GALLEGLY, Mr. ZELIFF, Mr. FISH, Mr. COUGHLIN, Mr. SISISKY, Mr. MCNULTY, and Mr. SMITH of New Jersey.

H.R. 371: Mr. JENKINS.

H.R. 413: Mr. QUILLEN, Mr. HERTEL, Mrs. UNSOELD, Mr. DERRICK, Mr. SPENCE, Mr. JOHNSTON of Florida, Mr. LEWIS of Florida, and Mr. HAMMERSCHMIDT.

H.R. 467: Mr. MARTIN, Mr. WOLF, Mr. STEARNS, Mr. BENNETT, Mr. KOLTER, Mr. ENGEL, Mr. LEHMAN of Florida, Mr. DIXON, Mr. HERTEL, Mr. BILBRAY, and Mr. JOHNSTON of Florida.

H.R. 516: Mr. ACKERMAN, Mr. BROWN, Mr. MACHTLEY, and Mrs. UNSOELD.

H.R. 539: Mr. DELLUMS, Mr. ENGEL, Mr. TOWNS, Mr. JEFFERSON, Mr. FOGLIETTA, and Mr. WEISS.

H.R. 540: Mr. GIBBONS, Mr. KANJORSKI, Mr. STUDDS, and Mr. VALENTINE.

H.R. 559: Mr. SMITH of Florida and Mr. ROE.

H.R. 565: Mr. SUNDQUIST and Mr. HERTEL.

H.R. 587: Mr. CAMPBELL of Colorado.

H.R. 652: Mr. LAGOMARSINO and Mr. CAMPBELL of Colorado.

H.R. 661: Mr. DELAY, Mr. DAVIS, Mr. FUSTER, Mr. SCHEUER, Mr. HALL of Ohio, Mr. RAMSTAD, and Mr. GILMAN.

H.R. 698: Mr. MARKEY.

H.R. 699: Mr. MARKEY.

H.R. 722: Mr. LAFALCE.

H.R. 723: Mr. LAFALCE.

H.R. 766: Mr. CAMPBELL of California, Ms. MOLINARI, Mr. TORRES, and Mr. WEISS.

H.R. 768: Mr. HERGER.

H.R. 811: Mr. ALLARD.

H.R. 821: Mr. STOKES, Mr. BLILEY, Mr. GILCHREST, Mrs. MEYERS of Kansas, Mr. LAFALCE, Mr. SANDERS, and Mr. SCHEUER.

H.R. 826: Mr. SOLOMON.

H.R. 827: Mr. LIPINSKI, Mr. BILIRAKIS, and Mr. PALLONE.

H.R. 843: Mrs. LOWEY of New York and Mr. LEVINE of California.

H.R. 908: Mr. FALEOMAVAEGA.

H.R. 915: Mr. MARTINEZ and Mr. GRANDY.

H.R. 916: Mr. ENGEL.

H.R. 945: Mr. SOLOMON, Mr. MARTIN, Mr. RIGGS, Mr. FIELDS, Mr. MONTGOMERY, Mr. LIVINGSTON, Mr. GORDON, Mr. MCEWEN, Mr. POSHARD, Mr. SMITH of Texas, Mr. HANCOCK, Mrs. MEYERS of Kansas, Mr. TRAFICANT, Mr. VOLKMER, and Mr. MCGRATH.

H.R. 951: Mr. MCNULTY, Mr. SPENCE, Mr. BOEHNER, Mr. MARTIN, Mr. COX of California, Mr. GILCHREST, Mrs. BENTLEY, Mr. SWIFT, Mr. SCHULZE, Mr. HOCHBRUECKNER, and Mr. CRANE.

H.R. 961: Mr. ROE, Mr. FOGLIETTA, and Ms. DELAURO.

H.R. 967: Ms. DELAURO and Mr. SARPALIUS.

H.R. 1059: Ms. DELAURO, Mr. ENGEL, and Mr. GONZALEZ.

H.R. 1070: Mr. GINGRICH.

H.R. 1093: Mr. DOOLITTLE, Mr. MCCLOSKEY, Mr. FRANK of Massachusetts, Mr. ENGEL, and Mr. SARPALIUS.

H.R. 1125: Mr. LAGOMARSINO.

H.R. 1144: Mr. FISH and Mr. WEISS.

H.R. 1155: Mr. FORD of Tennessee, Mr. KLUG, Mr. SANGMEISTER, Mr. JOHNSTON of Florida, Mr. INHOFE, Mr. SIKORSKI, Mr. KOLBE, Mr. HANSEN, Mr. ROE, and Mr. MILLER of Washington.

H.R. 1163: Mr. SANDERS and Mr. SCHEUER.

H.R. 1197: Mr. EVANS, Mr. HERTEL, Mr. JENKINS, Mr. OWENS of New York, Mrs. PATTERSON, Mr. SCHEUER, Mr. TORRES, and Mr. WOLPE.

H.R. 1200: Mr. LANCASTER, Mr. WEISS, Mr. FOGLIETTA, Mr. FISH, Mr. LEHMAN of Florida, Mr. BACCHUS, Mr. HUBBARD, Mr. WAXMAN, Mr. OWENS of Utah, Mrs. JOHNSON of Connecticut, Mr. BRUCE, Mr. HUCKABY, Mr. COSTELLO, Mr. MARTINEZ, Mr. BILBRAY, Mr. CONYERS, Mr. PICKLE, Mr. ENGEL, Mr. FORD of Tennessee, Mr. POSHARD, and Mr. LEWIS of Georgia.

H.R. 1235: Mr. PETERSON of Minnesota, Mr. MURPHY, Mr. CARPER, Mr. ORTON, Mr. PAYNE of Virginia, Mr. FROST, Mr. WYDEN, and Mr. BUSTAMANTE.

H.R. 1263: Ms. DELAURO AND MR. JACOBS.

H.R. 1264: Ms. DELAURO and Mr. JACOBS.

H.R. 1270: Mr. HYDE.

H.R. 1292: Mr. CONDIT.

H.R. 1325: Mr. BARRETT and Mr. EMERSON.

H.R. 1330: Mr. JEFFERSON, Mr. ESPY, Mr. BOEHNER, Mr. SKELTON, Mr. BURTON of Indiana, Mr. SMITH of Oregon, Mr. GILLMOR, Mr. BRUCE, Mr. STALLINGS, Mr. BARTON of Texas, Mr. ALLARD, Mr. DUNCAN, Mr. STUMP, Mr. ANDERSON, Mr. CUNNINGHAM, Mr. SANTORUM, Mr. GORDON, Mr. VANDER JAGT, Mr. DOOLITTLE, Mr. EDWARDS of Oklahoma, Mr. BARRETT, Mr. CRANE, Mr. WEBER, Mr. MORRISON, Mr. MARTIN, Mr. CLEMENT, Mr. SUNDQUIST, Mr. ROSE, Mr. WALKER, Mr. CAMP, Mr. BOUCHER, Mr. GRANDY, Mr. POSHARD, Mr. LIGHTFOOT, and Mr. STENHOLM.

H.R. 1348: Mr. GEREN of Texas, Mr. RAHALL, Mr. RAMSTAD, Mr. WEBER, Mr. LANTOS, Mr. CRANE, Mr. SPENCE, Ms. OAKAR, Mr. GORDON, Mr. EDWARDS of California, Mr. COBLE, Mr. KLECZKA, Mr. PETERSON of Minnesota, Mr. GINGRICH, Mr. SABO, Mr. WILLIAMS, Mr. DICKS, Ms. PELOSI, Mr. SWETT, Mr. MCEWEN, Mr. MACHTLEY, Mr. RAVENEL, Mr. ABERCROMBIE, Mr. JOHNSON of South Dakota, Mr. COMBEST, Mr. BEREUTER, Mr. CHAPMAN, Mr. ENGEL, Mr. MILLER of California, Mr. WISE, Mr. LEHMAN of Florida, Mr. TALLON, Mr. JONES of North Carolina, Mr. GILLMOR, Mr. SANGMEISTER, Mr. SHAYS, Mr. HYDE, and Mr. RINALDO.

H.R. 1360: Mr. ENGEL.

H.R. 1406: Mr. GEJDENSON, Mrs. LOWEY of New York, Mr. CAMPBELL of Colorado, Mr. BONIOR, Mrs. UNSOELD, Mr. ABERCROMBIE, Mr. CRANE, Mr. DREIER of California, Mr. FIELDS, Mr. SAXTON, Mr. INHOFE, Mr. WISE, and Mr. HERGER.

H.R. 1421: Mr. BARTON of Texas, Mr. DREIER of California, Mr. RIGGS, Mr. KOLBE, Mr. DOOLITTLE, Ms. MOLINARI, Mr. JONES of Georgia, Mr. SANTORUM, and Mr. FRANKS of Connecticut.

H.R. 1439: Mr. HERGER.

H.R. 1454: Mr. SIKORSKI, Mr. MAVROULES, Mr. SAWYER, Mr. MILLER of California, Mr. GLICKMAN, Mr. JONTZ, and Mr. LEACH.

H.R. 1468: Mr. STEARNS.

H.R. 1473: Mr. AUCOIN, Mr. KENNEDY, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Mr. ENGEL, Mr. CAMP, Mr. RAVENEL, Mr. GONZALEZ, Mr. CHAPMAN, and Mr. SISISKY.

H.R. 1476: Mr. JOHNSTON of Florida and Mr. VOLKMER.

H.R. 1504: Mr. GONZALEZ, Ms. SLAUGHTER of New York, Mr. FRANK of Massachusetts, and Mr. FOGLIETTA.

H.R. 1572: Mr. ALLARD, Mr. BATEMAN, Mr. BREWSTER, Mr. GORDON, Mr. EMERSON, Mr. INHOFE, Mr. ANDREWS of New Jersey, Mr. TALLON, Mr. RAMSTAD, Mr. JOHNSON of South Dakota, Mr. WEBER, Mr. THOMAS of California, Mr. MARLENEE, Mr. STUMP, Mr. MACHTLEY, Mrs. BYRON, Mr. EDWARDS of California, Mr. BLILEY, Mr. WILSON, Mr. GOODLING, and Mr. SCHAEFER.

H.R. 1629: Mr. VOLKMER and Mr. MILLER of Ohio.

H.R. 1649: Mr. SERRANO, Mr. LEHMAN of Florida, and Mr. MANTON.

H.R. 1667: Mr. YOUNG of Florida and Ms. ROS-LEHTINEN.

H.R. 1676: Mr. BATEMAN and Mr. KOLBE.

H.R. 1719: Mr. SKEEN, Mr. PORTER, Mr. DWYER of New Jersey, Mr. ROE, and Mr. SCHAEFER.

H.R. 1753: Mr. CAMP.

H.R. 1755: Mr. ARMEY, Mr. CAMP, Mr. HANSEN, Mr. SHAW, Mr. SUNDQUIST, Mr. PORTER, Mr. BARNARD, Mr. RHODES, Mr. GOODLING, Mr. COX of California, and Mr. SENSENBRENNER.

H.J. Res. 21: Mr. THOMAS of Wyoming, Mr. ZELIFF, Mr. KOLTER, Mr. SANTORUM, and Mr. INHOFE.

H.J. Res. 22: Mr. ROHRABACHER, Mr. ZELIFF, Mr. KOLTER, Mr. SUNDQUIST, and Mr. SANTORUM.

H.J. Res. 66: Mr. DE LA GARZA.

H.J. Res. 78: Mr. BURTON of Indiana, Mr. BILBRAY, Mr. DEFAZIO, Mr. MACHTLEY, Mr. DORNAN of California, Mr. LENT, Mr. THOMAS of Wyoming, Mr. RANGEL, Ms. MOLINARI, Mr. PANETTA, Mrs. LOWEY of New York, Mr. ANDREWS of New Jersey, Mr. HORTON, Mr. LAGOMARSINO, Mr. MCNULTY, Mr. BONIOR, Mr. LANCASTER, Mr. BILIRAKIS, Mr. ROE, Mr. MFUME, Mr. HYDE, Mr. MARTIN, Mr. VENTO, Mr. FISH, Mr. ENGEL, and Mr. WALSH.

H.J. Res. 90: Mr. ALEXANDER, Mr. MCCLOSKEY, Ms. SNOWE, Mr. FAWELL, Mr. JENKINS, Mr. RIGGS, Mr. RHODES, Mr. WOLF, Mr. MCNULTY, and Mr. DORNAN of California.

H.J. Res. 103: Mr. ANDERSON, Mr. ANNUNZIO, Mr. BALLENGER, Mr. BARNARD, Mr. BENNETT, Mr. BLAZ, Mr. BONIOR, Mr. BROOMFIELD, Mr. CALLAHAN, Mr. CARPER, Mr. COOPER, Mr. COYNE, Mr. CRAMER, Mr. DARDEN, Mr. DELLUMS, Mr. DERRICK, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. ECKART, Mr. ENGEL, Mr. ESPY, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FROST, Mr. GEJDENSON, Mr. GINGRICH, Mr. GORDON, Mr. GUNDERSON, Mr. HAMILTON, Mr. HANSEN, Mr. HOCHBRUECKNER, Mr. HOUGHTON, Mr. IRELAND, Mr. JENKINS, Ms. KAPTUR, Mr. KOLTER, Mr. LENT, Mr. LIVINGSTON, Mrs. LLOYD, Mr. MCDADE, Mr. MFUME, Mr. MURPHY, Ms. OAKAR, Mrs. PATTERSON, Mr. RAY, Mr. SISISKY, Mr. SKAGGS, Mr. STUDDS, Mr. STUMP, Mr. SUNDQUIST, Mr. UPTON, Mr. VALENTINE, Mr. WALSH, Mr. WELDON, Mr. YATRON, Mr. CLINGER, Mr. OLIN, Mr. NOWAK, Mr. ANTHONY, Mr. RIGGS, Mr. RAVENEL, and Mr. TAUZIN.

H.J. Res. 141: Mr. SANDERS, Mr. YOUNG of Alaska, Mr. GONZALEZ, Mr. SWETT and Mr. JACOBS.

H.J. Res. 143: Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. GRANDY, Mr. HALL of Texas, Mr. HEFLEY, Mr. LEWIS of Florida, Mr. MILLER of Ohio, and Mr. PORTER.

H.J. Res. 154: Mr. DOOLEY, Mr. WOLPE, Mr. MCCRERY, Mr. DYMALLY, Mr. FAWELL, Mr. LIVINGSTON, Ms. OAKAR, Mr. OBERSTAR, Mr. ANDREWS of Texas, Mr. CHANDLER, Mr. LOWERY of California, Mr. SCHULZE, Mr. MCCLOSKEY, Mr. JENKINS, Mr. RHODES, Mr. STOKES, Mr. STUMP, Mr. FLAKE, Mr. WELDON, Mr. BRYANT, Mr. NEAL of North Carolina, Mr. HOBSON, Mr. SHUSTER, Mr. TAYLOR of Mississippi, Mr. ATKINS, Mr. MORAN, Mr. COUGHLIN, Mrs. UNSOELD, Mr. DOOLITTLE, Mr. ZIMMER, Mr. GONZALEZ, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. JACOBS, Mr. SARPALIUS, Mr. SOLARZ, Mr. GOODLING, Mr. HAYES of Illinois, Mr. ANDREWS of Maine, Mr. AUCOIN, Mr.

ASPIN, Mr. HAYES of Louisiana, Ms. MOLINARI, and Mr. FOGLIETTA.

H.J. Res. 171: Mr. SWETT, Mr. WHEAT, Mr. WASHINGTON, Mr. ECKART, Mr. PETRI, Mr. SARPALIUS, Mr. THOMAS of Wyoming, and Mr. SANTORUM.

H.J. Res. 173: Mr. ACKERMAN, Mr. ANNUNZIO, Mr. ASPIN, Mr. BENNETT, Mr. BERMAN, Mr. BILBRAY, Mr. BOEHLERT, Mr. BONIOR, Mrs. BOXER, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CHANDLER, Mr. CLAY, Mr. CONYERS, Mr. DANNEMEYER, Mr. DEFAZIO, Mr. DICKINSON, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. ENGEL, Mr. FAZIO, Mr. FISH, Mr. FOGLIETTA, Mr. FUSTER, Mr. GILMAN, Mr. GONZALEZ, Mr. GREEN of New York, Mr. GUARINI, Mr. HASTERT, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HOUGHTON, Mr. HUGHES, Mr. JEFFERSON, Mr. JONES of Georgia, Mr. KENNEDY, Mr. KLUG, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LENT, Mr. LEVINE of California, Mr. LEWIS of California. Mr. MACHTLEY, Mr. MARTINEZ, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of California, Mr. MOODY, Mrs. MORELLA, Ms. NORTON, Mr. NOWAK, Ms. OAKAR, Mr. ORTON, Mr. PAXON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PICKLE, Mr. POSHARD, Mr. QUILLEN, Mr. RITTER, Mr. ROE, Mr. SCHEUER, Mr. SCHIFF, Mr. SCHUMER, Mr. SERRANO, Mr. SHAYS, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STARK, Mr. STOKES, Mr. THOMAS of Wyoming, Mr. TOWNS, Mr. TRAFICANT, Mr. WALSH, Mr. WAXMAN, Mr. WEISS, Mr. WOLF, and Mr. YATRON.

H.J. Res. 175: Mr. QUILLEN, Mr. VALENTINE, Mr. ESPY, Mr. BLILEY, Ms. KAPTUR, Mr. POSHARD, Mr. BALLENGER, Mr. DERRICK, Mr. HUCKABY, Mr. DEFAZIO, Mr. ROSE, Mr. HUGHES, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. WEISS, Mr. FOGLIETTA, Mr. LEHMAN of Florida, Mr. LANCASTER, Mr. STARK, Mr. WALSH, Mr. DONNELLY, Mr. JEFFERSON, Mr. OWENS of Utah, Mr. EMERSON, Mrs. UNSOELD, Mrs. BOXER, Mr. MATSUI, Mr. ROWLAND, Mrs. MEYERS of Kansas, Mr. RANGEL, Mr. HERTEL, Mr. MARTINEZ, Mr. ENGEL, Mr. ZIMMER, Mrs. LLOYD, Mr. JENKINS, Mr. HATCHER, Mr. DWYER OF New Jersey, Mr. FROST, and Mr. LEWIS of Georgia.

H.J. Res. 194: Mr. Dwyer of New Jersey, Mr. MINETA, Mr. LAGOMARSINO, Mr. HOCHBRUECKNER, Mr. DARDEN, Mr. MOLLOHAN, Mr. ROYBAL, Ms. PELOSI, Mrs. MINK, Mrs. BYRON, Mr. LEHMAN of California, Mr. UPTON, Mr. HASTERT, Mr. VOLKMER, Mr. BRUCE, Mr. STUMP, Mr. BREWSTER, Mr. ALEXANDER, Mr. DE LA GARZA, Mr. CARR, Mr. DERRICK, Mr. SPENCE, Mr. HUTTO, Mr. SABO, Mr. SMITH of Iowa, Mr. MANTON, Mr. MAVROULES, Mr. MILLER of California, Mr. RUSSO, Mr. ANDREWS of New Jersey, Mr. RICHARDSON, Mrs. UNSOELD, Mr. SYNAR, Mr. MCNULTY, Mr. MORAN, Mr. JEFFERSON, Mrs. LOWEY of New York, Mr. VENTO, Mr. BROOKS, Mr. ANNUNZIO, Mr. TRAXLER, Mr. KLECZKA, Mr. SWIFT, Mr. DURBIN, Mr. KILDEE, Mr. TORRES, Mr. GLICKMAN, Mr. FROST, Mr. AUCOIN, Mr. GRAY, Mr. GONZALEZ, and Mr. HOYER.

H.J. Res. 209: Mr. ENGEL and Mr. KOLBE.

H. Con. Res. 56: Mr. COX of California, Mr. FAWELL, Mr. MOORHEAD, Mr. GEJDENSON, Mr. DAVIS, and Mr. KLUG.

H. Con. Res. 69: Mr. HEFLEY.

H. Con. Res. 103: Mr. HYDE, Mr. BURTON of Indiana, Mrs. BYRON, Mr. DELAY, and Mr. TRAFICANT.

H. Res. 101: Mr. NOWAK, Mr. RAHALL, Ms. WATERS, Mr. SAVAGE, Mr. RAVENEL, Mrs. LLOYD, and Mr. PALLONE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1292: Mr. PANETTA.

PETITIONS, ETC.

Under clause 1 of rule XXII,

58. The SPEAKER presented a petition of the Legislature of Rockland County, NY, relative to urging the Congress to enact a 1-percent surcharge on Kuwaiti rebuilding projects to benefit veterans' hospitals; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

THE THRAWN RICKLE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. CRANE. Mr. Speaker, one of the fastest growing interest groups in the United States in recent years is the environmentalist "Greens." Indeed, their influence on our political system was demonstrated last year by the passage of the Clean Air Act, a bill which now is expected to be ineffective in improving the quality of the air we breathe at great and unnecessary expense. Recognizing the power of the Green movement, we should be aware of the influences on their political agenda. In his syndicated column, the Thrawn Rickle, Dr. Robert G. Williscroft examines the motivating philosophies of the Green movement. I submit Dr. Williscroft's article on this issue to my colleagues and urge them to read and consider his conclusions.

THE THRAWN RICKLE

(By Robert G. Williscroft)

The Greens are a loosely knit group of people that is being led by a smaller cadre of ideologues who got their social science from Marx and their physicial science from science popularizers. They have built an anti-freedom, anti-democratic, anti-science world view on this.

From Marx they learned about the collective, the dialectic, and centralized control, without understanding the lessons from current history. From the life sciences they learned about a connection between chemicals and cancer, without understanding the nature of minute dangers and minuscule concentrations. From physics they learned that reality is not always what it seems to be, and drew misinformed analogues to eastern mysticism that reinforced their radically subjective and intuitive approach to deep ecology. From a marriage of Marxist theory and a misunderstanding of the Second Law of Thermodynamics, which states that energy in the universe never increases, they developed a political-economic system incorporating no private land ownership and never expending energy. From a misapplication of quantum physics they derived a new world order that denies the cause and effect of market economics. From ecologists they gained a superficial understanding of the oneness of global processes and the living earth. Out of metaphor they created reality: the living earth became a goddess.

The common thread within the green movement is "stasis," or "sustainability" in their jargon. Their earth doesn't change; it shows little or no effect from human activity. They want to destroy human infrastructure—our markets, our cities, our communication networks, the very essence that makes us human. They propose to limit human movement by curtailing modern communication methods and modern transportation. According to green prophet E.F. Schumacher, the ideal world is where people are ". . . relatively immobile . . . [where] the movement of populations, except in periods of disaster, [is] confined to persons [with] a very special reason to move, such as . . . scholars. . . ." In short, a place where only the intellectual elite—the eco-bosses—can move about.

Theirs is a simple world. People would not need to understand anything more complex than a shovel or a horse-pulled plow. If the world is sufficiently simple, ordinary people can understand its entirety. Failing this, if it is sufficiently subjective, ordinary people will be unable to understand it. In the first case, there will be no complexities like nuclear power or space exploration. In the second, people can be duped by the earnest leaders of the eco-movement into opposing things they don't understand until stasis is reached.

David M. Graber is a research biologist for the National Park Service. He writes in the Los Angeles Times: "Human happiness, and certainly human fecundity, are not as important as a wild and healthy planet. . . . We have become a plague upon ourselves and upon the Earth. . . . Until such time as Homo sapiens should decide to rejoin nature, some of us can only hope for the right virus to come along."

Graber's implications are astonishing. To take his statements seriously is naive, but it is only a short step from wishing for the right virus to creating and distributing one. It only takes a few drops of anthrax virus in the Los Angeles water system to kill the entire population of Southern California.

Think about this the next time you hear a politician give lip service to the greens and their "good intentions."

ANIMAL WELFARE POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 10, 1991, into the CONGRESSIONAL RECORD:

ANIMAL WELFARE POLICY

A decade ago, the term "animal rights" was rarely used. Today, the debate over animal rights rages, and animal rights advocacy is one of the fastest growing movements in the nation. The welfare and rights of animals involve complex ethical, legal, and scientific issues, as well as strong emotions. While most animal rights groups use advertising and telephone campaigns to encourage better treatment of animals, some have resorted to violence, with one group, the Animal Liberation Front, declared a terrorist group by the FBI.

Laws governing animal welfare issues exist at the state and federal levels. Congress has jurisdiction when, for example, animals are transported across state lines for commercial purposes or when they are used for testing in federal laboratories. Over the years, Congress has passed several animal protection measures, ranging from restricting driftnet fishing and protecting the bald eagle to requiring the humane transportation of animals and allowing pets in federally assisted housing for the elderly and handicapped. This session, several issues are before Congress:

ANIMAL TESTING

Each year, tens of millions of animals are used in laboratory experiments, typically for basic research or to determine whether a certain product is safe for human use. The majority of these animals are mice and rats. Dogs, cats, rabbits, monkeys, and guinea pigs are also used. Ten federal agencies sponsor or conduct animal testing, including the Departments of Agriculture, Defense, Energy, Interior, and Transportation. The Food and Drug Administration requires products to undergo animal experimentation, as do the Environmental Protection Agency and the National Cancer Institute.

The use of animals in biomedical testing has facilitated the transplant of organs, the treatment of cancer and diabetes, and the development of vaccines. The National Institutes of Health consider animal testing to be essential to improving the health standards of Americans, and eliminating the use of animals in biomedical research could add to the cost of new drugs or delay their development. Animal rights advocates believe that advances could occur without animal testing. They believe that animals are misused in laboratories and that many of the experiments involving animals are unnecessary. Substantial disagreement arises about alternatives to current animal testing practices, such as using computer models or cell tissue cultures. It is uncertain how much such alternatives will continue to reduce the use of animals, and extensive animal testing will be required to establish the validity of the alternatives.

In 1985 Congress amended the Animal Welfare Act of 1966 to reflect the importance of the "three R's": reduction in the number of animals used, refinement of cruel techniques, and replacement of animals with plants and computer simulations. A national data bank is being set up to list all experiments conducted on animals to prevent senseless repetition, and labs must establish committees to evaluate the experimental use of animals. Although the Act potentially could cover all warm-blooded animals, the U.S. Department of Agriculture (USDA) has issued regulations covering only about 20% of all animals used in labs. This session Congress may consider legislation to further encourage the use of alternatives as well as to protect research facilities from violence.

TREATMENT OF PETS BY DEALERS

There is growing concern about puppies bred in "puppy mills", which produce dogs for resale in pet stores, often under crowded and unsanitary conditions. Each year, about half a million puppies die before they enter the local pet store.

Cruelty to animals is prohibited by law in all 50 states. The Animal Welfare Act requires that commercial animal dealers be licensed, inspected, and regulated. USDA enforcement of the Act is hampered by the limited number of inspectors. Currently, only 68

inspectors are available to cover over 9,000 sites, including laboratories, animal exhibitors, and dealers.

WILDLIFE PROTECTION

Abuses committed to wild animals, especially to endangered species, are another concern. Some of the worst abuses occur with elephants. In 1969 Congress passed the Endangered Species Act which prohibits transactions of any endangered species, other than by zoos. Today increased attention is being given to the commerce of wild animals that are not endangered, including birds and monkeys. Many of these animals die before they can be sold. Various measures before Congress would limit commerce in wild animals.

Congress is also involved in the debate about dolphins killed by driftnets for tuna. Under the Marine Mammal Protection Act, foreign and domestic fishermen must limit dolphin deaths. However, an estimated 100,000 dolphins die in driftnets each year. Last session Congress passed legislation requiring that all tuna be labeled "dolphin safe"; this session it is considering legislation that "unsafe" tuna be labeled "with technologies that are known to kill dolphins".

FARM PRODUCTION TECHNIQUES

Farm animals today are generally raised under quite different conditions than they were a few decades ago. Although my general experience in Indiana is that farmers treat farm animals well, livestock and poultry production techniques of modern agribusiness can include crowded conditions and inadequate exercise and ventilation. Veal production has come under fire because calves are often confined in small quarters and fed a liquid diet to make the meat pale and tender.

Farmers argue that it is in their best interest to provide the best possible conditions for the animals they raise, because good conditions foster healthy animals and thus boost profits. They also argue that strict new regulations could boost consumer prices and put our nation's farmers at a competitive disadvantage with producers in other countries. Others argue that the profit motive may be inconsistent with optimal conditions for animals. This session Congress may consider legislation regarding the feeding and confinement of veal calves.

Overall, my impression is that animal welfare issues have become important for many Americans and will increasingly find their way onto the Congressional agenda. I support more effective enforcement of the Animal Welfare Act, and believe that reasonable efforts should be taken to try to minimize unnecessary or prolonged pain or distress among animals.

REMARKS OF REAR ADM. DAN McKINNON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SKELTON. Mr. Speaker, Rear Adm. Dan McKinnon, commander of the Naval Systems Command and chief of the Supply Corps, recently addressed the Jefferson City Navy League at its annual banquet in Missouri's capital city. Admiral McKinnon is a fellow Missourian, and a graduate of the University of Missouri. His address was so outstanding, that I wish to share it with other Members of this body. His vision of the future was certainly well thought out and expressed. The pertinent part of his address is as follows:

I think we all know the country's goals in the Middle East. Clearly, it is the protection of Saudi Arabia, clearly also, it is the liberation of Kuwait. But as I observe U.S. resolve at work in the Middle East today, I think what we are also seeing is something akin to what this Nation's, indeed the world's, national security concerns will be in the decades ahead.

When I speak to Navy officers, I use a phrase, "the future is now; you see it in the Persian Gulf." If one takes at full face value the changes that have taken place in Eastern Europe and the Soviet Union, and then extends with that the hope that our major primary adversary since World War II is now joining a new world order, one that helps all nations focus on the well-being of their people in an atmosphere of peace and cooperation among the major historic powers, then you must ask, "what will be our security concerns . . . what are the threats ahead that drive the need for worldwide deployment and use of American military forces?" My answer is twofold. First, today's new friends could still be tomorrow's adversaries, and so we give up our position of being number one in military power at great risk. But, just as important, and based on an assumption of no big major confrontation, our future role is found in the instability that exists throughout the world. An instability that is fed by an increasing world population and decreasing per-capita resources; aspirations, fed by mass communications, that cannot be met; disintegration of tribal and certain old societies (look at Africa and Eastern Europe); religious upheaval and fundamentalism, and the proliferation of high technology military weapons, especially atomic and chemical. We increasingly see destabilizing high technology weapons in the hands of smaller countries with unstable leadership.

I think the conflict in the gulf is representative of the conflicts of tomorrow . . . one nation attempting to improve itself at the expense of the wealth and people of another; the threat of terrible weapons in the hands of an irrational leader, all combining in a way that resulted in an explosion. Clearly, we must prevail in the Persian Gulf. Clearly also, if we cannot come to grips with a tyrant like Saddam Hussein today, the world may not be able to handle his type tomorrow.

That is why I say, when it comes to the security of all nations, the drive toward a world at peace without a threat of World War III, and a need by all nations to address the planet's problems, The "Future is Now!" we must find a successful formula to handle this radical and dangerous leader, and future ones of his ilk.

One of the most wonderful things about today's Navy is our people. The sons and daughters of Americans, sailors and officers, are the finest I have seen in nearly 35 years of service. Life as a sailor aboard ship is no picnic. The hard work, the pressures are daunting—with 12- to 18-hour days, 7 days a week—away from family, friends, and sweethearts, facing danger and uncertainty. Some years ago I worried about all-volunteer force. But no more. I was a product of the Korean war draft—I joined the Navy, not because I knew much about the sea, but because I knew a lot about Missouri mud—just kidding, colonel. I'm not sure where these bright young people came from. But they are there. At sea. No drugees . . . no mis-fits and trouble makers. Just the best Americans can produce. And over 11,000 of those sailors are Missourians—with more than 1,400 in Operation Desert Storm. I know many of you here tonight have relatives, or sons and daughters or friends, in our Navy. You can be proud of them . . . one and all. They are performing for you—as part of the finest Navy the world has ever seen.

DEMOCRATIC SPENDING PRIORITIES; ON THE SIDE OF WORKING FAMILIES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SMITH of Florida. Mr. Speaker, tomorrow we will vote on the fiscal year 1992 budget. Last year we agreed on spending caps for the five areas of the budget. Each is to be handled as a totally separate account. This is unfortunate because savings in one area now can not be transferred to another. One unfortunate effect of the Budget Enforcement Act is that these fire walls preclude money saved in defense from being applied toward education.

Yet within these accounts there are ways to direct this Nation's spending priorities. These priorities reflect the direction in which the country should head. To understate the matter, the Democratic direction and the Republican direction differ profoundly.

Republicans want the country to head in the direction of Medicare cuts, extravagant spending on the Space Program, a slashed energy plan, and education spending that does not keep pace with inflation.

Democrats want our Government to help working families; our budget triples the President's increase for education, rejects his $25 billion Medicare cuts and his $66 million Energy Program cut, and provides substantial increases for drug enforcement, prevention, and treatment. These important human intensive programs to lay a strong foundation for America now and in the future.

The bottom line is this: the Bush budget will soak the middle class which has suffered the worst loss of real income in the last 10 years. The administration's decision to pursue a capital gains tax cut shows that it is business as usual at 1600 Pennsylvania Avenue—benefits for only the very rich.

Most Americans are feeling the pinch. Will young families be able to buy homes? Will their children receive a quality education? Will we have an adequate energy supply tomorrow and 20 years from now? The GOP says no, the Democratic Party says yes.

TRIBUTE TO TINY TOTS NURSERY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Tiny Tots Day Nursery of

my 17th Congressional District of Ohio. The Tiny Tots Day Nursery will be celebrating the "Week of the Young Child," April 14 through April 20, with special activities for young children.

The year's theme is "Quality Child Care—Good Beginnings Never End." This years logo depicts an adult reading to a small group of children, thus correlating the theme with the "Year of the Lifetime Reader 1991."

Tiny Tots Nursery advocates reading to children as a successful method to teach reading skills. Toddlers are interested in hearing the same beloved story over and over. Preschoolers are generally more involved in the reading process and will mimic, retell the story in their own language, or draw a picture about the story in their own viewpoint.

The Tiny Tots "Week of the Young Child" activities include: parent/child activity and relationship development on Monday, "My Favorite Story" on Tuesday, "Child Interaction Day" on Wednesday, "Secret Pal Day" on Thursday, and "Balloons Galore" on Friday.

Mr. Speaker, I would like to recognize all of the members and parents behind the Tiny Tots Day Nursery for the outstanding contribution they have made to the education and literacy of our children. It is truly an honor to represent this exceptional organization.

GET TRAVELERS BACK IN THE SKIES AND BACK ON THE ROADS

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. TALLON. Mr. Speaker, today I am introducing a concurrent resolution expressing the sense of Congress that employers resume normal business travel and that travel and tourism related businesses intensify efforts to promote travel both to and within the United States.

In an unprecedented cooperative effort, the GO*USA travel coalition of more than 40 industry groups have come together for one reason—to get travelers back in the skies and on the roads again. It is rare that so many interests in this diverse industry can come together to work for a common goal, but it is being done through this cooperative campaign, and it is being done successfully.

As well, the public sector has become an integral part of this effort bringing in over 25 members of the Tourism Caucus and 6 Governors as a part of their leadership circle. These public officials have agreed to coordinate their efforts to support the goals of the coalition.

I am certain that the attention that this coalition has brought to the safety and economy of travel to and within the United States will pay off as the Nation's big tourist season approaches.

RUSSELL BARRETT—DEDICATED PUBLIC SERVANT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. APPLEGATE. Mr. Speaker, it is, indeed, an honor for me to bring to the attention of my fellow Members of the U.S. House of Representatives the accomplishments of Mr. Russell Barrett, who is being recognized on Saturday, April 20, 1991, by his friends and supporters for his record of public service.

With his election 30 years ago in 1961 to the position of township trustee in Perry Township, Carroll County, OH, Russ Barrett began a very distinguished career. After only 2 years of serving as trustee, his dedication to improving the area was rewarded with his election as Carroll County commissioner, a post he held for the next two decades, completing nearly a quarter of a century of helping people and responding to their needs.

Despite his daily involvement in Carroll County affairs, Russ Barrett found time to participate in other activities, as well, including the Tri County Cattle Association, the Soldiers and Sailors Relief Commission, the County Fair Board as well as serving as president, vice president and treasurer at different times of the County Commissioners and Engineers Association for the Southeast District of Ohio.

Mr. Speaker, Russ Barrett, deserves the praise and thanks of Carroll County, OH, and on behalf of the U.S. House of Representatives, I congratulate him on a job well done and wish him the best of luck.

MICHAEL WU

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. LOWERY of California. Mr. Speaker, I am pleased to introduce legislation to enable a deserving young man to become a citizen of the United States. This bill would provide for the naturalization of Michael Wu of San Diego, CA. The House approved this legislation last year, unfortunately the Senate did not act on it before the end of the 101st Congress. It is my hope that in 1991 the full Congress will work to enable Michael Wu to become a citizen.

Michael is 25 years old and was born on the island of Taiwan. He has been a permanent resident of the United States since April 18, 1980. Michael has Down's syndrome. He strongly desires to become a citizen of this great Nation. His parents are naturalized citizens and his brother is in the process of becoming a citizen. They are all hard working, responsible residents of San Diego.

Michael has taken the naturalization exam six times since 1985, but because of his condition he has been unable to satisfactorily complete the history and Government portion of the exam. Despite his inability to meet this requirement, Michael understands the concept of citizenship and wants to achieve this goal. Michael attends the Association for Retarded Citizens [ARC] in San Diego and has developed a number of useful skills. All who know him believe that Michael can be a productive member of our society and deserves to become a citizen.

This legislation would classify Michael as a child of tender years notwithstanding his age. This designation would exempt him from the test and allow him to become a citizen with the support of his parents.

Mr. Speaker, despite his disability, Michael Wu can contribute to life in San Diego and in this Nation. It is the American tradition to allow him to make this contribution as a citizen. I ask my colleagues to support this legislation which would mean so much to Michael and his family and which would reflect the true spirit of the American people.

THE REFORM OF COLLEGE ATHLETICS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 17, 1991, into the CONGRESSIONAL RECORD:

THE REFORM OF COLLEGE ATHLETICS

Like most Americans, Hoosiers have great enthusiasm for athletics. If sports were eliminated from the American scene, many persons would have a tremendous void in their lives. The success of this year's college basketball championships in Indianapolis attests to the great popularity of college sports. But fans of college sports have become uneasy with the repeated scandals involving illegal recruiting, poor academic records and dismal graduation rates. According to a recent poll, 60 percent of the public, nearly 70 percent of university trustees and almost half of university presidents believe that college athletics is in need of reform. Some of the critics even suggest that Congress take a more active role in reform efforts.

THE PROBLEMS

The difficulties in college athletics revolve around two basic issues. First, there is widespread evidence that the academic performance of college athletes continues to decline. Division I football and basketball programs in the U.S. graduate only 30 percent of their players. Often players are admitted to colleges and universities even though they do not meet minimum admission standards. Second, college athletic programs, particularly at large universities, have evolved into large money-making operations. Winning has huge financial rewards. CBS paid the NCAA $143 million to televise this year's basketball tournament, and will pay $1.1 billion over the next seven years for television rights. The pressure to win and get a larger share of these revenues has led to numerous recruiting violations and charges of exploitation of student-athletes. In the last decade, nearly half of all big-time football programs have been penalized by the NCAA.

THE KNIGHT COMMISSION

There has been a raft of proposals in recent years to reform college athletics. The most recent and wide-ranging is a study by the

Knight Commission, a group sponsored by the Knight publishing family and consisting of university and NCAA officials as well as government and business representatives. The Knight Commission has focused on four areas for reform.

First, the Commission recommends that university presidents be given more control over their athletic programs. Presidents would have the same degree of control over athletics that they exercise elsewhere in the university and would oversee all financial matters in their athletic departments. Second, the Commission proposes to elevate academic standards by raising student-athlete admission requirements and ensuring that they make progress toward a degree over a five-year period. Third, the Commission would seek to control the enormous sums of money flowing into college athletic programs. All funds raised and spent for athletics would be subject to oversight and approval by the university. And fourth, the Commission proposes a more active role for the NCAA in monitoring the finances of athletic programs. The NCAA would audit all academic and financial matters related to athletics on an annual basis.

CRITICISMS

Most individuals involved in college athletics agree that the Knight Commission report is a good first step in serious reform. It would make athletic programs more accountable to the university hierarchy and to the NCAA. It would make a serious attempt to control the flow of money into those programs, and to ensure that college athletes receive an adequate education. Since only a tiny fraction of college athletes will ever make it to the professional ranks, the majority of student-athletes must be prepared for a career outside athletics.

Some, however, have questioned how forcefully university presidents will implement the Commission's proposed reforms. Athletic departments generate enormous sums of money, and have attained considerable power and autonomy at some universities. Many feel it is unrealistic to ask university presidents to exert more control over coaches, athletic directors and alumni. Critics point out that similar recommendations were made in 1929 in the Carnegie Report, and that study went largely ignored by universities.

The critics argue that more stringent reforms are required. They note that the primary mission of universities is to educate students, not to promote athletics. They favor reforms that would deemphasize the importance of college athletics—for example, by distributing equitably the millions of network television dollars, banning freshmen from participating in athletics, and limiting the amount of time a player can be in practice.

The failure of past reform proposals has prompted some to call for federal oversight of college athletics. It has been suggested that the Knight Commission is a last ditch attempt to keep Congress and federal regulators at bay. Last year Congress did take a modest step in that direction. It passed the Student Right-to-Know Act, which requires colleges and universities receiving federal financial assistance to provide information on graduation rates of athletes starting in July 1993. A school that does not comply risks losing federal aid. Congress is considering other reform legislation, including proposals to mandate financial disclosure reports from college athletic departments.

CONCLUSIONS

Like most sports fans, I am troubled by the state of college athletics today. Clearly, the central mission of the university should be to educate all of its students, and some universities have been derelict in fulfilling that responsibility to student-athletes. However, I also believe that college athletics presents unique opportunities for universities. The great demand for college sports in America today, the growing number of games carried on television, and the strong public support for reform provide university presidents, coaches, and student-athletes with the opportunity to improve the system. The goal should be to strike a balance between athletics and education, and to hold college athletes to stronger academic standards.

I think that the Knight Commission rightly makes the universities responsible for the condition of athletics on campus, and I hope that they are able to reform themselves. After the universities, the NCAA must take an active role in enforcing academic standards and auditing financial records. The NCAA must ensure that student-athletes get the same educational chances and responsibilities as other students. It is my hope that this can be done without Congressional or government involvement.

AT THE READY FOR DESERT STORM

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to bring to the attention of this body a little known and thankfully unneeded contribution to our recent operation in the gulf.

Amgen, Inc., is a Thousand Oaks, CA, biotechnology company that developed, manufactures, and markets a product called Neupogen [G–CSF]. This remarkable product is being used by physicians in the United States and Europe to help cancer patients deal with some side effects of chemo and radiotherapy. Mr. Speaker, I have visited this company and have seen the research facilities and manufacturing plant, and I am proud that they are a California company.

Certain types of chemotherapy closely resemble the mustard gas that was in the possession of the Iraqi army. Among the most serious toxicities of mustard gas is suppression of bone marrow production of blood cells. There is speculation that this gas was used by Iraq in its war with Iran. American military physicians and others within the Department of Defense were concerned, with good cause, that should the situation call for it, Iraq would once again use this deadly weapon.

Several months ago, Amgen was contacted by Dr. Anthony Melaragno of the U.S. Navy Medical Research and Development Command. He believed that Neupogen could be useful in dealing with some of the most serious toxicities of mustard gas. He contacted Dr. Richard Stead of Amgen to inquire as to the availability of the product. Working with Dr. Stead and his Amgen colleague Larry Souza, Ph.D., the researcher who first cloned G–CSF, preclinical tests were completed rapidly by Dr. Barry Meisenberg and Dr. Rod Monroy. A clinical trial protocol was developed to insure that should the need arise, G–CSF would be available to members of the alliance. This protocol, written by Amgen and the Department of Defense, received rapid approval and support from the U.S. Food and Drug Administration.

When the conflict began, Amgen acted immediately. It's senior management ordered the shipment of 10,000 vials of G–CSF to American military medical facilities in Germany. The material was sent with no fanfare nor with a bill. While the 1,200 Amgen employees around the world were pleased to do this for our troops, they were even more pleased that the need to administer this drug never arose.

I rise today to add my congratulations to those of the Honorable Secretary of the Navy H. Lawrence Garrett III. Amgen always has performed remarkably in the laboratory. This action shows that their excellence goes beyond science.

INTRODUCTION OF LEGISLATION TO EXTEND THE SUSPENSION OF THE IMPORT DUTY ON SYNTHETIC RUTILE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. CARDIN. Mr. Speaker, today I introduced legislation to extend the suspension of the import duty on synthetic rutile. Few have heard of synthetic rutile, but this titanium bearing mineral, used as a feedstock in the production of titanium dioxide, is vital to the paint, plastics, and paper industries in the United States. Titanium dioxide is used as a nontranslucent ingredient in almost all paints, all printing papers except newsprint, and a wide variety of plastics and other products. As a principal feedstock for the production of titanium dioxide, synthetic rutile is a commodity vital to a large and important industry employing thousands in California, Delaware, Georgia, Louisiana, Ohio, Tennessee, and Maryland. SCM Chemical, with a large facility in Baltimore, is a major producer of titanium dioxide.

Beginning in 1974, the import duty on synthetic rutile has been suspended by Congress. There have been a series of extensions of this suspension, with the most recent due to expire in 1992. For the reasons set out below, I believe the duty suspension for synthetic rutile should be extended again—through December 31, 1994—and I ask for my colleagues' support.

The most obvious reason for the suspension of duty on synthetic rutile is its inconsistent treatment under the Harmonzied Tariff Schedule of the United States. All other feedstocks for titanium dioxide—natural rutile, ilmenite, and titanium slag—are listed as duty-free. Only synthetic rutile is subject to duty, apparently for the sole reason that it was not a commercially available product when the tariff schedules were originally written. There is no logical reason for such disparate treatment of only one of four substances which are all put to the same use. This illogical distinction results only in an unfair and anticompetitive

hardship on titanium dioxide producers dependent on synthetic rutile.

The producers who use synthetic rutile would suffer both in terms of production and employment as a result of any duty. There is currently only one domestic producer of synthetic rutile, Kerr-McGee Chemical Corp., and it is unable to supply the total domestic demand for the feedstock. The cost/price squeeze caused by reliance on imports of synthetic rutile and the costs of any duty on such imports would threaten the economic health of much of the domestic titanium dioxide industry and those it employs.

Continuation of the duty-free status for synthetic rutile would help protect an important domestic industry—not by erecting trade barriers, but by removing them. I look forward to the support of my colleagues for this measure.

WHY ARE WE STILL BEING BLAMED FOR DEFICIT SPENDING?

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SMITH of Florida. Mr. Speaker, there has been a rumor going around that Members of Congress, especially from this side of the aisle, are spendthrifts. This rumor is especially troubling considering the amount of debt that has been generated in the last 10½ years under the direction of Presidents elected from the other party.

Now, I could stand up here and recount the all too familiar history in the last 10 years of one of the most massive, government sponsored, redistributions of wealth in history—a transfer of wealth from the poor and the middle class to the truly wealthy. But, I won't do that.

I could mention the 1981 Tax Reform Act which, with the blessing of the Reagan administration, kicked-off the "Decade of Rich and Famous." But that would be beating a dead horse.

I could recount the sorry history of the application of supply-side economics that turned the U.S. budget into a giant financial experiment that failed. But that would be wallowing in the past.

Of course, the current administration hasn't quite learned the economics lessons of the 1980's. They have proposed yet another entitlement program for the rich, a reduction in the capital gains tax. But, I suspect the lessons of the supply-side philosophy have already trickled down to the American public. So why belabor the obvious?

Instead, I want to debunk this notion once and for all that we, on this side of the aisle, play fast and loose with the public's money.

In order to do that I could reiterate that the House Appropriations Committee under the leadership of Chairman WHITTEN has consistently held spending below the President's recommendations. But, why instruct my colleagues on something they already know?

I could point out that the current system of spending caps under which we now operate was basically designed by the House and Senate majority leadership. But why repeat a history of which we are all aware?

Rather than restate the obvious, allow me to suggest that we are blamed for profligate spending because this administration tries to define fairness as profligacy. When we try to adequately fund prenatal care, a program that makes real economic sense, we are "big spenders." But when the President wants to spend billions to shoot exotic weapons into outer space, he is being "prudent."

The budget resolution that has emerged from the Budget Committee under the able direction of Chairman PANETTA is yet another example of the type of balanced, fiscally responsible program we, on this side of the aisle, have been producing for years. This resolution increases, beyond the President's proposals, funding for education, Head Start, child immunizations, infant mortality, and I could go on, without exceeding the spending caps. The resolution does this, I should add, without cutting Medicare, Food Stamps, Veterans Compensation, crop insurance, and I could go on, as the President proposes.

In the face of the overwhelming evidence to the contrary, why are we still being blamed for deficit spending? We should ask the President to explain, but that might be, for him, too taxing.

THE DANGERS OF APPEASEMENT AND ISOLATIONISM

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. LEVINE of California. Mr. Speaker, the following address by my colleague Representative STEPHEN J. SOLARZ outlines the historic similarities between the Warsaw Ghetto uprising against the Nazis and the recent gulf campaign against Saddam Hussein. As Representative SOLARZ observes, both fights were not about power and materialism but about principle and morality. The nearly 50-year lapse between these two events has not altered this basic struggle for the forces of good over the forces of evil.

Perhaps the most significant connection between these two events is the danger of appeasing dictators bent on ruthless aggression. We learned a costly lesson from World War II—a lesson that cost millions of lives. We learned that tryants on the war path must be stopped while it is still possible, and before it becomes too late. We also learned that isolationism is not moral, but morally bankrupt. We learned that this country must assume responsibility in world affairs and be prepared to use force appropriately if it can save lives in the future. In essence, we have learned that international intervention can and should be morally justified.

I strongly urge my colleagues to review this extremely insightful speech.

ADDRESS BY REP. STEPHEN J. SOLARZ, WARSAW GHETTO UPRISING ANNIVERSARY, APRIL 7, 1991

We gather this afternoon in a solemn act of remembrance and redemption.

It was almost five decades ago that the Jewish resistance in the Warsaw Ghetto—in one of the most glorious acts of rebellion in the history of our people or of any people—took up arms against their Nazi oppressors.

And it was just over five weeks ago that the American-led coalition triumphed in the field of battle against the forces of a new Mesopotamian megalomaniac who, like his biblical predecessor, Nebuchadnezzar, was intent on destorying the Jewish people.

These two events—the Warsaw Ghetto uprising and the war in the Gulf—while so far apart in time, so incomparable in their magnitude, and so different in their conclusions—are more clearly connected than might at first seem apparent.

The differences are obvious.

In Warsaw, there were perhaps 500 Jews armed with a handful of guns and Molotov cocktails fighting by themselves against one of the mightiest and most well-equipped armies in the history of mankind.

In the Gulf, there were 500,000 American soldiers armed with the most sophisticated weaponry in the history of warfare fighting alongside 26 other countries against an enemy completely outgunned if not entirely out-manned.

In the Ghetto, the Jews were doomed to defeat and death from the very beginning of their revolt, with the only question being how long they would be able to fight and how many Germans they would be able to take with them.

In the Gulf, the triumph of the coalition was certain with the only question being how heavy a price in blood and treasure would have to be paid for it.

Yet the similarities and the connections between the spring of 1943 and the winter of 1991 are ultimately far more significant.

In both the Ghetto and the Gulf, the fight was not about power but principle, not about materialism but morality.

It was a fight not simply between two people or two countries, but, in its most fundamental sense, between the forces of good and the forces of evil.

Yet there was another, and far more important, connection between the Warsaw Ghetto uprising and the Holocaust of which it was a part and the confrontation in the Gulf almost 50 years later.

It was, after all, the comparison to the Second World War, and our failure to stop other tyrants bent on aggression when it was still possible to do so at a relatively low cost, that constituted the most compelling argument in favor of the use of force in the Gulf.

Like the 1930's, when Nazi Germany, fascist Italy, and imperial Japan were on the march, Baathist Iraq was on the march in the 1990s as well.

And it seemed clear that unless we stopped Saddam Hussein now, we would only have to stop him later, but under circumstances where he would be much more difficult and dangerous to deal with than he was now.

During the course of the Congressional debate on how best to deal with Saddam and his murderous minions, we were told by those opposed to the use of force that we should be patient and give sanctions more of a chance to work.

Yet the still powerful and painful lessons of World War II reminded us of the fact that we were patient when Japan invaded Manchuria in 1931.

We were patient when Mussolini attacked Abyssinia in 1935.

We were patient when Hitler remilitarized the Rhineland in 1936.

We were patient when Chamberlain offered Czechoslovakia on a silver platter to Hitler at Munich in 1938.

We were patient when the Wehrmacht blitzkrieged Poland in 1939.

We were patient when Germany overran France and the Low countries in 1940.

We were patient right up to December 7, 1941, when Japan attacked us at Pearl Harbor, by which time more than a million Jewish men, and women, and children had already been consumed by the fires of the Holocaust.

Six months after the brutal occupation of Kuwait, the time for patience had clearly ended and the time for firmness had surely arrived.

Once again the stage was set, as it had been over half a century ago, for a cataclysmic confrontation between an army committed to plunder and repression, and an alliance committed to liberation and legitimacy.

A few minutes before I rose to conclude the debate in the House of Representatives on the resolution authorizing the use of force in the Gulf, in what I strongly suspected would be the most significant speech I would ever give, I knew that I was about to be tested not only as an American but as a Jew.

The thought that overwhelmed me in this moment of truth was that our country now had the chance to show that it had not forgotten the six million and that, if their suffering and their sacrifice was going to be given a redeeming significance, it would be necessary for us not only to acknowledge but to act on the great lesson of our time—a lesson they taught us as they entered, one by one, naked and defenseless, into the gas chambers and on to the killing fields of Nazi-occupied Europe.

The lesson that evil still exists and that when evil is on the march it must be confronted.

And let there be no doubt about what Saddam Hussein, a modern pharaoh, intent not on enslavement but extermination, had in mind—because it was not just the oil revenues or the national assets of Kuwait that was the motivating force behind his malevolent and murderous aggression.

A week after the war began, following a series of utterly unprovoked Scud attacks against civilian population centers in Israel, Saddam issued a statement in which he said that "Iraq's missile attacks against Israel have succeeded in tranforming Tel Aviv into a crematorium."

The use of that word was not accidental.

It strongly suggests that one of Saddam's objectives was to finish the job which Hitler began 50 years ago.

I thank God that this time our national leadership had the courage and the vision to move against the tyrant before he could work his wicked will and that this time there is a Jewish state to defend the Jewish people and to make sure that never again will they be defenseless before the onslaught of their enemies.

But there is another lesson which emerges from what history will undoubtedly record as the most terrible and tragic chapter in the long history of man's inhumanity to man—a lessen that recent events suggest we may still not have learned.

It is a lesson that tells and teaches us that evil must not only be confronted when it is on the march, but extirpated when it is on the rampage—and that the principle of nonintervention in the internal affairs of other countries, must not become a rationalization for paralysis, when a government which clearly lacks legitimacy is carrying on a campaign of mass murder against its own people.

Just as international intervention would have been morally justified against the Nazis in Germany, and the Khmer Rouge in Cambodia, so too would it be justified now against the Baathist regime in Iraq.

There is, of course, nothing we can do, in the Gulf or elsewhere, to bring back to life those whose souls and spirit were snuffed out in gas chambers of Nazi-occupied Europe.

We cannot even adequately pay homage to the courage and dignity they displayed on the altar of hatred and cruelty.

But we can give meaning to the awful and agonizing fate that befell them if we resolve to do everything in our power, as we did in the Gulf, to prevent the triumph of evil.

In the aftermath of the Holocaust, nothing will ever by the same.

The memory of the six million has irrevocably shaped the consciousness, if not the conscience, of mankind.

Here in our own country, the indifference with which we once witnessed the attempted extermination of an entire people, and the elimination of a flourishing civilization, has been transformed into an encouraging willingness to use our power and our resources on behalf of the noble work of rescue and relief.

Where we once followed a policy of indifferent isolationism, we now act on the basis of an enlightened internationalism.

Where we once rejected the "St. Louis," we have welcomed the boat people.

Where we once turned our backs on the Jews of Europe, we have participated in the rescue of the Jews of Ethiopia.

Where we once were indifferent to the fate of the Jewish people, we now provide the support which makes possible the survival of the Jewish homeland.

This is the legacy of the Holocaust.

This is the obligation of our nation.

From their final resting place, the six million call upon us to never forget.

From our earthly abode, we can only respond: We never will.

DR. D. ALLAN BROMLEY COORDINATES FEDERAL DECADE OF THE BRAIN EFFORT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. RITTER. Mr. Speaker, shortly after enactment of Representative Silvio Conte's resolution (Public Law 101–58), President Bush proclaimed the "Decade of the Brain" to begin January 1, 1990. We all miss our distinguished colleague, the late Representative from Massachusetts [Mr. Conte], who was very proud of the fact that his legislation became the first congressional resolution to endorse a specific area of research since the National Geophysical Year.

Now, after 1 year, we can see this special designation provides opportunities for all of us to consider our roles in this decade in promoting brain research to eliminate not only suffering from mental disorders, but also a total economic burden on this Nation of $305,000,000 annually. In that regard, it was gratifying to note that President Bush appointed my good friend, Dr. D. Allan Bromley, Director of the Office of Science and Technology, to coordinate the national efforts on the various Decade of the Brain projects. Dr. Bromley, serving as science adviser to the President, is on leave from his position as Henry Ford II professor of physics at Yale University, where he was founder and director of the A.W. Wright Nuclear Structure Laboratory.

Also, I am pleased to point out that the National Alliance for the Mentally Ill [NAMI] intends to follow through on Silvio Conte's legacy, and, in conjunction with Dr. Bromley's office, will serve as an important monitor of our progress during the next 10 years in the multidisciplinary efforts of scientists, government leaders, families, and consumers in achieving an understanding of the brain function in relation to behavior, development, and health.

Last year, NAMI initiated a new research quarterly, the Decade of the Brain, whose editorial policy includes reporting on new fields of investigation to inform their readers as to "the exciting research advances on the brain and of the availability of effective treatment of disorders and disabilities that affect the brain" as stated in the Conte resolution. I congratulate NAMI, which now has 1,046 affiliates nationally, over 130,000 members, and urge them to continue their leadership efforts to eliminate serious mental illness from our society by the year 2000.

Mr. Speaker, in the most recent issue, the lead story in the Decade of the Brain is authored by Dr. Bromley, outlining his responsibilities as Federal coordinator. I feel this is a major effort, of special interest to all the Members and I therefore submit the following for review:

[From the Decade of the Brain, Winter 1991 issue]

COORDINATING THE FEDERAL DECADE OF THE BRAIN EFFORT

(By D. Allan Bromley, Ph.D.)

It has always seemed astonishing to me that we know vastly more about the first microsecond of the existence of our universe, or about the constituents of any atom, or about the interior of the sun, than we do about the three pounds of tissue inside our own heads. Brain research is truly one of the great frontier areas of science. Of particular interest to the National Alliance for the Mentally Ill (NAMI) and the millions of people afflicted with mental disorders, it is a frontier that promises enormous practical payoff in the form of new treatments and possibly new ways of prevention. Even more important, it is a profoundly philosophical human adventure, an attempt by the human brain to understand itself.

To make significant progress in that effort during the 1990s—the 10-year span President Bush has designated as the Decade of the Brain—we will need to draw on every aspect of modern science, including molecular and cellular biology, computational science, behavioral science, brain imaging technologies, even aspects of theoretical physics. We will need the dedicated, coordinated efforts of many individuals and organizations in the private and public sectors alike.

My office, the Office of Science and Technology Policy (OSTP), is charged with coordinating Federal scientific efforts concerning brain research during the commemoration of the Decade of the Brain. As this field is important to several Federal agencies, the Administration has begun this effort with an initiative on Brain and Behavioral Sciences in the Federal Coordinating Council on Science, Engineering, and Technology

(FCCSET) Committee on Life Sciences and Health. This group is working on an integrated Federal effort to take advantage of the extraordinary opportunities now before us in neuroscience.

This initiative is headed by Dr. Roger Porter, Deputy Director of the National Institute of Neurological Disorders and Stroke (NINDS), with Dr. Alan Leshner, Acting Director of the National Institute of Mental Health, and Dr. Steven Zornetzer, Director of Life Sciences in the Office of Naval Research, as Vice-Chairs. Key government agencies involved in a broad spectrum of brain research are represented on the subcommittee developing this initiative, including many key components of the Public Health Service, including NIMH, NINDS, and other ADAMHA and NIH Institutes. Because brain research has such important implications for international efforts to promote science, the group also includes representatives from the Departments of Commerce, Education, Defense and State.

Federal activities associated with the Decade of the Brain are directed toward two different audiences, the public and the scientific enterprise. We want to increase the public's awareness and understanding of the brain and its disorders. At the same time, we want to involve the scientific community in exploring both existing knowledge and promising new frontiers in brain research.

With these dual goals in mind, nine specific research areas have already been identified that can form the basis of an integrated program in this tremendously challenging frontier. These areas include: (1) human behavior and mental disorders; (2) addiction; (3) aging; (4) development; (5) learning and memory; (6) communication and sensory disorders; (7) environmental impacts; (8) brain and spinal cord injury; and (9) restoration of function. Using these topics as a framework, Federal agencies can receive input from the scientific community and voluntary health organizations, such as NAMI, in building a coordinated effort for this vitally important Decade.

We are also considering the possibility of creating a 10-year national research plan for the neurosciences. This will mark a very important strategic step in planning a decade ahead for what activities and initiatives the Federal Government should consider supporting and fostering.

OSTP will act as a central clearinghouse for this work. But we will need the cooperation of a great many other institutions and organizations, including NAMI. We intend to make the Decade of the Brain a cornerstone of Federal efforts in the life sciences.

With the cooperation of groups such as yours, we will be contributing to one of the most important initiatives in science and technology the Federal government has undertaken in this decade. We expect that these efforts will contribute substantially to a new capacity to free the brain of illness and enhance its vast human potential in health.

SALUTING SHANE SALERNO'S WAR ON DRUGS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. LOWERY of California. Mr. Speaker, I rise to honor Mr. Shane Salerno, a young man of outstanding leadership, determination, and creativity, someone who has shown initiative and courage in serving his community. His efforts to educate the public, and his peers, about the dangers of drug and alcohol abuse in particular deserve our attention and our admiration here today.

Mr. Salerno is a young man who has been unusually active in trying to better his community. He led a campaign to improve the safety of a local road, fought the reduction of the security staff of his high school, and invited the candidates for the city council to speak to students in order to improve political awareness. Any one of these accomplishments would be worthy of recognition, but he has recently made a unique and invaluable contribution to the people of San Diego by creating his own antidrug video.

Not content with our progress thus far in the war on drugs, this San Dieguito High School senior took it upon himself to make a difference. Unimpressed with the current drug-awareness videos that use actors and dramatizations to make their point, Mr. Salerno decided to create his own film featuring teens who had experienced drug abuse problems themselves.

The video "Sundown: The Future of Children and Drugs," presents no-nonsense interviews with former teen addicts to teen audiences. The movie enables teens to speak directly and honestly to each other about the horror of drug addiction and challenges them to take control of their lives. Mr. Salerno's cold look at reality has been shown on a local cable network, and runs regularly in libraries and schools throughout San Diego County.

More than praise his idea, we should commend the bold action Mr. Salerno took. In creating his own video, he had to overcome obstacles that would have discouraged most others from completing the project. He invested large amounts of his time into producing and directing the film, personally raised the necessary funds, and located fellow teens who were willing to be subjects in his film. Mr. Salerno's perseverance demonstrates what is required of each of us if we wish to end the scourge of drugs.

Mr. Speaker, this individual attack on one of society's most intractable problems should give us hope and teach us how solutions are born. Mr. Salerno's work demands that we engage ourselves in the drug war. His lesson is one of taking responsibility, and Americans would do well to follow his example.

SALUTE TO MANAGEMENT WEEK IN AMERICA

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to help recognize the men and women who keep America in business—the Nation's managers.

This year marks the 13th observance of Management Week in America. Sponsored by the National Management Association, the week of June 3–7 is being set aside to develop and recognize management as a profession and to promote our American competitive enterprise system.

Since its inception in 1978 by the National Management Association, Management Week in America has grown in recognition and activities each succeeding year, and deservedly so. For just as we need people with vision to develop the ideas that keep America moving forward and people with the skills to produce the goods and services that result from those ideas, so too do we need the people to ensure that those ideas are carried out.

The National Management Association, with more than 75,000 members covering the spectrum of American business, industry and the public sector, helps those managers improve their skills and abilities, and contributes to improving our productivity and our economy.

I would like to pay special recognition to the Santa Clarita and San Fernando Valley chapter, which is sponsoring annual Manager of the Year awards in conjunction with the Chambers of Commerce in Santa Clarita, Canyon Country and Pacoima. These individuals will be recognized on June 14.

Mr. Speaker, I ask my colleagues to join me in commemorating Management Week in America, and in supporting policies to make our free enterprise system stronger and even better able to meet the economic challenges of the years ahead.

BET AM SHALOM SYNAGOGUE: A NEW ADDITION FOR A SPECIAL CONGREGATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mrs. LOWEY of New York. Mr. Speaker, I have the pleasure of representing a district which is rich in a variety of religious traditions. Today, I would like to pay tribute to one of the most unique—Bet Am Shalom Synagogue in White Plains, which is dedicating a new addition to its building on Sunday.

For many years, Bet Am Shalom was a small congregation, little known and hardly noticed in Westchester's Jewish community. It was a place where those who wanted to help build a reconstructionist tradition could join a small group of like-minded people. In recent years, however, the secret has gotten out, and the small sanctuary has overflowed on Sabbath mornings. Bet Am Shalom is still a haven for those who are seeking something special, but there are more of them than ever before.

To accommodate its burgeoning size, the synagogue undertook a capital campaign that has resulted in a beautiful new addition to their building. It features a larger sanctuary for special events, several classrooms, and an impressive new library.

The addition serves as a testament to the vitality and strength of this congregation. The magic of Bet Am Shalom, however, does not reside in any building. Rather, it is to be found in the character and dedication of the individuals who make up the congregation. Bet Am Shalom counts among its members some of the most involved men and women in the

Westchester community, people who give generously of their time and their talents to numerous local charities and institutions.

I'm sure, Mr. Speaker, that my colleagues all join me in wishing Bet Am Shalom Synagogue and its members a future of continued growth, satisfaction, and nachas, and I count on their continued presence in our community for many years to come.

THE POPULATION INSTITUTE HONORS HERBLOCK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SCHEUER. Mr. Speaker, I take great pleasure in extending congratulations to my good friend, Herblock, upon receipt of the Population Institute's Global Media Award for Excellence in Population Reporting. Herblock's insight has distinguished him as one of the most gifted political cartoonist of our day. Herblock has a keen understanding of the ramifications of overpopulation and its effect on every aspect of the quality of life around the globe. As a founding member and chairman of the Global Committee of Parliamentarians on Population and Development, I understand and share Herblock's commitment to unchecked growth and development. I am proud to recognize Herblock for both his tenacity and talent, and to thank him for lifetime job well done.

Mr. Speaker, I request that the following remarks by Werner Fornos, president of the Population Institute, upon the presentation of a Global Media Award for Excellence in Population Reporting to Washington Post editorial cartoonist Herblock on March 19, 1991, be entered into the CONGRESSIONAL RECORD.

POPULATION INSTITUTE HONORS HERBLOCK

Editorial cartoonist receive far too little credit for their journalistic contributions. Efforts to include their work in the CONGRESSIONAL RECORD have failed. The venerable New York Times still rigidly adheres to its longtime policy that cartoons and caricatures are too frivolous for its editorial pages. I find this somewhat ironic when one considers that the celebrated cartoonist Thomas Nast once plied his trade for a New York newspaper.

It was Nast who first used the donkey and the elephant to symbolize our major national political parties. Even more significant is the fact that Nast's relentless attacks against the "Tammany tiger"—another symbol he created—had as much to do with bringing down the corrupt post-Civil War New York City political machine as did any words set in type. Before Tammany's leader, the infamous Boss William Marcy Tweed, was convicted of defrauding the city of $30 million, he said: "I never worried about what the newspapers wrote about me. Most of my constituents can't read. But that damned cartoonist!"

It seems appropriate that one of our Founding Fathers, Benjamin Franklin, is said to have been this nation's first political cartoonist, for when you think about it only a democratic society can tolerate political cartoons. I often wonder how far Adolph Hitler or Saddam Hussein might have gone with their maniacal craze for power had there been the equivalent of a Herblock working for newspapers in Berlin and Baghdad when they were on the rise.

When Herblock's first cartoon depicting the world overpopulation problem appeared some 25 years ago, global population was little more than three billion. Today it is at 5.4 billion, growing by 95 million a year, and projected to double in only 40 years. Herblock's strong social conscience extends to a deep and abiding concern about the spiralign growth of the world's human numbers. He is concerned about the horrendous consequences of population pressures: poverty, hunger and human deprivation. And that concern is brilliantly reflected in his editorial cartoons.

The man we honor today is the heir to a proud American tradition passed down from such giants as Benjamin Franklin, Abraham Lincoln, Mark Twain and Will Rogers—each of whom first made us smile, then made us think. Herblock is an avowed advocate of human rights, including the basic right of couples to limit the number of children they will have and to decide when they will have them. He is as much a champion of civil liberties as any Justice who ever served on the United States Supreme Court. He is truly a national treasure.

THE THRAWN RICKLE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. CRANE. Mr. Speaker, this Monday marks the 21st anniversary of Earth Day. Much has changed since then. The past two decades have brought cleaner air, fresher water, and a clearer message from environmentalists: "the only way to save the Earth is to abolish private ownership of land." The "Green's" transformation from grassroots democracy to ecofascism has put a stranglehold on American progress. Robert G. Williscroft, a former NOAA official, outlines the enviro-evolution and many more compelling issues in a series of essays titled "Thrawn Rickle." The following is a highlight from his series.

Rarely do we find someone willing to challenge conformity in favor of the truth so I urge my colleagues to read Dr. Williscroft's article and consider where we are, and where the environmental movement is taking us.

THE THRAWN RICKLE

(By Robert G. Williscroft)

"It's not easy being green," crooned Kermit to an entire generation of tykes. Columnist Alston Chase quotes a German Green politician: "Grassroots democracy sounded wonderful before we were elected to Parliament. But now we are in power, centralized solutions seem far more effective."

"Green" is an idea whose time has come. It is impossible today to find a politician who will disavow "the environment." The typical attitude is to decry radical actions by fringe greens while giving lip service to their so-called underlying principles. Is "Green" as Time Magazine says, merely that "* * * our stand on the planet is that we support its survival * * *"? Or is there something behind the rhetoric of survival, beyond the National Wildlife calendars, beneath movie-star environmental protests?

In Reason, Virginia Postrel quotes David Brower, whom she considers to be the "Archdruid" of the American environmental movement: "I founded Friends of the Earth to make the Sierra Club look reasonable. Then I founded Earth Island Institute to make Friends of the Earth look reasonable. Earth First! now makes us look reasonable. We're still waiting for someone to come along and make Earth First! look reasonable." Earth First! is the group responsible for spiking trees, sabotaging logging equipment, and undertaking other terrorist activities in the name of the environment.

Wendell Berry, an eloquent agrarian admired by greens writes: "In living in the world by his own will and skill, the stupidest peasant or tribesman is more competent than the most intelligent workers or technicians or intellectuals in a society of specialists." Stephanie Mills, the green journalist puts it this way: "[Recreation activities of young moderns] may not cultivate the endurance necessary for the kind of labor required to dismantle industrial society and restore the Earth's productivity." (* * * dismantle industrial society and restore the Earth's productivity * * *"?) Elsewhere she writes, "The ecofascist in me finds it hard to trust even the outcome of a democratic process * * *." (* * * ecofascist * * *?) She goes on to imply that the only way to save the Earth is for an elite group of biology-smart ecologists to rule the rest of us with benevolent firmness. She concludes that a major element in bringing this about is that private ownership of land must be totally abolished.

Is this beginning to sound familiar? Stay tuned for further details.

LAKE CITY ARMY AMMUNITION PLANT CELEBRATES 50TH ANNIVERSARY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SKELTON. Mr. Speaker, This year marks the 50th anniversary that the Lake City Army Ammunition Plant has been in operation. For 50 years this plant has made small arms ammunition during both peace and war times. The Lake City Army Ammunition Plant was the first Government-owned facility to be established under a World War II program to expand small arms ammunition production in the United States.

While the plant's operations have fluctuated with the need for ammunition, one thing has remained constant—the outstanding dedication of Lake City employees. Their commitment to safety, quality, and productivity has made these qualities the proud legacy of the entire operation at Lake City. These people are the same ones who make up the Lake City 25-Year Club. The club represents a group of people who have devoted at least 25 years to providing the U.S. military and its allies with quality ordnance.

They deserve our recognition and our thanks. I am pleased to submit this statement to that end.

TRIBUTE TO THE INSURANCE WOMEN OF TRUMBULL COUNTY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Insurance Women of Trumbull County of my 17th Congressional District of Ohio. As the local chapter of the National Association of Insurance Women [NAIW], the Insurance Women of Trumbull County will be observing NAIW Week, May 19 through May 25.

Professional insurance women have made significant contributions to the insurance industry. They have become increasingly effective locally and statewide in promoting public awareness of important issues such as tort reform, automobile safety, and the problem of drinking and driving. On a national level, the 20,000 members of NAIW have endeavored to reaffirm to the industry as a whole the highest professional standards.

Mr. Speaker, I would like to commend the Insurance Women of Trumbull County for their praiseworthy accomplishments in the insurance industry, and urge our citizens to honor the women who are performing such important and diverse roles.

EFFORTS TO MAKE HIGHER EDUCATION AND PUBLIC SERVICE MORE AFFORDABLE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. CARDIN. Mr. Speaker, today I am introducing legislation to correct an inequity in the taxation of students whose education loans are canceled. By updating section 108(f) of the Internal Revenue Code to take into account new programs for the cancellation of student loan debts, the Congress will be providing incentives to colleges and universities to create and expand loan forgiveness programs for students who choose careers in public service. Senator DALE BUMPERS will be introducing this legislation in the Senate today.

Under our tax laws when an individual's debts are discharged or canceled, the individual is deemed to have received taxable income in the amount of the discharge or cancellation. Section 108(f) provides, however, that when a debt or loan of a student is discharged or canceled by the Federal or a State government, the student is not considered to have received taxable income in the amount of the cancellation.

Loans forgiven by private universities and colleges do not receive this special consideration. This means that when a private university cancels or discharges a loan, taxable income is generated for the student in the amount of the discharged or canceled debt. Section 108(f) applies to the cancellation of only Federal or State government loans because these were the only programs in existence when this section of the code was enacted. My legislation would update section 108(f) to recognize the new loan forgiveness programs established by private universities and colleges.

This change is consistent with our tax policy regarding university and college scholarship funds which are not considered to be income to the student receiving the scholarship unless the amount of the scholarship exceeds the costs of tuition and course related expenses. Current law has the perverse result of providing favorable tax treatment for financial assistance provided up front as scholarships and tax penalties for aid provided later in the form of loan forgiveness. In many cases financial need is better gauged when a student's future line of work is known.

This legislation specifically covers three types of loan programs. It extends the current discharge of indebtedness provision to include programs where a university or college's own loans are being canceled. (Also covered would be loans by private banks that are canceled. Though no such programs exist now, such loan forgiveness should be treated equitably.) The bill also provides the same tax treatment when a university or college extends an additional loan—which it then cancels—to the student to help repay loans from some other source, including the Federal and State government. This would cover instances where the university helps the student repay loans provided by a third party. Finally, the bill would allow the university or college to repay a third-party loan directly on behalf of the student.

The bill provides that the loan cancellation cannot be funded by the employer of the student. This ensures that employers do not substitute nontaxable benefits for taxable wages. The employment of the student must be in a field that is "related to the education" provided by the university or college to the student. The bill applies only to loan cancellations occurring after the date of enactment. The Joint Committee on Taxation has judged that this bill would have negligible revenue loss over the next 5 fiscal years.

The Federal Government has traditionally recognized its legitimate interest in encouraging students to choose careers in community service. By correcting this inequity in our tax laws we can further this goal by creating incentives for our Nation's private universities and colleges to provide financial assistance to students who serve in the community interest. As Federal assistance for higher education grows tighter and the costs of higher education continue to escalate, our efforts to make higher education and public service more affordable take on an added urgency.

ECUADORIAN LEAGUE OF FLORIDA: 10TH ANNIVERSARY CELEBRATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to announce that on April 20, 1991, the Ecuadorian League of Florida will celebrate its 10th anniversary. As an active member of the Hispanic Coalition, the Ecuadorian League of Florida [LEF] is a civic, cultural, social, and recreational community organization.

LEF, in conjunction with Florida International University, has developed and organized one of the best football-soccer tournaments in south Florida. Teams from every ethnic background participate every year. The organization also publishes a bimonthly magazine that is mailed to over 3,000 families in Florida and to over 40 other Ecuadorian organizations around the United States.

In addition, LEF sponsors a yearly event called Reina de Reinas [Queen of Queens] in which more than 40 Hispanic organizations compete for that title. In the business field, LEF sponsors the Ecuadorian Business and Professional Organization which provides assistance and support to all Ecuadorian professionals and businessmen.

I commend LEF for promoting unity and cultural awareness amongst the Hispanic community of Florida and of the United States. I would like to acknowledge those who are instrumental to the wonderful benefits LEF affords to the south Florida community. The active board of directors includes: Raul E. Ona, founding president, Angel Villenas, secretary, and Anna Ona and Susan Villenas, directors.

TRIBUTE TO THE LATE SENATOR JOHN HEINZ

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. WAXMAN. Mr. Speaker, at the beginning of this month, our Nation suffered a tragedy with the death of Senator John Heinz. There is no way to measure the loss his death brings to his family, his friends, this institution, and our country.

I frequently worked with John over the years on Medicare and many other issues. Most recently, I served with him on the Pepper Commission, where we struggled to find a way to bring health services and long-term care to all Americans. It is how I will remember him: A tireless and caring advocate for people in need—particularly the elderly and the least privileged citizens of our country.

Since John's death, many have shared wonderful reminiscences about his life and extraordinary work. One of his closest friends, Senator TIM WIRTH, was particularly eloquent in his touching eulogy at John's memorial service. TIM'S remarks, which follow, are a lasting tribute to the remarkable life of a remarkable man.

In describing John, TIM said that "John Heinz left us still shining, still hard at work at the demanding job he loved, still growing as a public servant and as a private man." And it is that image that makes John a colleague we will not forget, that makes his death so difficult to accept.

I know all my colleagues join me in expresing our deepest sympathy to John's wife, Teresa, his sons, and his entire family.

TRIBUTE TO SENATOR JOHN HEINZ

(By Senator Timothy E. Wirth)

Thank you all for joining the Heinz family today in this healing ceremony of grief and love and faith.

"The elected," Robert Lowell said of those who hold high office in Washington, "They come here bright as dimes and die disheveled and soft.

John Heinz left us still shining, still hard at work at the demanding job he loved, still growing as a public servant and as a private man.

That is what makes his death so hard to bear and his life so important to understand.

It was not a glamorous life. Only in fiction does glamour figure in politics.

In real life, politics—if done right, as John did it—stretches a man to his limits, deepens his knowledge and calls him not just to learn but to lead, to see through his own time to the needs and the possibilities of the next generation.

John brought three essentials to this career of public service.

He worked hard. He was stubborn. And he set the right priorities.

I've never known anyone with a more prodigious capacity for work. He would have breakfast in Pittsburgh and be back on Capitol Hill the same morning for a hearing, knowing his brief thoroughly.

He had little patience with those who were ill-prepared and even less with those who did not work hard.

Heaven help the staffer or witness who tried to do a snow job on John Heinz!

His determination to defend and advance the causes for whch he cared did not always make him popular. but John willingly took that risk, as a committed politician must.

He could send the Senate leadership up the wall faster than anyone else I have seen, especially when he took the floor on behalf of his State and then would not budge an inch.

He didn't care how lonely or uncomfortable it got. He would stay there fighting for fair treatment for Pennsylvania until he won.

And he picked the right fights. The cause of decent health care has not had a fiercer advocate. The rights of senior citizens have not had a more devoted defender. Long term care, health maintenance organizations, hopice care, the diabetes network—the list is a long one.

He had a deep feeling about how life ought to be, a deep commitment to people who had lived a full life, given of themselves and now deserved the respect and care of their communities.

He focused the same compassion on workers displaced and powerless in the face of crunching world change and threatened with job loss and family despair, people who had contributed all of their lives and now needed help.

How wise labor had been in trusting their instinct that he would be their friend. They took a chance and endorsed John when he first ran in 1971.

And how proud he was to be their champion.

It was a direct line from here to his commitment to the environment—he believed that the Earth has nurtured us, and that it is our obligation in turn to take care of the Earth.

He developed a depth of knowledge and understanding, and a consequent sense of urgency to solve the problems we are facing.

Enormous energy and creativity were thrown into the task.

"Get the World Bank up here—they don't understand what they're doing" he roared.

He was outraged that every year fires were destroying areas the size of Pennsylvania in the Amazonian Rain Forest.

He said that we need strategies to sustain rather than destroy our natural resources, and wondered if we could use marketplace incentives to solve environmental problems.

The energy—the intellect—the phenomenal memory that caught and challenged everyone—were all part of the remarkable talent and the joy of working with John.

But perhaps most basic to his effectiveness was an endearing innocence.

He really believed that he could make the world a better place.

For all his sophistication, he had a wonderfully naive, almost little-boy-like mischievous commitment to making it better—such a contrast to the jaded resignation of our time.

His was not just an exemplary public career, earned with distinction and carried with enormous confidence. He also strove to master the other half of the political balancing act—the close and nurturing relationship with his family.

Out of the pride he felt in each of his sons, he came better to understand his own growth and his political mission.

He developed an equilibrium that gave him the freedom to dare and to believe that he could do better and that, as a result, the world could be better.

If it is true that "of those to whom much has been given, much will be asked," must we not seize this sense of the possible from his life, heed his compulsion, take up his commitment, and incorporate them in our own way of living and our own responsibility for the future.

Of course, we must.

We shall.

A final note.

John and I were friends. With Teresa and Wren, we were a foursome, devoted, committed, bound to one another, all of us managing somehow to make each of the others better;

Better in what we tried to accomplish;

Better at understanding and thinking about our children; and

Better in the new ways that we invented to laugh and to cope with political life.

Now we are diminished.

But the void will be filled by his children, all of our children, the next generation who join in the kind of life John Heinz had helped us to create; a shining life, a giving life, a rewarding life, a life of love and growth and steady faith in the way the world ought to be.

TELEPHONE COOPERATIVES

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today Mr. JENKINS, Mr. GRANDY, Mr. MOODY and I are introducing legislation to ensure the continued viability of telephone cooperatives that serve millions of rural Americans.

Tax-exempt telephone cooperatives are nonprofit organizations that play a critical role in providing local and long-distance telephone service, especially in sparsely populated rural communities. Congress granted telephone cooperatives tax-exempt status in 1916, and has always understood that this exemption is necessary to ensure the availability of reliable, universal telephone service in rural America at a reasonable cost.

Although the telephone industry as a whole has experienced significant regulatory changes in the past decade, the nature and function of telephone cooperatives have not materially changed since 1916. Yet, in responding to these regulatory changes, the IRS recently issued a ruling that may cause virtually all telephone cooperatives to lose their exempt status.

Cooperatives are currently exempt from paying Federal taxes so long as 85 percent of their income is collected from cooperative members. In applying the 85-percent test, certain income received from nonmember telephone companies for the performance of communication services is not treated as member income but simply discarded from the income computations.

Specifically, the IRS has now concluded that billing and collection revenues of the cooperative are nonmember income for purposes of the 85-percent test. In addition, the IRS stated that the historical practice of the telephone cooperatives to include the amounts collected from members for long-distance calls is incorrect in the new regulatory environment.

This position threatens the tax-exempt status of most cooperative telephone companies because it recharacterizes income that's always been considered favorable income under the 85-percent testing rules. That's just not right, and we need to correct it.

First, to ensure that regulatory changes affecting the entire telephone industry do not cause unintended and unacceptable results under the 85-percent income test, this legislation clarifies that income received by a telephone cooperative from a nonmember telephone company would be treated as collected from members when services are directly or indirectly paid for by members of the cooperative. Thus, if a member places and pays for a long distance call to a nonmember, the amount paid by the long distance carrier to the cooperative for originating the call is treated under the 85-percent test as income collected from cooperative members.

Second, the bill reaffirms present law that income received by a telephone cooperative from a nonmember telephone company for performance of communication services which involve members, but isn't paid directly or indirectly by members, remains excluded for purposes of the income testing rules.

Third, the bill excludes from the 85-percent income formula revenues received by the telephone cooperative from billing and collection services performed for a nonmember telephone company. Telephone cooperatives often collect from it's members not only charges for local phone service provided by the cooperative, but also charges for the amount owed to the long-distance carrier for the customer's long-distance calls. The cooperatives are compensated by the long-distance carrier for this service that's provided directly for the benefit of their members.

It seems to me that the IRS's position has unfairly jeopardized the tax exemption existing for cooperative telephone companies. And I think that we need to respond quickly to this problem.

I urge my colleague to help further these efforts by cosponsoring this legislation that will help to maintain communication services in rural areas where it might otherwise not exist.

The full text of the bill follows:

H.R. —

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

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY INDIRECTLY FROM ITS MEMBERS.

(a) IN GENERAL.—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative which are directly or indirectly paid for by members of the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(b) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) of such Code is amended by striking "or" at the end of clause (iii), by striking the period at the end thereof clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company."

(c) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) of such Code is amended by inserting before the comma ", other than income described in subparagraph (E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

(e) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this section shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

THE NATIONAL ENDOWMENT FOR THE ARTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. WEISS. Mr. Speaker, on April 13, 1991, the Washington Post printed the op-ed article, "The Art Your Money Buys," written by National Endowment for the Arts [NEA] Chairman John Frohnmayer. In light of the controversy surrounding last year's reauthorization of the NEA and a few of its grants, as well as the ongoing "misinformation campaign" now being conducted, I urge my colleagues to read Chairman Frohnmayer's op-ed, which appears below.

[From the Washington Post, Apr. 13, 1991]

THE ART YOUR TAX MONEY BUYS

(By John Frohnmayer)

It's your 68 cents, so let's talk about it. That's what each citizen pays in taxes—on average—for everything the National Endowment for the Arts does. You are entitled to know what it buys, who chooses; what we who administer it stand for (that is, unless you're tired of reading and hearing about arts wars, for which I wouldn't blame you).

During the 25 years of its existence, the endowment has made 90,000 grants. Of these, about 30 have been controversial. Still, I would guess those 30—or maybe just a couple of them—are all most of you know about the endowment. Consider the following:

What it buys:

During the past 25 years, your tax money that went to the endowment has helped bring into being 70 new choruses and 120 new symphony orchestras. Some of the music that they have made and you have enjoyed is sacred, some secular.

It has helped pay for 364 new theaters at which you have seen plays, both good and bad, depicting love and hate and joy and envy and success and failure—just like our lives.

Your 68 cents has helped create 2,940 local arts agencies that produce your strawberry festival, bluegrass competition, flatfoot clogging contests and community sings. Countless of you have, in addition, given your time, dollars and sweat to make these things happen.

And you have spent 68 cents to bring artists to more than 11,000 of your kids' schools—each year reaching 4.5 million children who will know that there is at least one living poet in this country and that those actors on stage and television are real people who probably were kids once too.

A sense of self-worth, of the ability to communicate—that's what the arts teach with your 68 cents—and it is fundamental to all learning, from calculus to drawing.

Who chooses?

A bunch of bureaucrats in D.C.? No, actually you do. More than 1,200 citizens will sit on endowment panels this year to recommend, on a competitive basis, which applications should be funded. Most of you are visual artists, or architects, or dancers or folk arts lovers, but you may also be a pharmacist from Muncie, Ind., or a minister from Louisville, Ky., because at least one knowledgeable lay person sits on every panel. Citizens on the panels are of all races, from all parts of the country and represent diverse view points.

Your panel recommendations, fought over, debated and usually resolved by the consensus of the panel, are forwarded to the National Council on the Arts, 26 distinguished Americans who review these recommendations in public sessions and affirm or reject them. You know some of these council members, because you have been thrilled by Arthur Mitchell's Dance Theatre of Harlem (or his dancing if you were lucky enough to see him); you have been moved by the pathos of an August Wilson play that Lloyd Richards produced; or you have been transported by the beauty of Phyllis Curtin's voice. But you know the others on the council as well, because they are your friends, neighbors, colleagues—good and decent people who care about our society.

Finally, the National Council recommendations for funding come to me, and I can say yes or no. I decide on the basis of our twofold mission: to support quality arts and to make those arts accessible to the American people.

What do we stand for?

I came to the government sharing a common cynicism about government workers. My experience hasn't confirmed it. The government workers here at the endowment are smart, compassionate, incredibly hard-working and in spite of the past two years of art wars, amazingly good-humored.

I'm chairman of the National Endowment for the Arts—and I'm sure these people serve it so well—because of a belief that people become more human through the arts. Dance, music, drama and design interpret our world in carrying forth its wisdom from generation to generation.

As our enabling legislation says: "* * * while no government can call a great artist or scholar into existence, it is necessary and appropriate for the federal government to help create and sustain not only a climate encouraging freedom of thought, imagination and inquiry but also the material conditions facilitating the release of this creative talent."

But let's return to those few controversial grants, because even though they are only a minuscule percentage of what we have funded, some ask: "How does the endowment serve the public interest by making controversial grants?" First, while the endowment is for everybody not everything we do is for everyone. With tax dollars you support schools, although not all of you have children. Your taxes build bridges in North Dakota and Arizona over which you may never drive. You may not agree with the agricultural, health, labor or environmental programs your taxes support. It's the compromise we recognize as the social contract.

Second, society grows through living illustrations. Some controversies we resolve; some stay with us, but few are resolved by ignoring them. Sometimes art provides a vehicle—a forum—for that public debate. "Driving Miss Daisy" (the original play was funded by the endowment) prods our conscience gently. Other works prod debate more confrontationally.

Finally, our society is diverse, which is a source of strength as well as a challenge. The endowment's mandate from Congress is not to dictate content, but to seek" * * * artistic excellence and artistic merit * * * taking artistic excellence and artistic merit * * * taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public." That is exactly what we intend to do. No blacklists, no ideological preconceptions.

We will continue to use your 68 cents—wisely I hope—so that we can leave for our children, and their children, a sense of who we are as human beings, what we share as a nation and what we have achieved as a civilization.

SUPPORT CONSUMER PROTECTIONS FOR NURSING HOME INSURANCE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. WYDEN. Mr. Speaker, today I am introducing legislation, in conjunction with Senator

PRYOR, chairman of the Senate Aging Committee, that would provide older people substantial protection against the crushing costs of long-term care.

This protection is achieved by establishing, for the first time, minimum standards for growing private long-term care insurance market. With these protections, the growing number of older persons who purchase these policies would be protected from the ravages of inflation, ripoff sales practices, and unscrupulous companies that try to wiggle out of paying claims.

Since Congress has not passed comprehensive long-term care legislation, millions of seniors believe they have only one alternative: purchase a private long-term care insurance policy. But the evidence shows that many of these policies are not worth much more than the paper they're written on.

Action is urgently needed because the market for long-term care insurance is booming: the number of these policies sold has more than doubled in the last 3 years. As of June 1990, over 1.65 million long-term care insurance policies had been sold.

The industry lobby will argue that the Federal Government should stay out of this area and leave everything to the States and the National Association of Insurance Commissioners [NAIC]. But two new governmental reports argue otherwise.

The inspector general of the Department of Health and Human Services has determined that only 17 States have substantially adopted the National Association of Insurance Commissioner's [NAIC] model standard adopted in January 1990. And even fewer have adopted the NAIC's consumer protections adopted in December 1990. In addition, the inspector general determined that only 9 States took any enforcement actions against long-term care insurance companies and agents in 1990.

A report by the General Accounting Office released this month found:

Less than half the States have adopted laws requiring guaranteed renewability;

Eighteen States still allow exclusion of benefits for Alzheimer's victims; Nineteen States still allow the use of a "prior hospitalization" requirement, which effectively keeps two-thirds of the elderly from qualifying for home care benefits; and

Forty States have not adopted the NAIC's minimum recommended standards for home health care benefits.

Rarely have Federal reports been as blunt about the increasing number of abuses in a growing health care market.

The most specific problems consumers face with the private long-term care insurance market are:

A dizzying array of terms and definitions, making it virtually impossible to compare policies;

High and unpredictable premiums, which force over 15 percent of policies to lapse each year;

The vast majority of policies do not keep pace with inflation, severely eroding benefit levels just when people need them the most;

Policyholders pay their premiums for years only to find that their claims are denied or delayed indefinately;

Agents "churn" seniors into new policies in order to get a new commission;

Scare tactics;

High pressure sales; and

Clean sheeting, whereby an agent fails to report an applicant's preexisting health condition, leaving the policyholder vulnerable to claims denials or policy cancellation, and

These problems cause seniors to be misled into purchasing policies which are unnecessary, inappropriate, and highly restrictive. Often alone, frail, and without additional resources, older persons are unable to fight the insurance company.

Before more individuals invest hard-earned dollars in substandard policies, Congress must adopt minimum Federal standards for all long-term care insurance products. These standards must provide consumers with reasonable protection while preserving the flexibility the industry needs to respond to changing data and consumer demands.

The legislation I am introducing today will address these problems in a fair and reasonable manner. It is strongly supported by AARP, Consumers Union, Families USA, the National Committee to Preserve Social Security and Medicare, and the United Seniors Health Cooperative.

Enacting long-term care insurance reform is one step Congress can take this year to protect seniors that won't cost any Federal money. I urge my colleagues to join me in a bipartisan effort to provide meaningful Federal consumer protections for long-term care insurance.

I insert a summary of the bill and the endorsement letters at this point:

LONG-TERM CARE INSURANCE CONSUMER PROTECTION ACT SUMMARY

1. Consumer Access to Information: Requires states to make available to consumers information regarding: complaints received with respect to long-term care insurance policies; the number of policies sold by company; the most recent premiums for each policy sold in the state; the lapse and replacement rates for policies; the number of policy recisions; and the claims denied as a percentage of claims submitted (excluding claims denied because the policyholder has not met deductibles or waiting periods).

Why Needed: Most states do not maintain separate files on long-term care insurance complaints, making it virtually impossible for consumers to get good, objective information about the reputation and quality of a particular company or agent. Consumers have the right to know basic information about long-term care insurance before they spend their hard-earned dollars.

2. Inflation Protection: Requires all policies to contain an inflation protection feature which would increase benefit levels by at least 5% compounded annually.

Why Needed: Assuming a conservative inflation estimate of 5 percent per year, without inflation protection a long-term care insurance policy benefit is eroded by 50 percent in just 10 years. Seniors pour thousands of dollars per year into these policies only to find that their benefits have been whittled away to be virtually worthless just when they need protection the most.

3. Nonforfeiture Benefits: Requires each policy to contain a nonforfeiture benefit which conforms to one of the 3 nonforfeiture models developed by the National Association of Insurance Commissioners (NAIC). At least one of the models identified by the NAIC must be a reduced paid-up model where policyholders would be guaranteed a specified percentage of benefits after a certain vesting period.

Similar to a whole life policy or a home mortgage, a nonforfeiture benefit for long-term care insurance would assure that a policyholder did not have to forfeit vested equity in a policy should the policy lapse.

Why Needed: Because long-term care policies are typically held for 10 or 20 years before their benefits are used, the possibility of a policy lapsing during this period is significant. For example, assuming a conservative lapse rate of 10 percent per year, only 7 percent of policies purchased at age 65 are still in force at age 85, when they are most likely to need the coverage.

When a long-term care insurance policy lapses, the policyholder forfeits a significant amount of equity which has been built up to pre-fund future needs. Individuals often pay into long-term care insurance policies for 10, 15, 20 years or more only to find that a premium increase suddenly makes the policy unaffordable. When this happens, policyholders surrender years of equity and are left with no long-term care protection whatsoever.

4. Marketing Abuses:

a. Explicitly prohibits "churning" whereby an individual is pressured into switching policies in order for the agent to capture a news sales commission.

Why Needed: When an individual drops an old policy to buy a new policy, they will be forced to meet new preexisting condition waiting periods, during which time they will not be covered by insurance.

b. Explicitly prohibits high pressure sales tactics.

Why Needed: Using threats, or capitalizing on the fear of financial catastrophe associated with going into a nursing home should not be tolerated, particularly with the frail elderly.

c. Limits the differential between new sales commissions and renewal commissions to no more than 200 percent.

Why Needed: Many long-term care insurance policies have heavily front-loaded commissions: the agent earns a hefty commission for a new sale and much smaller commissions for policy renewals. This sort of commission structure provides a strong financial incentive to "churn" individuals into new policies which may not be appropriate in order to garner a higher sales commission.

d. Prohibits agents from filling in the medical history portion of an application.

Why Needed: There is evidence of problems with agents who fill in medical history questions incorrectly. If an agent incorrectly answers these questions on behalf of an applicant, an applicant would likely face the possibility of having claims denied at a later date on the basis that the applicant misrepresented his/her health status at the time of application.

e. Prohibits sale of a long-term care insurance policy to an individual who is eligible for medicaid. An exception is made for qualified Medicare beneficiaries (QMBs).

Why Needed: Medicaid beneficiaries, by definition, already receive comprehensive coverage for long-term care services without cost-sharing requirements.

5. Outline of Coverage: Requires the NAIC to develop and insurers to provide a standardized outline of coverage which states: the principal benefits and exclusions under the policy; graphic information on national average nursing home and home health care

costs and their relationship to benefits provided under the policy; graphic information on the effects of inflation on benefits provided under the policy over at least a 20 year period; and a statement that the premiums for the policy will not increase more than a specified percentage during any given calendar year. The percentage specified will be developed by the insurer and may not be exceeded.

Why Needed: Currently, many insurance companies have devised their own outline of coverage which is very different in format and content than other companies, making it very difficult for individuals to compare policy provisions. In addition, consumers generally do not receive any information about how the benefits under the policy compare to average costs of such benefits, or how much the policy can be expected to be worth over time. The requirement to disclose maximum annual premium increases under the policy will bring predictability to premium increases and will put the burden upon insurers to disclose the potential annual increases under the policy.

6. Guaranteed Renewability: Requires all policies to be guaranteed renewable. Policies could only be cancelled for nonpayment of premium or material misrepresentation.

Why Needed: Some states still allow insurers to cancel long-term care insurance policies because the health of the policyholder has deteriorated. Guaranteed renewability pervents insurers from suddenly dropping coverage for policyholders who are no longer considered "profitable".

7. Standard Definitions and Terminology: Requests the NAIC to develop, within 12 months of enactment, standard definitions and terminology for benefits used in long-term care insurance policies.

Why Needed: Today, frivolous variations in policy definitions leave consumers confused and highly susceptible to high pressure sales pitches which try to convince them that their coverage is substandard. Consumers have the right to know that "home health care", for example, means the same thing in every policy so that they can make true comparisons based upon benefit levels and price.

8. Prior Institutionalization: Prohibits the imposition of prior hospitalization requirements on the receipt of benefits. Also prohibits the use of prior institutionalization (ie, a nursing home stay) requirements on the receipt on non-institutional (ie, home and community care) benefits.

Why Needed: Despite the fact that the NAIC model act contains a prohibition on the use of prior hospitalization, 19 states have not adopted this provision and several insurers (large and small) still sell policies that restrict eligibility for benefits upon a stay in the hospital (usually 3 days) or a prior stay in a skilled nursing facility. A prior hospitalization requirement effectively excludes two-thirds of the policyholders from receiving nursing home benefits.

9. Home Health Care: prohibits limiting such benefits to services provided to RNs or LPNs or to Medicare-certified agencies and facilities. Prohibits exclusion of personal care services, such as home health aide and respite care. Requires use of an independently conducted functional assessment for home care eligibility. Provides policyholders with an explicit right to appeal denials for home care eligibility.

Why Needed: Restricting home health care services to specific providers or Medicare-certified facilities severely limits the options of the policyholder. Often, policyholders do not need skilled nursing care; rather, they need assistance with the activities of daily living, things such as bathing, walking, feeding, toileting, and eating. In addition, Medicare-certified facilities are the exception, not the rule, and they often have long waiting lists. Policyholders should have the right to use their benefits at any licensed nursing or home health facility in the state.

10. Preexisting Conditions: Establishes a one-time maximum 6 month preexisting condition exclusionary period. A preexisting condition is defined as a condition for which treatment was sought or was otherwise diagnosed within a 6 month period preceding the effective date of the policy.

Why Needed: Today, several states allow for preexisting condition exclusion periods over 6 months in duration and allow insurers to institute new exclusion periods when the individual purchases a new policy. These additional exclusion periods represent unnecessary additional underwriting which leave policyholders completely unprotected.

11. Timely Provision of Information: Requires:

a. insurers to refund premiums to policyholders within 30 days of an application denial or return under the free look period.

b. Insurers to transmit to the policyholder, within 30 days of a policy application approval, a copy of the actual policy or certificate.

c. insurers to give written notice, within 60 days of a claim denial, the reasons for such denial. Insurers must also make available to policyholders all information directly relating to such denial.

d. insurers to obtain, prior to the issuance of a policy, a physical exam report, a functional capacity assessment, or medical records for all applicants age 75 or older.

Why Needed: Policyholders have the right to know why their claims were denied in a timely manner and to have timely refund of premiums when appropriate. There have been documented instances where insurers delay timely information or refunds in order to buy time or discourage the policyholder from getting payment. Many policyholders are frail elderly individuals who cannot afford to fight the insurance company, or wait months for payment. Because nursing home stays are very expensive, delay in receiving claims payments can quickly result in bankruptcy for the individual and increased government costs through Medicaid.

12. Counseling: Provides a $20 million authorization for states to establish long-term care insurance counseling programs.

Why Needed: Counseling programs now exist in several states and have proven to be a valuable and cost effective resource for consumers seeking to get objective information about policies.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, April 17, 1991.

Hon. RON WYDEN,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN WYDEN: On behalf of the over five million members of the National Committee to Preserve Social Security and Medicare, we are pleased to inform you of our support for your legislation, the Long-Term Care Insurance Consumer Protection Act that you are introducing today with Senator David Pryor. With the long-term care insurance market booming in recent years—over 1.7 million policies sold to date—the time is now to take federal action to protect the rights of all consumers, particularly seniors.

This legislation for the first time, establishes consumer protections for those interested in purchasing a long-term care insurance product. These protections that we strongly support include standardization of all long-term care insurance policies; inflation protection; guaranteed renewability; and much needed counseling services.

Members of the National Committee worry that they or their loved ones may need long-term care at some point. We all want affordable nursing home and home health care available that will not bankrupt our families. As the Congress continues its debate and discussion of possible federal long-term care program options, we feel it is essential to move forward with these consumer protections as the only alternative currently available—long-term care insurance.

We thank you for your willingness and fortitude to tackle this difficult issue. The National Committee pledges to work with you and your colleagues in the Congress to see that the Long-Term Care Insurance Consumer Protection Act is enacted into law.

Sincerely,

MAX RICHTMAN,
Executive Vice President.

FAMILIES UNITED FOR SENIOR ACTION,
Washington, DC, April 16, 1991.

Hon. RON WYDEN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WYDEN: I am very pleased to provide our full support for legislation you are introducing today, the Long-Term Care Insurance Consumer Protection Act. This legislation takes a comprehensive approach to the myriad consumer fraud and abuse problems that pervade the sale of private long-term care insurance.

Last year, Families USA Foundation published a preliminary look at real-life stories of long-term care insurance fraud. Post-claims underwriting, agent misrepresentation, delayed claims payments, and arbitrary claims denials were only some of the frequent abuses we uncovered. And all the abuses amounted to consumers being bilked out of thousands of dollars, as well as their peace of mind.

All of this leads me to the inescapable conclusion that the real solution to the long-term care problem confronting this country lies in the creation of a federal public long-term care program. But to the extent that private long term care insurance is a part of the total long-term care financing picture and continues to be sold, these abuses simply must stop.

I applaud your leadership protecting seniors and their families and I hope you will count on our full and active support for passage of your bill.

Sincerely,

RONALD F. POLLACK,
Executive Director.

CONSUMERS UNION,
Washington, DC, April 17, 1991.

Congressman RON WYDEN,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WYDEN: Consumers Union strongly supports the "Long-Term Care Insurance Consumer Protection Act of 1991," which you plan to introduce today. The Act would extend to citizens across the

entire country important consumer protection measures when they purchase a private long-term care insurance policy.

Consumer Reports has rated private long-term care insurance policies for the past three years, and we have found that they do not meet consumers' needs. For the most part, they are designed to protect insurance companies against risk, rather than protect the policyholder. Some of the most egregious problems include inadequate protection against inflation, failure to provide nonforfeiture values in the event of cancellation (causing consumers to lose up to $60,000 in equity), unfair pricing practices, possible insurer insolvency, and variation in definition of basic policy terms. The result—too often, consumers do not have the protection they thought they had bought.

The Act builds on the model Congress adopted in its pathbreaking reform of the Medicare supplement insurance market. It offers the first significant steps toward transforming the long-term care market into a market that provides consumers with good value for premium dollars.

Consumers Union supports a public, Medicare-type of solution to the nation's growing long-term care problem. But as long as people continue to buy private long-term care insurance policies, we will work to support important improvements in the regulation of this market. This Act is a very big step toward reforming this market, and we commend you for introducing this bill today. We look foward to working with you as the bill passes through the legislative process.

Sincerely yours,

LINDA LIPSEN,
Legislative Counsel.
GAIL SHEARER,
Manager, Policy Analysis.

[Release, April 17, 1991]

UNITED SENIORS HEALTH COOPERATIVE STRONGLY SUPPORTS THE DEVELOPMENT OF NATIONAL STANDARDS FOR CONSUMER PROTECTION IN LONG-TERM CARE INSURANCE

WASHINGTON, DC.—The United Seniors Health Cooperative, a non-profit consumer group, strongly endorsed the proposed Long Term Care Insurance Consumer Protection Act of 1991 that was introduced today by Senator Pryor and Representatives Wyden, Daschle and Reigle.

"Effective national standards for long-term care insurance regulations are the only way to guarantee that citizens in every state have at least a minimum level of consumer protection," said Jame Firman, President of United Seniors. "Thirty states currently have consumer protection laws for long-term care insurance that are inadequate and four other states, including the District of Columbia, have no laws at all."

"Long-term care insurance is very complex, confusing and expensive." said Dr. Firman. "As a result, elderly persons are particularly vulnerable to the unsavory tactics of unscrupulous agents and companies. National standards are needed to protect consumers and to ensure that consumers can get fair value for their money."

United Seniors is calling on Congress to establish a Federal Commission to develop national standards for long-term care insurance, instead of giving the responsibility exclusively to the National Association of Insurance Commissioners (NAIC).

"A Federal Commission is the only way to guarantee the full and balanced participation by consumer and industry representatives that is needed to develop the best possible standards for consumer protection. National standards for consumer protection are just too important to leave solely to a handful of regulators."

United Seniors Health Cooperative is a non-profit consumer group with more than 10,000 older members in the greater Washington area. United Seniors counsels several thousand older persons on health insurance issues. The Cooperative does not sell or endorse any insurance products and has no ties to any insurance companies. United Seniors has been responsible for several major studies on the quality and affordability of long-term care insurance and has written practical, nationally-acclaimed books on the subject for both consumers and professionals.

LSCA FUNDING

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. TALLON. Mr. Speaker, in South Carolina, and across the country, many of the written records housed in our courthouses, in our archives, and in our libraries are disintegrating. The major cause of this great problem is the chemicals present in most paper produced after the middle of the 19th century. These chemicals are literally causing the paper to self-destruct. Old records and those we use every day—deeds from the 1920's, wills from the 1950's, library books published in the 1890's—materials that illuminate our past and ensure our future are threatened. Additionally, these materials are endangered by heat and humidity found in aging buildings without proper climate control.

Work is already being done by the Library of Congress to slow down the deterioration of their collections. Unfortunately, most of our libraries and museums in America do not have either the expertise or the resources to deal with this challenge. In South Carolina, the Palmetto Archives, Libraries, and Museums Council on Preservation [PALMCOP], is taking action to combat this problem through statewide preservation planning and training. Using Library Services and Construction Act Title III funds, this group has sponsored workshops, conducted training sessions, monitored preservation needs, and served as a model for other States to emulate in their efforts.

The challenge to preserve our written records is great. LSCA funding has been vital to preservation efforts in South Carolina, and it is essential that we continue to have LSCA funds to assist with this tremendous problem.

RICH CASTRO

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mrs. SCHROEDER. Mr. Speaker, I have the sad duty to share with my colleagues notice of the death last Saturday of Rich Castro, the executive director of the Denver Agency for Human Rights and Community Relations.

Rich packed into his young life more accomplishments than most people twice his age. He was a member of the Colorado Legislature for 10 years, a member of the Denver School Board, a columnist for La Voz newspaper, chairman of the board of directors of the Auraria Higher Education Center, and a member of the Senate Democratic Hispanic American Task Force.

Rich was a friend of mine and I will miss him.

[From the Denver Post, Apr. 14, 1991]

HISPANIC CHAMPION RICH CASTRO DIES AT 44

(By Judith Brimberg)

Rich Castro, Denver's director of community relations and a strong voice for Colorado Hispanics, died at 5:55 p.m. yesterday of a brain hemorrhage.

At his bedside in Aurora Presbyterian Hospital were his wife, Virginia, his son, Richard Jr., and other family members.

The Rev. Marshall Gourley, pastor of Our Lady of Guadalupe Church, administered last rites.

"He was surrounded by his friends and family, and died peacefully," said Tomas Romero, a close friend.

Mayor Federico Peña ordered city flags to be flown at half-staff in Castro's memory. The Castro family will receive vistors from noon to 3 p.m. today at the Platte Park Community Center, 1500 S. Grant St.

Castro, 44, was rushed to the hospital Thursday after being stricken in an Aurora cafeteria. A respirator had been used to keep him breathing when he failed to respond to treatment.

Castro belonged to a cadre of young Hispanics across the nation who fought a discriminatory political system and paved the way for the successes of the '80s, Hispanic leaders said.

"We doubled our voter registration and the number of Hispanic elected officials during the 1980s," said Andy Hernandez, director of the Southwest Voter Registration and Education Project.

"Rich was part of a very young generation of elected officials that took on the fight for their community during the early '70s, and their country has been made better for it."

As a member of the Colorado Legislature from 1974–1984, Castro focused on reforming legislative districting to give Hispanics more access to state elective office.

He recently recalled how—as a member of the state reapportionment commission in 1981—he organized Hispanic communities across Colorado to testify about attempts to dilute minority voting strength. The number of Hispanics in the Colorado Legislature increased from seven in 1981 to 10 in 1990.

At the time of his death, he had embarked on another statewide campaign to create awareness of the importance of reapportionment in the wake of the 1990 census. Castro also concerned himself with immigration policy, especially as it pertains to Mexicans and Latin Americans, and bilingual education.

A highly effective conciliator, he was known for his generosity to people on their way up. Many of the current crop of Hispanic lawmakers were his proteges, officials said.

"He never was too busy to help you," said Ralphie Lutrey, a former legislative candidate and a bilingual education teacher. "He walked in my precinct when I ran for the legislature last fall."

Castro's interests encompassed a broad range of social issues, including mental health, prisons and even parking privileges for handicapped drivers.

A prolific writer, Castro was a columnist for La Voz de Colorado and was working on

a book about Hispanic Colorado legislators at the time of his death. He also was preparing a video presentation for the Colorado Hispanic League's August convention on the history of Hispanics in Colorado.

"He was an incredible advocate for Hispanics in the national arena," said Arturo Vargas of the Mexican American Legal Defense and Education Fund. "He raised issues of interest to Hispanics in national forums."

Castro was born in Denver on Sept. 29, 1946, and was educated at Annunciation High School, Metropolitan State College and the University of Denver, where he received a master's degree in social work.

After serving for three years as director of the Westside Coalition's Neighborhood Planning Organizations, he was elected to the Colorado Legislature. Between 1975 and 1982, he was a consultant to the Denver Commission on Community Relations. Denver Mayor Federico Peña appointed him executive director of the human rights agency in 1983.

Castro was named to a vacant seat on the Denver School Board in 1988, but failed to win election by 281 votes in 1989.

He was a member of numerous boards and commissions in Colorado and was a member of the national boards of the Southwest Voter Registration and Education Project and of MALDEF.

He won numerous awards for his work in the field of human rights, including the Martin Luther King Junior Humanitarian Award in 1988 and the American Jewish Committee Human Relations Award in 1986.

Referring to the second award, the American Jewish Committee's Bobbi Neal said: "He was for human rights for everybody, for all ethnic groups."

In addition to his wife and son, he is survived by four other children, Chris Lucero, Phillip Lucero and Ronnie Lucero, all of Denver, and Brenda MacDonald of Michigan; his father, Archie Castro; and three brothers, Ron, Don and Jaime, all of Denver.

RICH CASTRO REMEMBERED BY HIS FRIENDS

Denver Mayor Federico Peña: "The city of Denver, the state of Colorado, the nation and advocates of human rights everywhere have lost a special friend.

"He was a humanitarian of special stature who will be missed by thousands of people whose lives are better today because of his compassion."

State Sen. Don Sandoval, D-Denver: "He was like my brother. He was welcome in any crowd . . . he would sit down, talk to people and make a table laugh for hours. He was so intense about what he believed in . . . true nondiscrimination."

Paul Sandoval, a former legislator and former Denver school board member: "He was a very serious minded, very loyal, and a very caring person—caring about issues that affect people. But he had another side, and one of his greatest contributions to people was laughter. He brought joy to people by making them laugh."

Bernie Valdez, former Denver manager of social services and former Denver school board president: "I am devastated at the untimely death of Rich Castro. I knew him since his student days at the University of Denver and saw him grow from a shy, reticent young man into a giant, sensitive human being. He possessed great convictions and the courage to work and fight for them. I loved him as one of my sons."

Audrey Alvarado, executive director, Latin American Research and Service Agency: "He was one of the most visible, strongest voices that we had. There's a lot of grieving that we'll have to do."

Tomas Romero, newspaper columnist and close friend: "Rich was a great patriot. His achievements as a public servant were only exceeded by his humanity and generous spirit."

State Sen. Claire Traylor, R-Jefferson County: "He always had good humor, and he was one of the most fair and honest people I have ever served with in the legislature."

Sen. Tim Wirth, D-Colo.: "Rich Castro was a dear friend for many years, and I am greatly saddened by his passing today. My prayers are with his family.

"Rich was one of Colorado's most eloquent advocates for the equal rights of all people, and I know that his legacy of compassion and service will continue to bear fruit for a long time."

Deborah Espinosa, director of El Pueblo Museum in Pueblo: "He sounded very happy, very upbeat, very clear, and there was no indication of what was about to happen. We were talking about the future."

RESTORING THE PUBLIC TRUST: A NATIONWIDE ACCOUNTING OF POLICE BRUTALITY INCIDENCE

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. MFUME. Mr. Speaker, in the 1960's, Americans watched as the struggle for civil rights played out on national television. They were witnesses as throngs of riot police ferociously clubbed peaceful demonstrators. And even today, as we recall the evolution of civil rights in America and watch old newsreels which chronicled such historical events, these scenes of brutality seem just as horrifying.

It is no less venomous that law enforcement officers willfully and publicly brutalized American citizens struggling for constitutional freedoms. It is paradoxical that people are still without certain liberties almost 30 years later and are still being brutalized by some law enforcement officials.

Recently, through the medium of television, all of America was once again witness to law enforcement officers brutalizing an American citizen, Rodney King. Many people nationwide are already aware that some law enforcement officers harass and brutalize the citizenry—particularly minorities—and show a total disregard for civil liberties, despite their charge to "protect and serve" the public. However, the doggish beating of Rodney King, captured on film by a concerned citizen has brought this issue to the fore of America's collective conscience and has intensified the outcry against police brutality present in many communities across the Nation.

Mr. Speaker, perhaps what makes the episode most repugnant, even more than the severity of the horrendous injuries suffered by Mr. Rodney King, is that so many law enforcement officers stood by and watched, in tacit agreement, as he was brutally beaten and shocked with an electric prod. This event could not have enjoyed such widespread support from officers, if a climate of tolerance for these acts did not exist, and the fear of reprisals from authorities, eliminated.

Law enforcement officials are put in place to protect and serve the public and are in fact consigned with the public trust. Policies inconsistent with this charge—those which allow police brutality to go on unchecked—are policies which effectively breach the public trust and must be abolished.

Minorities far too often are the victims of police brutality and often least able to demand remuneration for unwarranted and excessive abuse. More importantly, few opportunities exist for victims of bona fide police brutality to expose such incidents and bring charges against the police department, essentially leaving law enforcement in the position of policing themselves on this issue.

Mr. Speaker, the Rodney King incident and many other episodes of police brutality directed against minority citizens, suggests clear evidence that some police brutality is indeed racially motivated, especially when it is clear that the victims have no recourse and are fearful of reprisals. Police brutality must be eliminated if law enforcement officers are to effectively carry out their mandate—to protect and serve the public. Establishing and maintaining that trust is key if citizens are to feel that their safety and best interest is the concern of law enforcement officials.

The effectiveness of successful law enforcement depends on a partnership between citizens, police officers, and law enforcement officials. Therefore, the answer to eliminating police brutality lies within strengthening that relationship; it does not rest solely with one individual or a single department. Additionally, since police brutality in some instances is symptomatic of unbalanced community and race relations, the solution also lies in ameliorating or strengthening this relationship as well.

Mr. Speaker, the barbaric beating of Rodney King is indeed abhorrent and a clear indication that police brutality exists and may be escalating unchecked. It is converse to the ideals of American society and tramples on the civil liberties of which every American is assured by the Constitution.

Had the beating of Mr. King not been captured on videotape by an observer and broadcast on newscasts nationwide, I am confident that this matter would not have received the immediate attention it deserves. Unfortunately, there are many bona fide claims of police brutality which go unresolved, much to the detriment not only of the individual and his or her family, but to the community, as well. More importantly, however, there is no reliable accounting of when and where police brutality occurs and against whom. It is similarly difficult to monitor the resolution of brutality claims.

To ameliorate this situation, I intend to introduce legislation which calls for an accounting of police brutality claims nationwide. More importantly, this legislation will identify how the claims of police brutality are resolved.

Mr. Speaker, effective law enforcement officials are an asset to any community and should be commended for such efforts. Nevertheless, it is imperative that the public trust be kept uppermost. This bill is an active effort to achieve that goal.

A TRIBUTE TO JUDGE WILLIAM T. ALLMON

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. APPLEGATE. Mr. Speaker, it is somewhat customary in the U.S. House of Representatives to bring to the attention of the Members special events in one's congressional district or notable accomplishments of constituents. However, I would like my colleagues to take particular note of the retirement of a very special public official in the 18th Congressional District of Ohio and personal friend of mine, the Honorable William T. Allmon, who retired last year after completing 24 years on the bench at the county level.

With his retirement, Judge Allmon completes a very distinguished career of public service beginning in 1964 when he was elected to the Ohio House of Representatives for a 2-year period. In 1966, he decided that he could best serve the public on a more local level and was elected to the position of county court judge of Carroll County where he continued to serve for 18 years to 1984. He was then elected as Carroll County Probate and Juvenile Court Judge until his recent retirement. He served the Nation honorably, as well, as a member of the U.S. Navy in World War II.

Throughout his years on the bench, Judge Allmon has been recognized and honored for his fairness, compassion, and honesty, all hallmarks of a man with integrity and character.

Judge Allmon has touched the lives of so many individuals in so many ways. He has provided guidance and counsel to the troubled. He has been a friend to countless numbers and while they may not have been thought of at the time by certain individuals, his decisions were designed more to rehabilitate than simply to punish.

Few people in Carroll County or elsewhere could be more involved in their community than is Judge Allmon. Despite heavy work schedules, he always found the time to participate in civic affairs and was recognized as a leader in many areas.

Mr. Speaker, Judge Allmon's absence from the bench will be missed in my area, but we wil be fortunate to have him remain among us for many years to come. On behalf of this august body, I congratulate my friend, Bill Allmon, upon his retirement.

THE THOMASTON WOODS STORY

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. McEWEN. Mr. Speaker, I wish to take this opportunity to bring to the attention of my colleagues, a good news story, one filled with compassion and with action. A dedicated group of parishioners from St. Thomas Episcopal Church in Terrace Park, OH, took to heart President Bush's call for 1,000 points of light throughout this Nation. Recognizing the need for safe, affordable housing for low-income families in their communities, this group began with moneys from the church endowment fund—adding to these funds from private investment.

Mr. Speaker, I offer my congratulations and thanks to the St. Thomas Episcopal Church for their efforts on behalf of this most worthy endeavor. I commend to the attention of my colleagues, this summary of The Thomaston Woods Story.

In February, 1987, the Senior Warden of Saint Thomas Episcopal Church in Terrace Park, Ohio approached a recently retired parishioner who had been a businessman and said, "What can Saint Thomas do about the lack of affordable housing in our area? Would you please look into it."

He asked another parishioner who was a social worker for help. They proceeded with the blessings of Saint Thomas' clergy, and called on almost every Social Service Agency in the area including the Clermont Metropolitan Housing Authority, the Chamber of Commerce, the Hamilton and Clermont County Commissioners, and various Township Trustees. They found that the lack of affordable housing was indeed a problem in the area and one that was not being effectively addressed.

They developed six proposals: a shelter, a 100 unit multi-family rental project, a residential rehabilitation assistance program, and three others. These were presented to the Vestry of the Parish, who chose the rehabilitation program and the 100 unit project for execution and voted the 1988 income from the Parish's Endowment Fund, some $22,000, as seed money.

During 1988, the key pieces of a housing organization were put in place. At the top, a private, non-profit Section 501(c)(3) corporation, St Thomas Housing Corporation, was established to supervise the creation and operation of all the housing outreach of Saint Thomas Church with advice and support from the Vestry and Clergy. It is this separate, yet co-ordinated, organization for housing outreach which has allowed the Parish to take on time-consuming major projects without interfering with the existing mainstream programs of the Parish.

The Housing Corporation Trustees first formed a Rehab Committee that immediately took on the Vestry's instructions to start serving needy homeowners who couldn't maintain their own homes.

Next, the Trustees formed a Survey committee to verify the need for additional, permanent affordable housing in the area. The area selected was Clermont County because much work on affordable housing was in progress in Hamilton County and 17% of Saint Thomas parishioners live in Clermont County. The survey confirmed the need.

Finance, Site and Design Committees were formed. These committees were staffed with individuals from the parish who had expertise in the development of real estate projects and wanted to use their expertise in the Lord's Work. A beautiful site was optioned. An architect was found who would design a set of townhouses that would meet the need in a solid, supportive and economic fashion. A financing plan was designed that would raise virtually all of the $5,000,000 needed from sources beyond Saint Thomas Parish, but would keep the project under Parish control.

Key to this phase of the 100 unit project, was the enlistment of a corps of first class experts in real estate development and financing. The careful work of these individuals plus their strong reputations provided assurance to all involved that this project would be successful. Accountants, attorneys, contractors, architects, consultants, state and local governmental housing professionals, real estate agents, bankers, investors, apartment managers, and the mortgage company all seemed to give the project a little extra because of its non-profit, charitable nature.

By the end of 1988, the site was under control of the Corporation, the design was complete and the financing plan was in place. Key to the financing was obtaining an allocation of Federal income tax credits from the State of Ohio. Sale of these credits to corporate investors generated fund to cover 50% of the cost. This work began in October, 1988 but the final sale was not completed until August of 1989. Along the way, a 150 page prospectus was prepared and numerous presentations made, all focused on convincing sophisticated banks, insurance companies and other corporations that Saint Thomas Parish was capable of successfully creating and managing a large low-income housing project.

Inevitably, difficulties of timing occurred. Should we commit funds for a legal prospectus before we had investors committed? Should we pay large fees for a mortgage commitment before we knew we could break ground? How much should we pay for a land option we might not be able to use? In each case, we resolved the problem by bringing all the involved individuals together, seeking spiritual guidance and making a joint decision to take another big step. While there were many unpleasant "surprises" as costs rose, we rarely surprised ourselves. No one carried the worry burden alone.

Planning for good communications helped. Having press officers, appointing Vestry members to various housing committees, making frequent presentations to Vestry and parishioners, and regularly holding open meetings all contributed.

In 1989, the financing was in place, planning for operations was done and, on December 8, with the bishop in attendance, the groundbreaking was held. Typical of the maturity of housing team members, the Operating Board got into high gear in the spring before financing was assured. Plans and policies were developed, the Management firm was selected, public relations problems were anticipated and handled, budgets were developed, and a creative approach to resident services was designed.

This approach to resident development involves making each prospective tenant aware of the growth opportunities that living in Thomaston Woods offers them and soliciting their acceptance of the responsibilities that go along with living in a special place. Social service agencies, schools, and local citizens are now prepared to offer whatever assistance any resident might require to advance their life-style.

The key innovative feature, funded by the Saint Thomas Vestry, is an on-site Coordinator of Resident Services. This person will serve as an ombudsperson making sure that each opportunity for individual growth is recognized and capitalized on and that conflict is resolved appropriately.

Saint Thomas Church could not have done this without its financial supporters large and small. Some of these are professionals providing grants, loans, and capital to a project which, in their experienced judgment will be successful. Others are amateurs giving of their time, talent and treasure solely as a statement that this is what God wants

them to do. Thomaston Woods needed both to become a reality.

That reality can be seen first hand at 322 Amelia-Olive Branch Road in Clermont County.

We have raised the money to provide the shelter to improve the living conditions for the first 100 families of Thomaston Woods.

INTRODUCTION OF THE LIMITED PARTNERSHIP ROLLUP REFORM ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. MARKEY. Mr. Speaker, I am pleased to join with Representatives MATTHEW RINALDO, the ranking minority member of the Subcommittee on Telecommunications and Finance, and JOHN DINGELL, chairman of the Energy and Commerce Committee, in introducing the Limited Partnership Reform Act of 1991.

This bipartisan legislation is designed to amend certain provisions of the Federal securities laws in order to reform the regulation of limited partnership reorganizations, popularly known as rollups. I believe the balanced package of reforms provided for in this bill are essential in order to make rollup disclosure documents more readable, curb certain abusive practices associated with some limited partnership reorganizations, assure investors opposed to a rollup are afforded a fair opportunity to fight the transaction, and provide for dissenters' rights options for those limited partners who choose not to invest in a rolled up business entity.

Since 1980, approximately $130 billion has been invested in limited partnerships. The bulk of these investments have been in real estate or oil and gas limited partnerships. Investing in limited partnerships has allowed millions of Americans to pool their savings and place them into the hands of a general partner who would use these funds to acquire and manage real estate or oil and natural gas properties.

By investing in limited partnerships, millions of small investors around the country have been able to participate in the purchase of commercial office buildings, shopping malls, oil and natural gas extraction, or other investment opportunities. In recent years, however, a growing number of limited partnerships have been reorganized, or rolled up, into new business entities, often with very different investment objectives and characteristics, and almost always leading to very substantial losses in investor equity.

According to an SEC report submitted to the Subcommittee on Telecommunications and Finance in February 1991, 65 limited partnership rollups have occurred during the last 5 years. These rollups have involved nearly 1,200 limited partnerships, 1.2 million investors, and an exchange value of approximately $6.9 billion. During this same period of time, over $100 billion of new limited partnership interests have been registered for sale to the public. Interestingly, as new offerings of limited partnerships have tapered off, from a high of 428 in 1985, to a low of 106 in 1990, the number of rollups has been escalating, from a low of 7 in 1985 to a high of 17 in 1990. As a result, the number of individual investors affected by rollups is increasing dramatically. In fact, one private estimate suggests that more than 340,000 individual investors could see their limited partnerships rolled up in 1991.

Overall, rollups have performed poorly when traded on the stock market. An analysis by the Liquidity Fund, a firm which purchases limited partnerships on the secondary market, of 13 major rollups conducted in the last 7 years found that investors were faced with losses averaging 44 percent from the exchange value provided at the time of the rollup on the very first day of trading. The SEC, in a report submitted to the subcommittee in March 1991, has confirmed that when rollup securities reach the stock market, they generally have continued to fare poorly—dropping in value by an annual average of 23 percent from the first day trading price.

The subcommittee's investigation has provided evidence indicating that abusive practices often associated with the rollup transaction itself may directly contribute to much of this loss in investor equity. Witnesses have indicated that controversial practices, such as the change from a finite-life to an infinite-life investment, the imposition of supermajority voting requirements that entrench existing management, new fee structures which provide greatly increased compensation to management, and the high transaction costs often associated with the rollup transaction itself, all have led Wall Street studiously to avoid investing in rollups.

Unfortunately, investors seeking protection from abusive rollups today find themselves confronted by something of a regulatory black hole. Because many rollup transactions involve the exchange of limited partnership interests for securities in a business entity which has been approved for listing on a national securities exchange, they are subject to the exchange exemption from state merit review, or blue sky, laws. This prevents State securities regulators from subjecting them to scrutiny.

At the Federal level, rollups are subjected to the same disclosure requirements and proxy solicitation rules governing other corporate transactions. Unfortunately, the subcommittee's investigation has indicated that the primary protection afforded to investors under Federal securities laws—full disclosure—may not be sufficient to assure that investors can make an informed decision regarding whether or not to approve a rollup proposal. These densely worded, typically 200- to 800-page disclosure documents often are so complex that even SEC Chairman Richard Breeden has stated that after having read them he "would like to meet the person who can understand all the provisions in the documents."

Moreover, limited partners seeking to organize in opposition to a rollup sometimes find themselves stymied by proxy solicitation rules which restrict their ability to communicate with one another, allow general partners to deny them access to investor lists they need in order to organize opposition to the rollup. At the same time, current regulations allow general partners to make unlimited use of the partnership's funds to pursue the rollup, including the payment of broker-dealers for soliciting limited partners to vote in favor of the proposed transaction.

Finally, under current law, those opposed to the rollup are forced to accept securities in the new rolled up business entity so long as the transaction is approved by a simple majority of investors, a phenomenon known as the cram down.

The Limited Partnership Rollup Reform Act of 1991 would change this situation. The bill would not ban rollups. Instead, it would provide for a balanced package of narrowly-focused legislative remedies, including reforms aimed at:

Assuring rights for investors opposed to the rollup by requiring an appraisal and compensation or the right to retain a security under the same terms and conditions as the original issue;

Improving disclosure by requiring rollup prospectuses to meet minimum standards of readability and by mandating that these prospectuses provide a clear, concise executive summary of the proposed transaction and its effects;

Reforming the proxy solicitation rules so that limited partners can engage in preliminary communications with one another in order to decide whether or not to oppose a rollup without running afoul of the SEC's proxy solicitation rules, and directing the SEC to hold up the vote on a proposed rollup transaction if the sponsor fails to respond to timely requests by a limited partner for a list of other investors;

Preventing securities broker-dealers from having a financial incentive to solicit yes votes for a rollup;

Requiring independent fairness opinions to be rendered for all rollup transactions, based on an independent analysis of the terms of the proposed transaction;

Preventing supermajority voting requirements from being imposed as the result of a rollup; and,

Preventing limited partners from having to pay the costs of a rollup transaction that is defeated.

I believe that this package of responsible rollup reforms will assure that limited partners get better and more understandable disclosure, facilitate the ability of limited partners to communicate with one another, assure that those who choose to oppose a rollup proposal have a more level playing field during the proxy solicitation process, and assure that dissenting investors are not subjected to cram down provisions. I am proud to join with Representatives DINGELL and RINALDO in sponsoring this important piece of legislation and I strongly urge my colleagues to give it their cosponsorship and support.

SECTION-BY-SECTION ANALYSIS OF THE LIMITED PARTNERSHIP ROLLUP REFORM ACT OF 1991

(A Bill to amend the Securities Exchange Act of 1934 to protect investors in limited partnerships in rollup transactions, and for other purposes)

SECTION 1. SHORT TITLE.

This section sets forth the short title of the Bill, the "Limited Partnership Rollup Reform Act of 1991".

SEC. 2. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO PARTNERSHIP ROLLUP TRANSACTIONS.

PROXY RULES

Adds a new Section 14(h) to the Securities and Exchange Act of 1934 to require new proxy solicitation rules to be adopted in connection with partnership rollups. Such new rules shall:

Permit dissenting owners of shares in the proposed limited partnership rollup to contact other limited partners, prior to the transaction date, without first having to file a written proxy statement with the Securities and Exchange Commission (SEC).

Prohibit any general partner from providing any type of compensation directly or indirectly to any person providing solicitation services if: 1) the rate of compensation for soliciting "yes" votes is higher than the rate provided for soliciting "no" votes; or 2) compensation is contingent on the transactions' approval or completion.

Require that any limited partner has the right to receive a list of the names of all limited partners and general partners involved in the proposed transaction. If the request is not fully complied with the SEC shall suspend all action on the proposed rollup transaction.

Require that the rollup prospectus be written in a manner understandable to the everyday investor. The prospectus must also include a summary discussing any and all effects of the proposed transaction, any conflicts of interest or any changes to the original investment which may occur as a result of the transaction, and any provisions providing for "dissenters' rights."

Require that each prospectus be accompanied by a "fairness" opinion prepared by an independent person and whose compensation is not contingent upon approval of the transaction.

Require that all shareholders have at least sixty days to review a prospectus. In the event that changes are made to the original prospectus, the review period shall be extended as determined by the SEC.

EXEMPTIONS

Directs the SEC to exempt certain securities or persons from the above mentioned requirements if such requirements are found to compromise the public interest or the protection of investors.

EFFECT ON COMMISSION AUTHORITY

This subsection shall not, in any way, limit nor preclude any SEC authority that may be required to be imposed under this subsection.

DEFINITION

This section defines the term 'partnership rollup transaction' to be a transaction involving an acquisition, merger, consolidation, or proposed sale of substantially all the assets of a limited partnership, real estate investment trust, or such other substantially economically equivalent instrument as the Commission determines.

SCHEDULE FOR REGULATIONS

This section requires that the SEC shall publish proposed regulations to rollup transactions within 9 months of the enactment date, and to prescribe final regulations within 18 months of the enactment date of this Bill.

SEC. 3. DISSENTERS' RIGHTS IN ROLLUP TRANSACTIONS.

REGISTERED SECURITIES ASSOCIATION RULES

This section amends Section 15A(b) of the Securities Exchange Act of 1934 to require rules to prevent general partners from participating in any rollup transaction that does not protect the rights of dissenting investors. Such protections include:

(1) the right to continue with the investment under its original terms or to receive just compensation;

(2) the right to maintain the same or similar voting power; and,

(3) the right not to bear the costs of a rejected rollup transaction.

In addition, restrictions would be placed on the amount of new fees charged by the general partners to the limited partners as a result of the rollup transaction.

LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES

This section amends Section 6(b) of the Securities Exchange Act of 1934 to prohibit an exchange from listing any security resulting from a rollup transaction unless such transaction provided for "dissenters' rights."

DESIGNATION OF NATIONAL MARKET SYSTEM SECURITIES

This section amends Section 11A(a) of the Securities Exchange Act of 1934 to prohibit any national market system from trading any security resulting from a rollup transaction unless such transaction provided for "dissenters rights."

EFFECTIVE DATE

The amendments of this section shall take effect 18 months after the date of enactment of this Act.

PROLIFERATION PROFITEERS: PART 9

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. STARK. Mr. Speaker, it took them 15 years, but today Pakistan can build nuclear weapons. With much assistance from western companies, Pakistan built a high-speed gas centrifuge plant to enrich uranium to weapons-grade levels. If Islamabad could build such a facility, there's no reason that Iraq, Syria, Iran, Libya, or other countries could not eventually do likewise.

To prevent this nuclear proliferation nightmare, the West must halt the flow of nuclear weapons technology. I recently introduced legislation which can help lead the way to a strict multilateral nuclear export control regime. Under my legislation, H.R. 830 any foreign company which sells nuclear equipment, materials, or technology—without the proper safeguards—to countries of proliferation concern will have its imports barred from entering the United States. This will hit the proliferation profiteers in the one place they care about—the bottom line.

Today, I am placing into the Congressional Record the ninth in a series of case studies on foreign firms furthering nuclear proliferation. Let us act now to prevent future examples of this kind, while peace and security still have a chance.

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ

FIRM 9: MATRIX-CHURCHILL (UNITED KINGDOM)

Matrix-Churchill is a British machine tool manufacturer. The firm was purchased in 1987 by TMG Engineering, which was controlled by the Iraqi-front company Technology Development Group and its parent, the Baghdad-based al-Harabi Trading. Military experts believe Iraq could have no other use for the machine tools produced by the company except for military purposes. According to a German scientist, Bruno Stemmler, who visited Iraq in 1987 and 1988, Matrix-Churchill precision lathes were present in an Iraqi factory used to manufacture centrifuge components. The firm has admitted its trading relationship to Iraq, but argues that all of its exports received British government export licenses and were not used for manufacturing arms. Witnesses, however, have apparently seen engineers from Matrix-Churchill training Iraqis to work their machines, 13 of which were reportedly sent to the military research and development center Sa'ad 16. An Italian newspaper claims that the firm coordinated the commissions between Iraq and the United States, Britain, Germany, and Italian companies selling technology to Iraq. The nuclear and weapons-related procurements of Matrix-Churchill were partially financed through the Atlanta, Georgia branch of the Italian Banca Nazionale Del Lavoro.

Sources: BBC Television, 9/3/90; Financial Times, 9/9/89; Financial Times, 11/21/89, p. 10 by Alan Friedman, La Repubblica, 9/16/89, p. 10 by Arturo Zampaglione; Sunday Times, 12/16/90, pp. 1–2, 4–5; U.S. News & World Report, 6/4/90, p. 45.

PAYING FOR PROGRESS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. PENNY. Mr. Speaker, along with our colleagues DAVE MCCURDY, JIM MOODY, GLEN BROWDER, and ROBERT ANDREWS, I am today introducing a sense of the Congress resolution encompassing the recommendations contained in the recent Progressive Policy Institute [PPI] study "Paying for Progress." This report proposes six fundamental changes to the process of determining the Nation's fiscal priorities and controlling the growth of Federal spending.

First, the PPI study proposes replacing the failed Gramm-Rudman system with new, progressive limits of Federal expenditures under which Federal spending, excluding interest payments, cannot increase faster than the average American's capacity to pay for it as measured by per capita income growth in the previous year. Second, this proposal suggests dividing the Federal budget into a public consumption account, encompassing Government operations and transfer payments, and an investment account, covering capital investments in infrastructure, education, and research and development. Annual revenues flowing to the Federal Treasury would cover all consumption-related expenses, while the Federal deficit is strictly confined to net annual capital public investments.

Third, Federal expenditures for any program or activity not pension-related that has not been reauthorized within the preivous 10

years would be barred. This sunset of programs is an essential element to keep effective programs working and to retire old, unworkable and ineffective programs. As a government—both the Congress and past and current Presidents share the blame for this—we are unable to kill programs no matter how ineffective or unnecessary. Fourth, to demonstrate that Government itself can contribute in a meaningful way to fiscal discipline, the PPI study proposes that spending for Federal Government administrative and personnel expenses be reduced by 3 percent a year in at least 2 nonconsecutive years and to use the savings to increase the Federal tax exemption for small children in moderate-income families and to expand the earned-income tax credit for working poor families.

Fifth, the resolution provides that Federal benefits and tax preferences for high-income people be reduced and that the resulting savings be used to educate and train young Americans. Finally, the resolution we introduce today proposes that as long as payroll taxes are used to reduce the Federal budget deficit, the payroll tax burden should be equitably distributed through lifting the cap on salaries and wages subject to the payroll tax thereby reducing the payroll tax rate for low- and middle-income Americans.

Last year the Congress and the administration established a budget process that will produce significant deficit reduction in the next 5 years. The next step is to put in place policies that will alleviate the tax burden of middle and lower income families and allow for economic opportunity for these same Americans. In taking this step, we must also make the operation of the Federal Government as efficient as possible. The recommendations in the resolution accomplish both goals.

Mr. Speaker, I urge our colleagues to study the proposed recommendations of the PPI study and to cosponsor the resolution we introduce today.

I ask that a copy of the concurrent resolution be printed in the RECORD at this point:

H. CON. RES. —

Whereas the current Gramm-Rudman system has failed to control the growth of Federal spending, the burden of Federal taxes, or the size of the Federal deficit;

Whereas in fiscal year 1991 Federal spending will claim the largest share of the Nation's economy of any year since World War II;

Whereas Federal taxes during the current Administration are forecast to claim the largest share of the economy of any Administration since World War II;

Whereas the failure of the Gramm-Rudman system has produced a large and permanent Federal budget deficit;

Whereas such budget deficit impedes income gains by average Americans;

Whereas such budget deficit also diverts scarce public resources from crucial programs to debt service;

Whereas such budget deficit also increases pressures to raise taxes on average Americans; and

Whereas such budget deficit also constricts the Federal Government's ability to address national problems and respond to new needs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should—

(1) replace the failed Gramm-Rudman system with new, progressive limits on Federal expenditures under which Federal spending, excluding interest payments, cannot increase faster than the average American's capacity to pay for it, as measured by per capita income growth in the previous year;

(2) promote progressive spending priorities by dividing the Federal budget into a "Public Consumption Account", covering Government operations and transfer payments, and an "Investment Account", covering capital investments in infrastructure, education, and research and development, and require that annual revenues cover all consumption-related expenses while the Federal deficit is strictly confined to net annual capital public investments;

(3) bar any Federal expenditure for any program or activity not pension-related that has not been reauthorized within the previous 10 years;

(4) reduce Federal spending for administrative and personnel expenses by 3 percent a year in at least 2 nonconsecutive years, and use the savings to increase the Federal tax exemption for small children in moderate-income families and expand the earned income tax credit for working poor families;

(5) reduce Federal benefits and tax preferences for high-income people and use the savings to educate and train young Americans; and

(6) ensure that as long as payroll tax revenues are used to reduce the Federal budget deficit, the payroll tax burden is equitably distributed by lifting the cap on salaries and wages subject to payroll tax and using the additional revenues to reduce the payroll tax rate.

PERSONAL EXPLANATION

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. CAMPBELL of Colorado. Mr. Speaker, Mr. Speaker, I rise today to express my apology for inadvertently including Representative LEON PANETTA in the list of cosponsors of H.R. 1292, legislation to codify the current grazing fee formula. Through an error by my staff, my friend from California was listed as a cosponsor of this legislation even though he never indicated he wished to be a cosponsor of this legislation. I apologize to my colleague and regret any inconvenience this may have caused him or his staff.

SALUTE TO RICK TUTTLE

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. BERMAN. Mr. Speaker, we rise today to pay tribute to Rick Tuttle, an extraordinary man, an outstanding member of our community, and a close personal friend. A recognized leader in the fields of education and government, Rick currently is serving his second term as Los Angeles City Controller.

Throughout his career, Rick has unselfishly dedicated himself to the cause of eliminating injustice and oppression. His efforts have already been recognized by a wide and varied group of community service organizations and now he is being honored as a deserving recipient of the Anti-Defamation League of B'nai B'rith's Distinguished Public Service Award.

Rick's concepts of justice and equal rights had their genesis in the earliest days of the civil rights movement. He took these deep-rooted beliefs with him into Mississippi and Georgia where he worked as a civil rights volunteer in 1963, organizing voter registration drives, lunchcounter sit-ins, and demonstrations. In 1968, the NAACP paid tribute to his humanitarian commitment by presenting him with its Equal Justice Award.

After becoming Los Angeles City Controller in 1985, he spearheaded local legislation that culminated in adoption of the city's civil rights law banning discrimination against women and minorities by some of the city's prominent public and private clubs.

Rick has compiled an impressive track record during the past 6 years in public office. For example, he introduced a tax amnesty program which has yielded over $13 million in business taxes for the city's general fund. He is credited with improving the collection of mandatory child support payments by implementing a payroll deduction program for city employees.

His administration of the city's more than 30,000 employees and $6.5 billion budget has been characterized by the highest degree of integrity and fairness.

Prior to becoming Los Angeles City Controller, Rick distinguished himself as a member of the Los Angeles Community College Board of Trustees, serving as president of the board and chair of the board's audit committee. He was the founder of the Labor Studies Center of the Los Angeles Community College District. For 14 years, Rick was an associate dean of students and student activities Officer for UCLA. The students at that fine school paid special tribute to Rick when they dedicated the UCLA 1975 yearbook to him. It is no wonder that he continues to serve the school as a member of the board of directors of the University Religious Conference.

Despite a seemingly overwhelming schedule of professional responsibilities, Rick has managed to fulfill the private obligation he believes he owes to his community. He was a member of the Los Angeles West Chamber of Commerce for 4 years. He is a member of the Bay Cities Jewish Community Center Board of Directors and the UCLA Hillel Advisory Committee.

This tribute would not be complete without making special mention of his wife, Muff Singer, an outstanding, accomplished, and distinguished author of children's books and the former administrative assistant of Congressman BERMAN'S Los Angeles office. Muff and Rick are the parents of a delightful 9-year-old daughter, Sarah Emily.

It is an honor to ask our colleagues to join us in saluting Rick Tuttle, a remarkable man,

an invaluable member or our community, and our compatriot.

RELIEF FOR TISSUE PAPER PRODUCTS FROM MEXICO

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. BUSTAMANTE. Mr. Speaker, I rise today to introduce a bill to liquidate and reliquidate customs duties paid on entries of certain tissue paper products made after December 31, 1988, and before July 1, 1990, classified under the harmonized tariff schedule subheadings 4818.10.00, 4818.20.000, and 4818.30.00 as though such entry had been made in July 1, 1990. Prior to the conversion to the harmonized tariff schedule on January 1, 1989, certain tissue paper products from Mexico had been eligible for duty-free entry into the United States under the GSP Program. As a result of the methodology used to convert import data from the tariff schedule of the United States to the harmonized tariff schedule nomenclature, certain tissue paper products from Mexico were deemed not to be GSP eligible.

Tissue paper products from Mexico serve as an important source of supplemental supply to the United States tissue paper products industry, which has been operating at close to full capacity, and cannot always fully meet demand in the United States market with its production alone. The loss of GSP eligibility seriously affected the operations of Mexican tissue paper products producers exporting to the United States. My legislation seeks to provide relief with respect to certain entries of tissue paper products which have been adversely affected by the loss of GSP eligibility as a result of the conversion to the harmonized tariff schedule.

CONGRESS NEEDS TO RELIEVE THE HEALTH INSURANCE BURDEN ON THE SELF-EMPLOYED

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. LAFALCE. Mr. Speaker, today I have introduced a bill to rectify what I believe to be one of the most glaring examples of discrimination in the U.S. Tax Code. My bill would permit self-employed individuals to deduct as business expenses 100 percent of the costs they incur to provide themselves and their families with health insurance coverage. Under present law, this group of taxpayers can deduct only 25 percent of such costs, and even that provision is scheduled to expire at the end of September unless Congress acts to extend it.

This is discrimination based solely on the form a business chooses to organize itself. Corporations get to deduct 100 percent of their health insurance costs, including those which pertain to owners of the business who are also employees of that business. But partners in a partnership, or sole proprietors of an unincorporated business, are subject to this anomalous 25 percent rule. There is no good public policy reason to treat these people differently, and my bill would eliminate the rule and let them deduct 100 percent just like corporations can.

In addition, Mr. Speaker, it is important to note that many partnerships and sole proprietorships are small businesses. My bill will provide these frequently struggling entrepreneurs with needed relief if they already have health insurance costs, and it will also serve as an incentive for those businesses which do not have health insurance to seek it out and provide access to insurance for themselves and their employees.

I hope my colleagues will join me in pushing to eliminate this highly discriminatory provision in the tax law.

TRIBUTE TO DAVID B. RUSSELL

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual in this country, Mr. David B. Russell of Midland, MI. Dave has been a strong force in Midland for many years. His contributions are evident throughout the community.

A native of Algonac, MI, Mr. Russell attended Michigan State Normal in Ypsilanti. It was there that he received a bachelor of science degree and worked as a freshman football coach. In the fall of 1938, Mr. Russell came to Midland and joined the Midland Community Center as boys' sports director.

In 1942, he was inducted into the Army and served with the 13th Armored Division in Europe during World War II. When he was discharged in 1945, he returned to Midland and was named assistant director of the Midland Community Center. In 1947, he was appointed as director of the center.

During his tenure as director of the Midland Community Center Mr. Russell oversaw a tremendous expansion in the programming and facilities offered at the center and in the community, including a new building for the center, an ice rink, and a tennis center. Not only did he perform planning duties extremely well, but he was often seen counseling and nurturing the young people of Midland. His dedication to the youth of Midland is unparalleled by any other in the community. This dedication has led to a very successful youth program in Midland. To many he was simply known as "Mr. Community Center." He retired from his position in 1977.

Not only was he the cornerstone of Midland youth activities, but Mr. Russell has been involved in many other organizations throughout the State and Nation. For a number of years he was the commissioner of Boys' State of Michigan, longtime chairman of the Michigan AAU Basketball Committee and member of the national AAU Basketball Committee. He also served as the State chairman of the athletic committee for the Michigan American Legion.

Mr. Russell has been the recipient of numerous community service awards including the Emil Joseph Kapaun Award in 1959, awarded by the American Legion, State of Michigan, the Liberty Bell Award for community service in 1972, awarded by the Midland County Bar Association, Community Leader of America Award in 1972, and in 1975, he was the winner of the annual Fellowship Award of the Michigan Parks and Recreation Association for his contributions to the field of recreation. In 1990, he was elected as one of the inaugural members of the Midland County Sports Hall of Fame.

Mr. Speaker, on Tuesday, April 23, 1991, Mr. David B. Russell will be further honored for his many contributions to the Midland community by having his name entered into the Exchange Club of Midland's Book of Golden Deeds. I know that you will join me in thanking and commending him for all of his accomplishments that have helped out the Midland community. He has indeed left his mark on the people of Midland.

LEGISLATION TO TERMINATE CERTAIN AMENDMENTS TO THE FOREIGN REPAIR STATION RULES OF THE FAA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. MINETA. Mr. Speaker, today I introduced legislation to terminate certain amendments to the foreign repair station rules of the Federal Aviation Administration. This legislation is identical to legislation I authored in the last Congress.

On December 22, 1988, new Federal aviation regulations took effect that permit repairs and maintenance on U.S. airline aircraft to be conducted overseas to a far greater extent than previously allowed. Prior to the regulatory change, U.S. airline aircraft could only be maintained at a foreign repair station if the aircraft were used in international service. Also, the previous regulations, as interpreted by the Federal Aviation Administration, limited overseas repairs to those necessary to move the aircraft in a safe airworthy manner. Routine and periodic scheduled maintenance had been regarded as outside the scope of what was permitted at a foreign repair station.

The 1988 revisions permit U.S. aircraft operated in U.S. domestic service to be maintained at foreign repair stations and do not limit the scope of work that may be performed. Any and all types of maintenance are permitted. My bill would terminate the effectiveness of these regulations to their previous formulation upon the date of enactment of the bill.

I recognize that some changes to the current rules on foreign repair stations are needed. Foreign manufacturers of aircraft and equipment should be able to conduct repairs and maintenance on their own manufactured equipment, even if that equipment is operated

solely within the domestic United States. Likewise, foreign-based subsidiaries of U.S. aeronautical firms should have the ability to conduct maintenance on U.S. aircraft without the need for individual regulatory exemptions.

In both of these situations, the companies involved have long-standing, well-understood quality control systems upon which the FAA already relies heavily in the manufacture and maintenance of aircraft. Outside of these circumstances, I see no safety benefit to be gained from permitting U.S. aircraft to be routinely maintained abroad.

In fact, I see potential safety problems if performance of routine maintenance on U.S. aircraft is permitted abroad outside of the circumstances just described. The FAA's air carrier safety inspection workforce continues to be understaffed. Though the FAA has made good strides in recent years in hiring additional inspectors, more are needed.

Beyond the safety inspection issue, I believe that permitting maintenance to be conducted abroad in a wholesale fashion could significantly weaken airline managements' ability to directly control one of the most significant aspects of the airlines' operations, maintenance.

FAA safety inspections have revealed that airlines which fail to maintain adequate management controls are the ones that are likely to have deficiencies with respect to safety. While the responsibility for maintenance would continue to rest with the airlines under the new rule, I see no reason to encourage, through regulations, a diminishment of practical control and direct authority.

I believe that it is important to note that in last year's Transportation Appropriations Report, Congress directed the FAA to take a cautious approach to certification of foreign repair facilities, based on lack of surveillance resources and the discrepancy between drug testing rules applicable to U.S. and foreign maintenance personnel. In all fairness, the FAA has adhered to these restrictions and foreign stations have been limited to work traditionally performed overseas under the original rule. In addition, U.S. carriers have initiated a substantial expansion of domestic overhaul facilities.

I do, however, continue to be concerned that the 1988 changes encouraged foreign governments to subsidize construction of overhaul facilities in the hope of siphoning away work presently performed in the United States. While this sort of movement of work would not be consistent with the intent of present regulations or the directive of the Transportation Appropriations Report, I believe the 1988 changes should be rescinded and a clearer more sensible rule developed. I am reintroducing this bill to compel the FAA to rescind its 1988 rulemaking eliminating certain regulatory restrictions on foreign repair facilities. I urge my colleagues to support it.

CARI LEE SKOGBERG, WINNER OF VOICE OF DEMOCRACY CONTEST IN SOUTH DAKOTA

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, every year for over 30 years, the Veterans of Foreign Wars of the United States and its ladies auxiliary have sponsored the Voice of Democracy broadcast scriptwriting contest. This year's contest theme was "Democracy—The Vanguard of Freedom." More than 138,000 secondary school students participated in the contest, competing for the 14 national scholarships totaling $62,500. The top contestant from each State came to Washington, DC for the final judging as a guest of the Veterans of Foreign Wars.

Ms. Cari Lee Skogberg is the 1990–91 winner from Belle Fourche, SD. Ms. Skogberg attends Belle Fourche High School and has received top awards in several writing contests. She extends her interests in several school organizations concerning public relations and drama. Cari Skogberg also shows openness to her world through international relationships in "pen pal" correspondence and involvement in international music camps.

Ms. Skogberg presents insight to the true meaning of democracy and freedoms in the United States of America. She recognizes our changing world in which people of varying degrees of background understand the need to have freedoms of choice whenever it is necessary. Cari Skogberg also recognizes the fact that the freedoms we hold dear in America are at times, taken for granted. While major historical accomplishments have been made in Europe and elsewhere, Ms. Skogberg asserts her view that, "we can work together to make the world a better place."

I would like to take this opportunity to submit Cari Lee Skogberg's award winning script to the CONGRESSIONAL RECORD, for the benefit of my colleagues and other interested readers.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Cari L. Skogberg)

Crash! The first section of the wall hit the ground with a mighty bang. Immediately, an explosion of cheers rose up from the crowd. People screamed, cried, danced, and hugged one another with joy. They knew that their lives would never be the same. The Berlin Wall had finally crumbled. Many years of democracy seeping through its cracks had finally weakened it to the point of collapsing. Germany would once again be reunited. Communism was a thing of the past.

Within the past few years, the world has changed drastically. I feel fortunate to have lived at a time when so many historic events have taken place. It will give me great pride when I am old, to tell my grandchildren about the reunification of Germany, the free political elections in Poland, the reforms made in the Soviet Union. I can see them now, gazing up at me, asking Grandma what was life like in the "old days". I will smile and reply with hundreds of stories about how, at one time, children just like them didn't have the freedom to choose what kinds of toys they played with, or what kinds of clothes they wore, or what they wanted to be when they grew up. Instead, everything was decided for them. One day, though, things began to change. New and exciting things started to happen. A new kind of government called a democracy was established in their country. Now, they could make more decisions for themselves. They could choose what they wanted to study in school, and what kind of job they wanted to have. They were so happy that they no longer had to follow the government's strict orders as they had once before. They were finally free!

That story may seem quite simple. It only gives a very basic outline of what changes democracy brought about to the communist countries. However, I won't be so concerned with teaching my grandchildren about the exact meanings of communism and democracy. My purpose will be to establish a sense of pride in their hearts. I want them to feel proud and blessed that they live in a country which has always had a democratic government. I want them to understand how fortunate they are to live in the freedom that our democratic system provides. I want them to grow up knowing that democracy is the vanguard of their freedom.

I am only a high-schooler now, but I know that what I have learned in my past few years has set a strong foundation for my beliefs later on in life. I have learned just how fortunate I am to live in a country which grants me so many freedoms. I attribute that understanding to living during such a crucial time in history. I guess I could say I've got front row seats to one of the most spectacular and memorable shows ever. I have seen on TV the Chinese protests in Tiananmen Square, I have watched Russia slowly unfold into an open society. I have read first hand accounts of the uprisings in Czechoslovakia. I have intently kept track of relations between East and West Germany until at last the Berlin Wall came tumbling down.

What was the motivation force behind all of these events? What was it that people were so willing to risk their lives to obtain? Democracy—something that I had all along, and had so blindly taken for granted until now. Never again will I complain about lack of freedom—to do what I want to do. I realize now just how lucky I am that I don't live in a country where all of my beliefs are decided for me by the government. I live in the United States of America, a free country, and I will always be thankful for that.

I think what excites me most about the recent sweep of democracy throughout the world is the prospect of what the future holds. Now that we're all on the same team, we can work together to make the world a better place. Just think of the differences our countries can make by joining together. We can shelter the homeless, feed the hungry, work hand in hand to make brighter futures for everyone. We have finally learned that though we may be different on the outside, we are all so much alike on the inside, and that's what counts.

I feel that, that accomplishment is just as symbolic of our new democratic partnerships as the Berlin Wall ever was to communism. Yes, when I am a grandmother I will be sure to tell my grandchildren about what happened when I was young. I will be sure to tell them that their democratic system of government and the freedoms that they are granted because of it, are two of the most valuable gifts that they will ever receive. And maybe when they have grandchildren, they can tell them what it was that led to peace and understanding between the countries of the world. I certainly hope so.

THE FIRST-TIME HOMEBUYERS ASSISTANCE ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. GOODLING. Mr. Speaker, for many people interested in owning a home, the lack of a down payment is their primary obstacle. I recently visited a home builder in York, PA, who has developed a unique and innovative arrangement in which moderately-priced single-family homes are constructed for purchase with no down payment. A local financial institution finances 80 percent of the loan, while the remaining 20 percent, in the form of a second mortgage, is financed by the local builder.

The creative financing plan described above allows people who want to buy a home, but cannot afford a down payment, to make a purchase. The advantages to the buyer, in terms of long-term financial security, are obvious.

The builder in question, however, has encountered severe financial difficulties because of the way the U.S. Tax Code treats this enterprise. Today, I am introducing the First-Time Homebuyers Assistance Act to correct this problem, allowing the builder to continue his program and enabling other small companies to undertake similar projects.

Currently, the Tax Code limits a builder's ability to finance second mortgages because it assumes that buyers are paying the entire balance of their obligations in the year in which the property is purchased. Current law also requires builders to pay taxes on the entire amount of the income received from a mortgage, in the year the purchase is made. For a builder, it becomes almost impossible to pay these taxes, not having cash on hand to do so until the balance of the mortgage payment is received at a future date. In technical terms, the Tax Code prohibits a builder from using the installment method to calculate his tax liability. In real terms, this situation places a builder in a financial bind and jeopardizes the future of this and similar housing programs.

The First-Time Homebuyers Assistance Act will enable a small builder to use the installment method to calculate his tax liability under certain specific circumstances. The bill: First, applies to newly-built, owner-occupied units only; second, stipulates that the purchaser be a first-time homebuyer who qualifies for 100 percent of the loan; third, directs that a second mortgage on the property be no more than 20 percent of the sales price; fourth, applies only to single-family homes costing no more than 75 percent of the median home price in a given area—indexed for inflation; and, fifth, limits the participation of building companies which can qualify for the exception, to prevent abuse.

Mr. Speaker, my legislation is narrowly drawn to apply only to small builders and to eliminate the possibility that businesses could take unfair advantage of the changes which are mandated. I would urge my colleagues to cosponsor this measure to help innovative small builders throughout the country, and allow people who cannot afford a down payment to purchase a home.

THE ANNOUNCEMENT OF THE "SPENDTHRIFT AWARD"

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SMITH of Texas. Mr. Speaker, last month, I introduced a resolution calling on the Federal Government to adopt policies to better control overhead expenses and to cut these indirect costs by 10 percent in fiscal year 1992.

Today, I announced the first Spendthrift Award, a monthly award to call public attention to examples of wasteful overhead spending by the Federal Government.

These awards will show Congress and Federal agencies how it is possible to cut overhead expenses, make Government more efficient and responsive, and better use taxpayers' dollars.

A spendthrift is someone who spends money wastefully—even recklessly.

The purpose of the Spendthrift Award is to make known particular ways in which Federal officials squander taxpayer's dollars.

It seeks to direct attention to ways in which billions of dollars in Government spending are effectively left unmanaged.

Ultimately, it is intended to serve the cause of helping change what is a scandalous system, make Federal managers more responsive and efficient, and save taxpayers billions that can and should be put to better use serving the legitimate interests of citizens.

This first Spendthrift Award goes to Federal Travel Supervisors whose collective failure to control yearend Government travel over the last 20 years has cost taxpayers an estimated $2 billion.

Continued failure to get control of this yearend spending could cost taxpayers an additional $1.6 billion over the next 5 years.

A staff investigation into the Government yearend travel turned up not only billions in wasteful spending but an unending string of horror stories.

Examples abound:

Rush bookings of meetings in Las Vegas and Palm Springs.

Government supervisors assigning travel dollar amounts to employees to spend before year's end.

Calls to travel agents: "We've got $49,000 left in our travel budget. Set up some meetings. We'll figure out what they're about later."

Government officials and travel agents talking off the record repeatedly made the same points: Federal travel funds are near and dear to managers.

They are treated as if personal.

Considered a perk of Federal employment, managers use travel to reward other employees.

Off the record, these officials readily agreed that there was plenty of fluff in their own agency's travel budget.

Most agreed with one manager who said: "You could cut our travel by 10 percent and we wouldn't even notice."

These views appear to be confirmed by the decisions of travel supervisors to authorize excessive end-of-the-year travel at enormous expense to the taxpayer.

Our study and analysis of available data begins the documentation of this wasteful spending pattern.

It is estimated that over the last 20 years, Federal Travel Supervisors on average approved in the last month of the business year a 48-percent increase in travel over the average rate for each of the preceding 11 months.

Since 1971, this yearend spending frenzy—done over the signatures of countless Federal travel supervisors—has cost taxpayers an estimated $2 billion.

For the record, Department of Defense officials traveled most at year's end.

According to available records, they booked an estimated 64 percent of the total end-of-year travel in excess of the preceding 11-month averages.

Sporadic reports of travel abuses not withstanding, this first Spendthrift Award targets an area of Government spending that still gets little attention.

There is no end to the kinds of attention Washington gives to the what questions—what should we fund with taxpayer dollars.

Nor is there a lack of curiosity about the who questions—who is to get the money.

But travel budgets do not fall within the scope of the what and who questions.

Travel dollars are one of the first things Government officials neatly tuck into their budgets.

But they also are about the last thing either the executive or legislative branches want to manage.

Travel is a how question—how are Government funds to be managed and spent.

Travel spending will exceed $7 billion next year.

It will exceed the spending respectively for the National Science Foundation, Pell grants for postsecondary education, Head Start, and the School Lunch Program.

Simply on the basis of total dollars spent, it is a form of governmental lunacy not to commit more attention to how these Government travel dollars are used.

Yet in Washington today those expenditures remain largely a mystery, a small part of what is the Federal budget equivalent of a giant black hole—Government overhead spending.

The first Spendthrift Award takes notice of the yearend decisions of Federal Travel Supervisors.

Runner-up Award goes to the Department of the Treasury.

Several years ago it decided no one had an interest in knowing what kinds of travel Federal supervisors were approving in the last 30 days of the business year.

It stopped gathering and publishing the data that details such spending.

Congress should act to begin to get better control of travel policy.

First, it should cut spending for Government travel by at least 4 percent in the next fiscal year.

That amount would equal the funds consumed by excess travel spending in the last month of the business year.

Next year alone that would save $280 million.

And that $280 million could be redirected to programs like Head Start or Compensatory Education, programs to support the growth and development of our Nation's children.

Over 5 years, a one-time cut of 4 percent in travel spending coupled with the holding of travel spending increases to the rate of inflation would free up a total of $1.6 billion for such purposes.

These savings cause one to wonder what we might accomplish by exploring and better understanding the giant black hole of overhead spending that is deep in the outer reaches of the Federal budget.

TRIBUTE TO MAJ. GEN. GEORGE S. BOWMAN, JR.

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. BAKER. Mr. Speaker, I rise to pay tribute to a constituent who spent 37 years of his life in faithful service to the United States. As a member of the U.S. Marine Corps, Maj. Gen. George S. Bowman, Jr., had three crosses of military honor bestowed on him for his service in World War II, Korea, and Vietnam. Today, I want to bring his other outstanding achievements and awards to the attention of the House.

General Bowman was born in Hammond, LA, on December 24, 1911, where he attended both grade school and high school. He was elected to the national honor guard and received an academic and athletic scholarship to Louisiana State University [LSU]. During his college days, General Bowman was awarded three letters in football and two in track. In addition, in 1935, he was given the rank of cadet colonel of the Cadet Corps. He graduated LSU in 1936 with a bachelors of science in electrical engineering.

In July 1936, he was appointed a second lieutenant in the U.S. Marine Corps. By 1939, General Bowman was designated a naval aviator and from there, embarked on a distinguished military career which brought him continuing advancements in rank and positions of greater responsibility throughout his life.

His military assignments brought him service in combat zones during three wars and earned him the following list of personal decorations: The Distinguished Service Medal; Legion of Merit with Combat "V" and Gold Stars in lieu of second, third, and fourth awards; Distinguished Flying Cross; Bronze Star Medal with Combat "V"; Air Service Medal with Base Clasp; American Campaign Medal; Asiatic-Pacific Campaign Medal with one Bronze Star; World War II Victory Medal; Navy Occupation Service Medal with Asia clasp; National Defense Service Medal with one Bronze Star; Korean Service Medal with two Bronze Stars; Korean Chung Mu; National Order of Vietnam Knight, 5th Class; Vietnamese Cross of Gallantry with Palm; United Nations Service Medal; Korean Presidential Unit Citation; Vietnamese Armed Forces Meritorious Unit Citation with Bronze Palm, and Vietnamese Campaign Medal with device.

His assignments included duty as head, Personnel Branch, Division of Aviation at Headquarters Marine Corps; commanding officer, Marine Aircraft Group 12, 1st Marine Aircraft Wing and chief of staff, 2d Marine Aircraft Wing; attendance at the National War College in 1953–54; director of Junior School, Marine Corps Schools, Quantico, VA; deputy assistant director of the Division of Aviation at Headquarters Marine Corps; assistant chief of staff, J–3, CINC Pacific, and assistant wing commander, 1st Marine Aircraft Wing.

In August 1970, General Bowman became commanding general, Marine Corps Base, Camp Pendleton, CA, which is one of the largest commands in the Marine Corps. For the next year and a half, General Bowman commanded a base which included almost 46,000 marines, dependents, and civilian employees; 125,000 acres with 4,562 buildings and an annual budget of almost $200 million.

In addition to his years of discipline, devotion, leadership, and honor in the military, General Bowman made contributions to the community in which he lived. He retired from active duty while at Camp Pendleton to accept the position of superintendent of the Marine Military Academy, Harlingen, TX. At the time of his arrival there was little growth taking place at the school, a $350,000 mortgage existed, and the financial burdens far exceeded revenues received. During the next 7 years under his leadership, the Corps of Cadets grew from 142 students to 312, a $4 million endowment fund was established and facilities were improved and many other facilities were constructed.

General Bowman further contributed to the community in which he lived by serving as a member of United Way, the Retired Officers Association, the Harlingen State Bank, the Good Government League, and the Grace Episcopal church.

Mr. Speaker, I am certain that my colleagues will want to join me in paying tribute to General Bowman for his distinguished contribution to the defense of this country and to the betterment of his community. We congratulate him for his outstanding achievements and wish him, his wife Velma, his daughter Diane Cunningham, his six grandchildren and two great grandchildren all possible happiness in the years ahead.

BREAST CANCER SCREENING SAFETY ACT

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mrs. LLOYD. Mr. Speaker, one out of every nine women will be diagnosed with breast cancer this year. Last year 44,000 women died from breast cancer desipite the fact that one-third of these deaths are preventable. More can and must be done to prevent these tragedies. Shortly, I will be joining my colleagues Senator ADAMS and Senator MIKULSKI and Congresswoman SCHROEDER in reintroducing the Breast Cancer Screening Safety Act. The Women's Health Equity Act, of which I am a sponsor, contains a number of additional bills aimed at combating breast cancer. However, in the meantime many women's lives remain in jeopardy due to undetected cancer.

I would like to share a letter I recently received from my constituent, Mrs. Bobbie Sue Foster, who is making a difference in saving lives in Cleveland, TN. Mrs. Foster is a survivor of breast cancer, 10 years already, I am happy to report. Her experience with fighting breast cancer and her training as a nurse inspired her to help others in learning the important self-detection techniques which are crucial in catching the cancer early. She has taught hundreds of women in Tennessee the relatively simple, but crucial, lifesaving techniques so that others may be as lucky as she. Her letter also demonstrates that she can't do it all alone. We in the government must assist others like Mrs. Foster by providing adequate funding to ensure that educational materials are available to women, to ensure that breast cancer research is adequately funded, and to put an end to the rising breast cancer rate through proper preventive and screening measures. I urge my colleagues to heed Mrs. Foster's plea and do their part in ending this needless tragedy.

DEAR MRS. LLOYD: In 1981 I had breast cancer, as a result of this I'm interested in teaching other women early breast cancer detection methods. As of this date I've taught nine classes that have been attended by over 350 women. I receive my materials from the National Cancer Institute in the form of pamphlets and booklets to pass out to the ladies that attend. I called the National Cancer Institute this a.m. to reorder more material and was told it was in short supply and they would send me what they could—I questioned them as to why the supply was short and it was due to funding.

I find it very distressing how uneducated women are about mammography and detection methods—a 15¢ pamphlet could save a woman's life, with proper instruction as well as being cost effective to the insurance companies and the federal government after insurance benefits are depleted, as often happens.

Mrs. Lloyd this disease kills approx 44,000 (NCI 1990) women. Do you think Congressmen would let this slip by them if as many males died from testicular cancer?

I am a nurse and a survivor of breast cancer for 10 years. I do not charge for my classes, I work full time and do these on my off days from work and in the afternoons. If I can save one woman's breast or life it's worth it all.

Can you please do something about the funding to the National Cancer Institute? I cannot afford to purchase the material from a private concern.

As always our support and prayers are with you.

BOBBIE SUE FOSTER.

TRIBUTE TO SENIOR FRIENDSHIP CENTERS

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. GOSS. Mr. Speaker, it is the hope of every Member of Congress to point to his or

her own district and say "there is a program that is an example to the Nation". I am very proud to be able to do just that today. There are currently eight senior friendship centers scattered across my district in southwest Florida, answering the increasingly urgent and unmet needs of the elderly. Our community is fortunate to be able to claim as a member, Brother William Geenan, the most effective senior advocate I know and the man who was able to make this initiative a reality.

Senior friendship centers have successfully become the antithesis of the heavily-laden Federal bureaucracy. Currently, our answer to coping with an increasingly aging population is to limit the choices of our senior citizens. Senior friendship centers open the door of opportunity for the elderly. These centers are the opposite of an institution. By offering seniors an alternative to seemingly endless days in the confines of their home or an institution, senior friendship centers capitalize on the abilities of the elderly. These centers give seniors a place to "hang out," where they can take dance lessons or receive outpatient health care. Candlelight dining is offered, both in the center and on wheels. Visitors play cards, join the camera club and discover new hobbies in their golden years.

Brother Geenan fine-tuned the formula for senior citizen satisfaction and the scope of this endeavor has grown tremendously. Client case managers (social workers) manage 585 clients monthly. The health service reports 1,500 patients making 4,050 visits annually to the volunteer physicians and nurses staffing the clinic. The living rooms (adult day care) serve 60 clients a day with 17 people coming daily to the Alzheimer's units. These figures do not even attempt to estimate the revitalization that is occuring among the senior contingent in my district.

In a greatly anticipated dedication ceremony on April 26, 1991, the newest addition to the senior friendship coalition, the South County Senior Friendship Centers complex, will be dedicated. This beautiful facility overlooking the intrecoastal waterway in Venice boasts a living room for socialization and recreation, candlelight dining, a unit for Alzheimer's respite, a health service and the annex, which will include transportation dispatch and the small appliance repair shop. Florida's District 13 is grateful for the service and compassion the existing senior friendship centers provide to our elderly loved ones and anticipates many wonderfully full years for more and more of our senior citizens. Thank you Brother Geenan and the staff and benefactors of all senior friendship centers!

TIME FOR COMPREHENSIVE BUDGET REFORM

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. McGRATH. Mr. Speaker, last year, the President and a bipartisan group of five Members of Congress worked in secret to create a 5-year, $500 billion budget deficit reduction package. I did not support this effort chiefly because I believe New York taxpayers received a disproportionate share of the increased tax burden. More unfortunate, the budget agreement will fail to reduce the colossal budget deficit. For fiscal year 1991, interest on the national debt will be some $240 billion and the projected budget deficit will be over $300 billion.

Congress has obviously failed to reduce this ever-growing mountain of debt. I believe, however, that we in Congress can overcome this deficiency by instituting major budgetary reform. Ever since the passage of the Budget Impoundment and Control Act of 1974, Congress has consistently ignored much of the legislative deadlines the law imposed. Only once, in 1987, did Congress pass all 13 appropriations bills on time.

For most years, the Federal budget was passed in one fell swoop through a continuing resolution. Appropriation committees, charged with passing separate legislation to pay for each portion of the Government, disregarded their deadlines and lumped all Government spending in one mammoth bill. Failure to pass such a behemoth would result in a complete shutdown of all Government agencies and chaos among recipients of Government benefits.

Correcting this quandary cannot be solved by simply cutting a program here or raising a tax there. The problem is within the current budget process. I have recently cosponsored a bill, introduced by Representative CHRISTOPHER COX, Republican of California, which would radically change the way Congress passes a Federal budget.

H.R. 298 is a comprehensive budget process reform bill which attempts to streamline the budget process while minimizing the political fear of spending cuts. By changing procedures to make overspending budget targets difficult, unnecessary spending would be largely eliminated.

The measure contains several commonsense features to ensure compliance with budgeting procedures. The bill would mandate a single-page summary containing spending targets for the 19 categories currently used in the budget. This document would then be passed by Congress as a joint resolution rather than the current nonbinding resolution, which does not require the President's signature.

Changing to a House-Senate Joint Resolution would ensure executive and legislative branch input on the initial spending targets. No authorization or appropriation bill could be voted on in the House until this bill is passed.

The measure includes strict enforcement mechanisms which discourage excess spending once budget targets are decided. First, Congress could only spend more than the agreed-upon ceilings by a two-thirds, super majority in each House. Under this bill the only way to pass spending proposals by simple majority would be to authorize and appropriate within the ceilings of the enacted budget agreement.

Second, Congress would be required to set a spending level for each Federal program except Social Security and interest on the national debt. If an entitlement program is projected to exceed its spending ceilings, benefit adjustments will be required.

Third, the President would be granted enhanced rescission authority, a type of line-item veto, to any over-budget portion of proposed spending. In other words, the President would merely be enforcing Congress' spending limits. If no budget is enacted, the President would have authority to cut any authorization or appropriation in excess of the previous year's funding levels.

Additionally, passage of the first over-budget spending bill would subject all spending legislation in that category to a two-thirds vote. This would prevent Members from passing less urgent appropriations first and saving the more popular programs, which could more easily garner a two-thirds vote, for last.

Fourth, "current services" budgeting would no longer be permitted. This process enables Congress to increase spending while saying cuts actually take place. Current services refers to the amount of funding required to sustain the previous year's programs. For example, if in fiscal year 1991, $25 million were needed for a program, the same program in fiscal year 1991 may need $30 million to provide similar services because of inflation. While to most people this would translate into a $5 million spending increase, the current Federal budget accounting system does not consider it an increase at all because the same services would be offered. However, if Congress only appropriates $27 million it would then be considered a "cut" in spending. Sound incredible? I certainly agree. H.R. 298 would eliminate the current services method of accounting.

Finally, in order to avoid embarrassing and unnecessary shutdowns of the Federal Government, the bill includes a sustaining mechanism to determine Federal spending levels when a budget is not passed. Rather than shut down Government services, spending is frozen at the previous year's levels.

Budget considerations are now the driving force behind any legislative debate. Until we are able to control the Federal budget, the ability to expand and create necessary Federal social programs will remain severely restrained. The time has come for comprehensive budget reform which relies less on burdensome tax increases and more on spending cuts.

NATIONAL TAX FREEDOM DAY

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SANTORUM. Mr. Speaker, today, with dozens of my colleagues I will introduce a resolution which recognizes National Tax Freedom Day. Tax Freedom Day is the day that each taxpayer quits paying taxes to the Federal, State, and local government and begins earning money for food, housing, and other life's necessities.

This year the Nation's Tax Freedom Day falls on May 8, the latest ever. Over the years Tax Freedom Day has increased with regularity. For instance in 1929 Tax Freedom Day was February 9. By 1950 it was April 3 and in 1982 had advanced to May 3.

We all know that taxes are a major issue for our constituents. I have asked each one of you to join with me in introducing a House joint resolution observing the day that the average American quits paying taxes and begins earning money he/she can keep. Over two dozen Members have joined me as original cosponsors of the National Tax Freedom Day resolution.

The Tax Foundation, a respected nonprofit, nonpartisan research and public education organization founded in 1937, has calculated on which date Tax Freedom Day falls. In addition to calculating the Tax Freedom Days for the States and Nation, they have determined the tax bite in the 8-hour day. Since 1929, the tax bite in the 8-hour day has increased over three times from 52 minutes to 2 hours and 49 minutes today. If this rate continues, by the middle of the 21st century American taxpayers will be working nearly 5 of each 8-hour day to pay Federal, State, and local taxes. This must not happen, but will unless we start to do something about it.

The House, with the help of the Budget Committee, must take immediate action to stop taxation creep. This is a deadly fiscal illness that will send our country into bankruptcy thus jeopardizing our free way of life.

During the consideration of the congressional budget resolution, I will make specific recommendations on how we can stop these tax increases by raising the level of debate in the House. I firmly believe that we must end poverty, decrease taxes, and end Government payments and benefits to the wealthy. A plan needs to be adopted that emphasizes fairness and simplicity.

The Tax Foundation not only has identified the National Tax Freedom Day but has determined the Tax Freedom Day for each State. In my home State, Pennsylvania, Tax Freedom Day will be May 7. Pennsylvania ranks 24th in total taxes paid. It is ranked 11th in total Federal tax burden. And is listed as 40th in total State and local tax burden. In other words residents of Pennsylvania work 42 days to pay for State and local taxes and 85 days to pay Federal taxes.

I ask unanimous consent that the Tax Foundations' special report, "Tax Freedom Day 1991 Is May 8", be printed at the conclusion of my remarks. In this report you will find tables that give details as to Tax Freedom Day by State as well as other details concerning the tax bite in the 8-hour day and taxes as a percentage of income by State. The special report is a powerful indictment of those in Government for their lack of spending and taxing controls.

I am happy to report that Citizens for a Sound Economy has asked, Members of the 102d Congress, to lead the uncelebration of National Tax Freedom Day 1991 by cosponsoring National Tax Freedom Day. It is very refreshing to find that some groups want to end the uncontrolled Government doling out of payments, benefits, and pork. This cannot continue. We can control taxes and spending while at the same time meeting the needs of those in poverty: veterans, seniors, and others that have been guaranteed help under a Government contract.

In closing, Tax Freedom Day can only be celebrated in future years if the day moves back in time. Nothing would please me more than to announce next year that Tax Freedom Day is earlier than this year. But I will not be able to do that without the support of my colleagues.

TAX FREEDOM DAY 1991 IS MAY 8—STATE TAX FREEDOM DAYS RANGE FROM APRIL 24 TO MAY 26

(By Paul G. Merski)

The nation's Tax Freedom Day for 1991 falls on May 8. This latest ever date means the average American will work 128 days—from January 1 to May 8—to satisfy all federal, state and local tax obligations, with every cent "earned" from the beginning of the year going to the tax collectors.

While Tax Freedom Day nationwide is May 8, each state has its own specific Tax Freedom Day which falls earlier or later in the year depending on local tax and income circumstances.

Table 1 presents Tax Freedom Day by state and rank. Tax Freedom Day estimates are calculated to represent "tax burdens" and should not be confused with tax collections. The tax burden is defined as total taxes as a percentage of total income for each state. The Tax Freedom Day by state methodology is designed to determine the geographic incidence of taxes.[1]

TABLE 1.—TAX FREEDOM DAY BY STATE

[Calendar year 1991]

State	Tax Freedom Day	Number of days	Rank
United States	May 8	128	.....
Alabama	April 25	115	50
Alaska	May 11	131	10
Arizona	May 7	127	21
Arkansas	April 26	116	49
California	May 7	127	22
Colorado	May 2	122	38
Connecticut	May 17	137	4
Delaware	May 21	141	3
District of Columbia	May 26	146	2
Florida	May 4	124	32
Georgia	May 3	123	35
Hawaii	May 16	136	5
Idaho	April 28	118	47
Illinois	May 9	129	16
Indiana	May 2	122	36
Iowa	May 7	127	23
Kansas	May 5	125	29
Kentucky	April 29	119	43
Louisiana	May 4	124	33
Maine	May 8	128	19
Maryland	May 11	131	12
Massachusetts	May 8	128	18
Michigan	May 12	132	8
Minnesota	May 14	134	6
Mississippi	April 24	114	51
Missouri	April 28	118	46
Montana	May 4	124	31
Nebraska	May 7	127	25
Nevada	May 8	128	17
New Hampshire	April 29	119	44
New Jersey	May 14	134	7
New Mexico	May 7	127	20
New York	May 26	146	1
North Carolina	May 3	123	34
North Dakota	May 6	126	27
Ohio	May 6	126	26
Oklahoma	May 2	122	37
Oregon	May 10	130	15
Pennsylvania	May 7	127	24
Rhode Island	May 12	132	9
South Carolina	May 1	121	41
South Dakota	April 28	118	48
Tennessee	April 29	119	45
Texas	May 5	125	30
Utah	May 1	121	40
Vermont	May 10	130	13
Virginia	May 2	122	39
Washington	May 10	130	14
West Virginia	May 1	121	42
Wisconsin	May 11	131	11
Wyoming	May 6	126	28

Source: Tax Foundation.

THOSE WHO PAY TAXES THE LONGEST

The residents of fifteen states and the District of Columbia will work past the nationwide Tax Freedom Day of May 8 before earning enough to pay their taxes. Tax Freedom Day arrives the latest in the following "top ten" taxpaying states:

State	Number of days	Tax Freedom Day	Rank
New York	146	May 26	1
District of Columbia	146	May 26	2
Delaware	141	May 21	3
Connecticut	137	May 17	4
Hawaii	136	May 16	5
Minnesota	134	May 14	6
New Jersey	134	May 14	7
Michigan	132	May 12	8
Rhode Island	132	May 12	9
Alaska	131	May 11	10

Individuals in these ten states will spend, on average, 9 extra days working to pay off their total tax liabilities when compared to the national average. At the top of this list, residents of New York and the District of Columbia will work two and one-half weeks more than the average American before fulfilling their tax obligations.

THOSE WHO PAY THEMSELVES FIRST

On the early end of the 1991 Tax Freedom Day calendar are the residents of the following ten states:

State	Number of days	Tax Freedom Day	Rank
Mississippi	114	April 24	51
Alabama	115	April 25	50
Arkansas	116	April 26	49
South Dakota	118	April 28	48
Idaho	118	April 28	47
Missouri	118	April 28	46
Tennessee	119	April 29	45
New Hampshire	119	April 29	44
Kentucky	119	April 29	43
West Virginia	121	May 1	42

Individuals in these states will satisfy their total tax obligations an average of 10 days earlier than the national average.

Mississippi and Alabama residents will finish paying off their taxes more than two weeks earlier than the average American and more than a month earlier than the residents of New York and the District of Columbia.

FEDERAL VS. STATE/LOCAL BURDEN

Tax Freedom Day by state and type of tax is presented in Table 2. Here the effects of federal and state/local taxes are examined separately. Delaware, Connecticut and New Jersey face the highest federal tax burdens this year while the residents of the District of Columbia, New York, and Alaska pay the most in state and local taxes.

TABLE 2.—TAX FREEDOM DAY BY STATE

[Total, Federal, and State/local taxes; calendar year 1991]

	Number of days	Tax Freedom Day	Rank
Total Taxes			
U.S. total	128	May 8	.....
Mississippi	114	April 24	51
Alabama	115	April 25	50
Arkansas	116	April 26	49
South Dakota	118	April 28	48
Idaho	118	April 28	47
Missouri	118	April 28	46
Tennessee	119	April 29	45
New Hampshire	119	April 29	44
Kentucky	119	April 29	43
West Virginia	121	May 1	42
South Carolina	121	May 1	41
Utah	121	May 1	40
Virginia	122	May 2	39
Colorado	122	May 2	38
Oklahoma	122	May 2	37
Indiana	122	May 2	36
Georgia	123	May 3	35
North Carolina	123	May 3	34
Louisiana	124	May 4	33
Florida	124	May 4	32

[1] Tax Foundation, *Federal Tax Burden by State*, 8 pp.

TABLE 2.—TAX FREEDOM DAY BY STATE—Continued

[Total, Federal, and State/local taxes; calendar year 1991]

	Number of days	Tax Freedom Day	Rank
Montana	124	May 4	31
Texas	125	May 5	30
Kansas	125	May 5	29
Wyoming	126	May 6	28
North Dakota	126	May 6	27
Ohio	126	May 6	26
Nebraska	127	May 7	25
Pennsylvania	127	May 7	24
Iowa	127	May 7	23
California	127	May 7	22
Arizona	127	May 7	21
New Mexico	127	May 7	20
Maine	128	May 8	19
Massachusetts	128	May 8	18
Nevada	128	May 8	17
Illinois	129	May 9	16
Oregon	130	May 10	15
Washington	130	May 10	14
Vermont	130	May 10	13
Maryland	131	May 11	12
Wisconsin	131	May 11	11
Alaska	131	May 11	10
Rhode Island	132	May 12	9
Michigan	132	May 12	8
New Jersey	134	May 14	7
Minnesota	134	May 14	6
Hawaii	136	May 16	5
Connecticut	137	May 17	4
Delaware	141	May 21	3
Dist. of Columbia	146	May 26	2
New York	146	May 26	1
Federal Taxes			
U.S. total	83	March 24	.....
Alaska	72	March 13	51
Mississippi	72	March 13	50
Utah	75	March 16	49
Idaho	76	March 17	48
West Virginia	76	March 17	47
South Carolina	76	March 17	46
Wyoming	77	March 18	45
Kentucky	77	March 18	44
South Dakota	77	March 18	43
Alabama	77	March 18	42
Arkansas	77	March 18	41
Maine	78	March 19	40
Louisiana	78	March 19	39
New Mexico	78	March 19	38
Montana	78	March 19	37
Arizona	78	March 19	36
Oklahoma	79	March 20	35
Colorado	79	March 20	34
Iowa	79	March 20	33
North Carolina	80	March 21	32
Georgia	80	March 21	31
Indiana	80	March 21	30
Dist. of Columbia	81	March 22	29
North Dakota	81	March 22	28
Virginia	81	March 22	27
Missouri	81	March 22	26
Nebraska	81	March 22	25
Kansas	81	March 22	24
Tennessee	81	March 22	23
Hawaii	82	March 23	22
Wisconsin	82	March 23	21
Oregon	82	March 23	20
Vermont	83	March 24	19
Texas	83	March 24	18
Minnesota	83	March 24	17
California	83	March 24	16
Ohio	83	March 24	15
Massachusetts	85	March 26	14
Maryland	85	March 26	13
Washington	85	March 26	12
Pennsylvania	85	March 26	11
Michigan	85	March 26	10
Florida	85	March 26	9
New York	86	March 27	8
New Hampshire	86	March 27	7
Illinois	87	March 28	6
Rhode Island	87	March 28	5
Nevada	89	March 30	4
New Jersey	91	April 1	3
Connecticut	94	April 4	2
Delaware	96	April 6	1
State/Local Taxes			
U.S. total	45	February 14	.....
New Hampshire	33	February 2	51
Tennessee	37	February 6	50
Missouri	37	February 6	49
Alabama	38	February 7	48
Arkansas	39	February 8	47
Florida	39	February 8	46
Nevada	39	February 8	45
South Dakota	40	February 9	44
Virginia	41	February 10	43
Illinois	41	February 10	42
Texas	42	February 11	41
Pennsylvania	42	February 11	40
Indiana	42	February 11	39
Mississippi	42	February 11	38
Kentucky	42	February 11	37
Connecticut	42	February 11	36

TABLE 2.—TAX FREEDOM DAY BY STATE—Continued

[Total, Federal, and State/local taxes; calendar year 1991]

	Number of days	Tax Freedom Day	Rank
Georgia	42	February 11	35
Idaho	43	February 12	34
Colorado	43	February 12	33
New Jersey	43	February 12	32
Ohio	43	February 12	31
North Carolina	43	February 12	30
Massachusetts	43	February 12	29
Kansas	43	February 12	28
Oklahoma	43	February 12	27
California	44	February 13	26
South Carolina	44	February 13	25
Rhode Island	44	February 13	24
West Virginia	45	February 14	23
Washington	45	February 14	22
North Dakota	45	February 14	21
Delaware	45	February 14	20
Nebraska	45	February 14	19
Louisiana	46	February 15	18
Utah	46	February 15	17
Maryland	46	February 15	16
Montana	46	February 15	15
Vermont	47	February 16	14
Iowa	47	February 16	13
Oregon	47	February 16	12
Michigan	48	February 17	11
Arizona	49	February 18	10
New Mexico	49	February 18	9
Wyoming	49	February 18	8
Wisconsin	50	February 19	7
Maine	50	February 19	6
Minnesota	51	February 20	5
Hawaii	55	February 24	4
Alaska	60	March 1	3
New York	60	March 1	2
Dist. of Columbia	65	March 6	1

Source: Tax Foundation.

TAX BITE IN THE EIGHT-HOUR DAY

How much time does the average American work each day to pay all taxes? How much does this time differ from state to state?

Measuring the bite that taxes take from the typical worker's 8-hour day offers another illustration of government's weight on the nation's private production. In 1991, the average American will spend 2 hours and 49 minutes each workday satisfying federal, state and local tax collectors. Of that, the federal government will claim 1 hour and 50 minutes while state and local governments will take a 59-minute chunk.

From state to state these times vary widely (see table 3). The residents of Connecticut, for example, will need 2 hours and 4 minutes of the workday to pay their federal tax burden—one half-hour more each day than taxpayers in Mississippi who will work about one and one-half hours to pay Uncle Sam. At the state/local level, taxpayers in New Hampshire will spend 43 minutes each workday to pay state/local tax obligations because there is no broad-based personal income tax and no general sales tax. At the high end, the residents of the District of Columbia will work nearly an hour and a half every day to satisfy their local tax collectors.

TABLE 3.—TAX BITE IN THE 8-HOUR DAY

[State-by-State comparison; calendar year 1991]

	Hours:minutes		
	Total taxes	Federal taxes	State/local taxes
U.S. total	2:49	1:50	:59
Alabama	2:32	1:42	:50
Alaska	2:53	1:34	1:19
Arizona	2:47	1:43	1:04
Arkansas	2:32	1:42	:50
California	2:47	1:49	:58
Colorado	2:40	1:44	:56
Connecticut	3:00	2:04	:56
Delaware	3:06	2:06	1:00
Dist. of Columbia	3:11	1:46	1:25
Florida	2:43	1:52	:51
Georgia	2:41	1:46	:55
Hawaii	2:59	1:47	1:12
Idaho	2:35	1:40	:55

TABLE 3.—TAX BITE IN THE 8-HOUR DAY—Continued

[State-by-State comparison; calendar year 1991]

	Hours:minutes		
	Total taxes	Federal taxes	State/local taxes
Illinois	2:49	1:55	:54
Indiana	2:41	1:46	:55
Iowa	2:47	1:45	1:02
Kansas	2:44	1:47	:57
Kentucky	2:37	1:41	:56
Louisiana	2:43	1:42	1:01
Maine	2:48	1:42	1:06
Maryland	2:52	1:51	1:01
Massachusetts	2:48	1:51	:57
Michigan	2:54	1:51	1:03
Minnestoa	2:57	1:49	1:08
Mississippi	2:30	1:34	:56
Missouri	2:36	1:47	:49
Montana	2:44	1:43	1:01
Nebraska	2:46	1:47	:59
Nevada	2:48	1:57	:51
New Hampshire	2:36	1:53	:43
New Jersey	2:56	2:00	:56
New Mexico	2:47	1:42	1:05
New York	3:12	1:52	1:20
North Carolina	2:42	1:45	:57
North Dakota	2:46	1:46	1:00
Ohio	2:46	1:49	:57
Oklahoma	2:41	1:43	:58
Oregon	2:50	1:48	1:02
Pennsylvania	2:46	1:51	:55
Rhode Island	2:53	1:55	:58
South Carolina	2:39	1:41	:58
South Dakota	2:35	1:41	:54
Tennessee	2:36	1:47	:49
Texas	2:44	1:49	:55
Utah	2:39	1:39	1:00
Vermont	2:51	1:49	1:02
Virginia	2:40	1:46	:54
Washington	2:51	1:51	1:00
West Virginia	2:38	1:40	:58
Wisconsin	2:53	1:48	1:05
Wyoming	2:46	1:41	1:05

Source: Tax Foundation.

In 1991, the residents of 43 states and the District of Columbia will have to work longer than they did in 1990 before their state-specific Tax Freedom Days, and in 27 of the states the increased burden exceeds the three-day advance in the nationwide date (see table 4). The taxpayers in four states will be done with taxes earlier in 1991 that in 1990, and three states have the same date this year as last. The steepest increases in tax burdens are occurring in Connecticut, Georgia, Louisiana, Nebraska, New Hampshire and West Virginia, where Tax Freedom Day is six days later than in 1990.

TABLE 4.—TAX FREEDOM DAY BY STATE

[Calendar years 1990–1991]

	Tax Freedom Day 1990	Tax Freedom Day 1991	Change from 1990 to 1991
U.S. total	May 5	May 8	3
Alabama	April 21	April 25	4
Alaska	May 11	May 11	0
Arizona	May 2	May 7	5
Arkansas	April 22	April 26	4
California	May 3	May 7	4
Colorado	April 28	May 2	4
Connecticut	May 11	May 17	6
Delaware	May 18	May 21	3
Dist. of Columbia	May 21	May 26	5
Florida	May 2	May 4	2
Georgia	April 27	May 3	6
Hawaii	May 16	May 16	0
Idaho	April 25	April 28	3
Illinois	May 6	May 9	3
Indiana	April 28	May 2	4
Iowa	May 5	May 7	2
Kansas	May 1	May 5	4
Kentucky	April 25	April 29	4
Louisiana	April 28	May 4	6
Maine	May 6	May 8	2
Maryland	May 8	May 11	3
Massachusetts	May 3	May 8	5
Michigan	May 8	May 12	4
Minnesota	May 13	May 14	1
Mississippi	April 19	April 24	5
Missouri	April 25	April 28	3
Montana	May 6	May 4	−2
Nebraska	May 1	May 7	6
Nevada	May 9	May 8	−1
New Hampshire	April 23	April 29	6

TABLE 4.—TAX FREEDOM DAY BY STATE—Continued

[Calendar years 1990–1991]

	Tax Freedom Day 1990	Tax Freedom Day 1991	Change from 1990 to 1991
New Jersey	May 9	May 14	5
New Mexico	May 4	May 7	3
New York	May 23	May 26	3
North Carolina	May 1	May 3	2
North Dakota	May 5	May 6	1
Ohio	May 1	Ma 6	5
Oklahoma	April 28	May 2	4
Oregon	May 5	May 10	5
Pennsylvania	May 3	May 7	4
Rhode Island	May 9	May 12	3
South Carolina	April 26	May 1	5
South Dakota	April 28	April 28	0
Tennessee	April 25	April 29	4
Texas	May 2	May 5	3
Utah	May 2	May 1	−1
Vermont	May 11	May 10	−1
Virginia	April 28	May 2	4
Washington	May 9	May 10	1
West Virginia	April 25	May 1	6
Wisconsin	May 8	May 11	3
Wyoming	May 2	May 6	4

Source: Tax Foundation.

TAX FREEDOM DAY HISTORY

Table 5 traces the history of Tax Freedom Day since 1929. In that year, taxpayers had satisfied their total tax obligations by February 9th. Forty years later in 1969, Tax Freedom Day pushed into the month of May for the first time, landing on May 1st.

TABLE 5.—TAX FREEDOM DAY AND TAX BITE IN THE 8-HOUR DAY

[Selected calendar years 1929–1991]

Year	Tax Freedom Day	Tax bite in the 8-hour day (hours:minutes)
1929	February 9	:52
1931	February 15	1:00
1933	March 5	1:24
1935	March 1	1:17
1937	March 6	1:24
1939	March 6	1:24
1940[1]	March 8	1:29
1941	March 17	1:40
1942	March 19	1:43
1943	April 6	2:06
1944[1]	March 30	1:58
1945	April 1	1:59
1946	March 31	1:57
1947	April 3	2:01
1948[1]	March 28	1:55
1949	March 24	1:48
1950	April 3	2:02
1951	April 10	2:11
1952[1]	April 10	2:12
1953	April 10	2:12
1954	April 6	2:05
1955	April 9	2:09
1956[1]	April 11	2:13
1957	April 13	2:14
1958	April 10	2:12
1959	April 14	2:16
1960[1]	April 17	2:22
1961	April 18	2:22
1962	April 18	2:21
1963	April 19	2:23
1964[1]	April 15	2:18
1965	April 15	2:17
1966	April 18	2:21
1967	April 20	2:24
1968[1]	April 25	2:32
1969	May 1	2:38
1970	April 28	2:34
1971	April 25	2:31
1972[1]	April 29	2:36
1973	April 29	2:36
1974	May 3	2:41
1975	April 28	2:35
1976[1]	May 1	2:40
1977	May 3	2:41
1978	May 3	2:41
1979	May 3	2:41
1980[1]	May 1	2:39
1981	May 4	2:43
1982	May 3	2:41
1983	April 30	2:38
1984[1]	April 28	2:36
1985	May 1	2:38
1986	May 2	2:40
1987	May 4	2:43
1988[1]	May 3	2:43
1989	May 4	2:44
1990	May 5	2:44
1991[2]	May 8	2:49

[1] Leap year makes Tax Freedom Day appear a calendar day earlier.

[2] Estimate.

Source: Tax Foundation.

May 8, 1991, is the latest Tax Freedom Day on record, continuing the decades-long trend of rising tax obligations. In the 1980s, tax cuts under the Economic Recovery Tax Act of 1981 (ERTA) helped reduce the federal burden, so Tax Freedom Day retreated to April 28 in 1984. Since then, major tax bills have boosted the date to its present high of May 8. Sixteen separate tax bills passed since ERTA have increased taxes, and except for the Tax Reform Act of 1986, tax legislation since 1981 has been purely an exercise in revenue-raising.

The state/local tax burden peaked in the 1976–1977 period before Proposition 13 in California set off a successful round of tax limitation measures in the states which caused it to dip until 1981. Then resumed its steady long-term rise, and continued fiscal pressures in many states indicate this trend is likely to continue.

TAX FREEDOM DAY OUTLOOK

Although the average American will work until May 8 and forfeit over 35 percent of his total income in 1991, the government will spend all that money and more. Tax Freedom Day does not reflect the estimated $318 billion in federal deficit spending for 1991, but the impact of this deficit will be felt in future tax increases and/or a weaker economy.

Spending a record 128 days from January 1 to May 8 to pay off the tax collectors may come as a shock to many Americans. But the combined pressures of a persistent federal budget deficit, demands to expand funding for new and existing programs, budget crises in numerous states and the slowdown in income growth could easily postpone Tax Freedom Day even further in years to come.

TAX FREEDOM DAY CALCULATION

Tax Freedom Day represents the nation's "effective" tax rate or total taxes as a percentage of total income. For 1991, the Tax Foundation estimates that rate to be 35.1 percent. The associated 1991 tax and income figures for the U.S. and each state's share of these totals are presented in table 6. In the state of Texas, for example, total taxes are $105.7 billion and total state income is estimated at $309.7 billion. Therefore, Texas's ratio of taxes to income is 34.1 percent—1 percent lower than the national average. While nationwide Tax Freedom Day is May 8, Texas's overall tax rate causes its Tax Freedom Day to occur three days earlier on May 5.

TABLE 6.—TAXES AS A PERCENTAGE OF INCOME BY STATE

[Total, Federal and State/local taxes; Calendar year 1991]

	Taxes (in billions of dollars)			Income (NNP)	Taxes as a percent of total income		
	Total	Federal	State/local		Total	Federal	State/local
U.S. total	1,780.1	1,157.9	622.2	5,069.8	35.1	22.8	12.3
Alabama	20.6	13.8	6.8	65.1	31.6	21.2	10.4
Alaska	6.0	3.3	2.7	16.7	36.0	19.6	16.4
Arizona	22.7	14.0	8.7	65.2	34.8	21.5	13.3
Arkansas	11.4	7.6	3.8	36.0	31.8	21.2	10.6
California	233.7	153.1	80.5	672.2	34.8	22.8	12.0
Colorado	22.6	14.7	7.9	67.6	33.4	21.7	11.7
Connecticut	34.8	24.0	10.8	92.8	37.5	25.9	11.6
Delaware	5.6	3.8	1.8	14.4	38.7	26.3	12.5
District of Columbia	6.7	3.7	3.0	16.8	39.9	22.1	17.7
Florida	88.0	60.5	27.5	259.5	33.9	23.3	10.6
Georgia	40.3	26.4	13.9	119.9	33.6	22.0	11.6
Hawaii	8.9	5.3	3.6	23.8	37.3	22.3	15.0
Idaho	5.2	3.3	1.9	16.1	32.4	20.7	11.7
Illinois	89.8	60.9	28.9	254.7	35.3	23.9	11.4
Indiana	34.3	22.6	11.8	102.4	33.5	22.0	11.5
Iowa	17.7	11.1	6.6	51.0	34.7	21.8	13.0
Kansas	16.4	10.7	5.7	48.1	34.2	22.2	11.9
Kentucky	19.4	12.5	6.9	59.4	32.6	21.0	11.6
Louisiana	22.2	14.0	8.3	65.7	33.9	21.3	12.6
Maine	8.1	4.9	3.2	23.1	35.0	21.2	13.7
Maryland	41.0	26.5	14.5	114.5	35.8	23.2	12.7
Massachusetts	53.3	35.2	18.1	152.2	35.0	23.2	11.9
Michigan	68.1	43.6	24.5	187.7	36.3	23.2	13.1
Minnesota	32.8	20.3	12.5	89.2	36.8	22.8	14.0
Mississippi	11.1	7.0	4.1	35.7	31.2	19.6	11.6
Missouri	31.7	21.7	10.0	97.6	32.5	22.2	10.3
Montana	4.5	2.8	1.7	13.2	34.1	21.4	12.7
Nebraska	10.0	6.4	3.6	28.9	34.7	22.2	12.5
Nevada	8.7	6.1	2.6	24.8	35.0	24.4	10.6
New Hampshire	8.5	6.1	2.4	26.0	32.6	23.5	9.1
New Jersey	78.3	53.3	25.0	213.5	36.7	25.0	11.7
New Mexico	8.1	5.0	3.1	23.3	34.9	21.3	13.5
New York	175.6	102.9	72.7	439.0	40.0	23.4	16.6
North Carolina	39.2	25.4	13.7	115.9	33.8	21.9	11.8
North Dakota	3.6	2.3	1.3	10.4	34.6	22.1	12.4
Ohio	71.8	47.3	24.5	207.3	34.6	22.8	11.8
Oklahoma	17.7	11.4	6.3	53.0	33.5	21.6	11.9
Oregon	18.5	11.7	6.8	52.1	35.5	22.5	13.0
Pennsylvania	83.7	56.0	27.7	241.3	34.7	23.2	11.5
Rhode Island	7.5	5.0	2.5	20.8	36.1	24.0	12.1
South Carolina	18.4	11.6	6.7	55.6	33.0	20.9	12.1
South Dakota	3.7	2.4	1.3	11.4	32.2	21.1	11.1
Tennessee	27.4	18.8	8.6	84.2	32.5	22.3	10.2
Texas	105.7	70.4	35.3	309.7	34.1	22.7	11.4
Utah	8.6	5.3	3.3	25.9	33.2	20.6	12.6
Vermont	3.8	2.4	1.4	10.8	35.6	22.7	12.9
Virginia	44.6	29.7	14.9	133.9	33.3	22.2	11.1
Washington	34.7	22.6	12.1	97.5	35.6	23.2	12.4
West Virginia	8.8	5.5	3.3	26.6	33.0	20.7	12.3
Wisconsin	33.8	21.0	12.8	93.8	36.0	22.4	13.6
Wyoming	3.1	1.9	1.2	8.9	34.5	21.0	13.5

Source: Tax Foundation methodology and published and unpublished data from U.S. Department of Commerce, Bureau of Economic Analysis; and Government Finance Division, Bureau of the Census.

The 1991 estimated totals for federal and state/local tax and income amounts are based on National Income and Product Account (NIPA) data produced by the U.S. Department of Commerce, Bureau of Economic Analysis. The Tax Foundation, in cooperation with other organizations, has developed a special allocation methodology to distribute the total federal and state/local tax burden by state.[2] This allocation determines the geographic origin of taxes to show where the burden of taxes is actually borne. Total income in the Tax Freedom Day analysis is represented by net national product (NNP).[3] Each state's share of this income total is allocated based on its specific state product and personal income.

While the results presented in this report are useful in making broad state-by-state comparisons, caution should be used in drawing conclusions from any one table.

A single analysis cannot fully reveal the entire story about a state's taxation. While this analysis specifically examines each state's total tax revenues, states may collect significant amounts of revenues from nontax sources.

Despite the allocation of each state's tax and income amounts based on their geographic origin, the exact degree of tax burden that a state may export to nonresidents is not quantifiable. For example, a portion of sales taxes in a high tourist state will be paid by nonresidents.

Finally, relatively small differences in the tax and income figures between states may cause big differences in rankings.

[2] Tax Foundation, *The Tax Burden in Relation to National Income and Product, Research Aid No. 4*, 24 pp.

[3] Net National Product (NNP) equals Gross National Product less capital consumption allowances. A technical paper is available which explains why NNP is best for tax burden analysis.

THE CLONING OF THE CYSTIC FIBROSIS GENE: AN AMERICAN BIOMEDICAL RESEARCH SUCCESS STORY

HON. GEORGE W. GEKAS
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. GEKAS. Mr. Speaker, on March 13, 1991, the Congressional Biomedical Research Caucus conducted a briefing and reception for Members and staff of the Congress. This was our third health policy briefing convened by the caucus, which illustrates the success of basic biomedical research in discovering the causes of disease and potential remedies. The cloning of the cystic fibrosis gene demonstrates why America is preeminent in the world in biomedical research. We were pleased that caucus cofounder Representative BILL RICHARDSON (NM) was present for the event and made supportive opening remarks. Also, caucus member Representative BILL GREEN (NY) was in attendance. The caucus has grown in membership to 54 members and we welcome new participation. I am pleased that there has been great interest in the caucus programs throughout the Nation, including in my district, the Hershey Medical Center, where outstanding basic biomedical research is conducted.

Our moderator and speakers on the cloning of the cystic fibrosis gene are truly world class in the field of biomedical research and are excellent examples of the way research is funded and conducted in the United States. Dr. Bill Brinkley, chairman of the department of cell biology and co-director of the Gregory Fleming James Cystic Fibrosis Research Center, University of Alabama at Birmingham demonstrates how research funded by the Federal Government is conducted at universities across the United States in cooperation with private funding sources. The cystic fibrosis center in which Dr. Brinkley is a co-director was founded with the help of the Cystic Fibrosis Foundation, a private non-profit organization. The center depends on scientists receiving individual investigator initiated research grants (ROIs) from the National Institutes of Health. The success of biomedical research in the United States is based on this untargeted approach to conducting basic research without any director of a center determining a scientist's area of investigation. Dr. Brinkley is a leading cell biologist and scientific investigator on cell behavior.

The partnership of the Cystic Fibrosis Foundation with the Federal Government in funding biomedical research has increased our ability to find a cure for one of the most common genetic diseases in our country. President Robert K. Dresing, founder and CEO of the Cystic Fibrosis Foundation has been the support and inspiration for founding many such cystic fibrosis centers at universities across our Nation. It is because of selfless volunteers like President Dresing that we are able to expand out tax dollars in biomedical research with private funds that has brought us to the brink of a remedy. Without his effort and vision, we would not have made the progress we have toward ultimately ending this tragic disease.

The final two speakers before the caucus are the team responsible for cloning the cystic fibrosis gene: Dr. Francis S. Collins, professor and chief, Division of Medical Genetics, University of Michigan, Ann Arbor, and Dr. Richard Boucher, professor and director, Cystic Fibrosis Research Center, University of North Carolina. They are both directly involved in the research which is solving the puzzle of the cause and potential remedies for cystic fibrosis. It is Dr. Collins' laboratory and leadership in developing the technique of "gene jumping" that made the cloning of the cystic fibrosis gene possible. We look forward to other successes in employing Dr. Collins' methods to other genetic diseases. We owe him much gratitude for his fine work and to bringing us to the threshold of the discovery of a cure for this disease which robs our children of a full life span.

Dr. Boucher brings us from the laboratory to the patient's bedside and the importance of clinical biomedical research in treating individuals with cystic fibrosis and working with families who have this genetic trait. He is a leading scientific investigator and clinician. I am sure that in the near future because of Dr. Boucher's work in "gene therapy" we will have great success in caring for patients with cystic fibrosis and extending their lives.

The remarks of all four of our speakers before the caucus on the cystic fibrosis story were outstanding and for that reason I want my colleagues to have the benefit of them without reducing the text. Over the next 2 days I will submit their statements in full. The text of Dr. Brinkley and Mr. Dresing's remarks before the Congressional Biomedical Research Caucus follow and Dr. Collins and Dr. Boucher's remarks before the caucus will be included tomorrow:

Dr. BRINKLEY: Thank you Congressman Gekas, distinguished members of the caucus and guests. It is a very special privilege to address this caucus today and before I introduce our first speaker, I want to say how grateful we in the scientific community are for the Congressional Biomedical Research Caucus. Indeed, we appreciate the opportunity afforded to bench scientists to appear before Members of Congress and the health policy staff, in an informal way, to share the exciting new developments taking place at the cutting edge of basic research. Hopefully, programs such as the one we bring you today, will be helpful as you formulate health policy and establish funding priorities. Of course from our point of view, it is the latter, the funding priorities, that we consider to be the most important issue at hand. We welcome the opportunity to share information coming from our laboratories and to document ways in which America's investment in biomedical research is paying off in dramatic dividends in prevention, diagnosis and treatment of major diseases.

For many years, the U.S. Congress has been the best friend and chief benefactor of American science. Since World War II, there has been a sustained effort to improve the health of American citizens. Through the creation of the National Institutes of Health and the National Science Foundation and a policy of funding individual investigators and small laboratories via a peer review system, American biomedical science has flourished. Today, we enjoy world preeminence in science and technology and are the unquestionable leaders in biomedical science and medical research. It is no accident that over the past 40 years, U.S. scientists have dominated the quest for Nobel Prizes, winning 61 of the 95 prizes awarded in medicine. By the same token, we should remember that these awards were for work done 20 to 30 years ago. Therefore our scientific leadership is very fragile and must be sustained through a stable funding policy.

The scientific community had a real scare in 1990. The funding of new and competing grants at NIH dropped from a high of 6,000 in 1986 to 4,600 in 1990, and near panic spread throughout the country. If this trend continued, many felt that American leadership in biomedical research and technology would go the way of the steel, automotive and electronics industries. For the first time, the biomedical community spoke out as it never had before. Congress heard our pleas and in fiscal year 1991 restored the 6,000 RPGs. Some argue that restoring the number of grants is not the way to go—we must seek a more realistic formula that will balance and stabilize research funding. Nevertheless, given the deficit and the state of our economy, many are grateful for the increase but more funds are needed for the future—a need clearly expressed by President Bush's proposed 6 percent increase for NIH and a 17.5 percent increase for NSF for fiscal year 1992.

Considering the state of our economy and the legitimate needs of many other deserving elements of society, some feel that our Government is investing disproportionate levels of funding for biomedical research. I hope that today's presentation will serve to justify this investment and provide testimony for the need for additional funds in the future to maintain and stabilize America's biomedical science enterprise.

In his opening remarks at the first Congressional Biomedical Research Caucus on October 3, 1990, Dr. Leon Rosenberg, Dean of the Yale University School of Medicine, cited the remarkable achievements in cystic fibrosis research as a shining example of success of the U.S. biomedical research effort. Indeed, there have been many success stories in the annals of American medical science but few, if any, provide a more salient example of the rewards of the NIH support of untargeted, fundamental research, than the CF story. This remarkable achievement, made possible by teamwork and state-of-the-art biotechnology, provides a dramatic example of the flow of progress from the laboratory bench to the patient's bedside. Moreover, it provides hope to hundreds of thousands of CF children and young adults throughout the world. It should be remembered however, that this achievement would not have been possible without a knowledge base generated through 30 years of basic research—research funded through NIH grants awarded to individual investigators in small laboratories at universities and medical schools throughout America.

Today we are fortunate to have as our speakers three individuals who are playing an important role in this important research and patient care effort, each in his own way representing the best of management and administration, brilliant scientific strategy, fundamental research, gene therapy and improvements in prevention and patient care.

At this time I would like to introduce our first speaker. He does not wear a white lab coat, nor does he run a research lab or answer to the title of doctor. Nevertheless, his unique role in the quest for the cystic fibrosis gene is no less impressive. Mr. Robert Dresing, president and CEO of the Cystic Fibrosis Foundation, is a parent of a 23-year-

old son who has cystic fibrosis. He served on the board of trustees since 1968 and was elected president of the board in 1982. In 1984, he assumed the leadership of the foundation. Having been a very successful self-employed entrepreneur and businessman, he realized that teamwork and collaboration were essential elements in any successful venture. With the help of an outstanding organization, he set about to establish cystic fibrosis research centers across the Nation. I would be remiss if I neglected to tell you that the first CF research center was established at the University of Alabama at Birmingham. Today there are 13 such centers at major universities and medical centers across the North American continent. Bob Dresing has also helped create a network of over 125 care centers for the highest quality of diagnosis and treatment of cystic fibrosis. His driving ambition is to put the foundation out of business in his son's lifetime. At this time I would like to call on Mr. Robert Dresing, president and CEO of the Cystic Fibrosis Foundation, who, indeed, may soon be on the verge of going out of business.

Mr. ROBERT K. DRESING: Thank you Dr. Brinkley and members of the biomedical research caucus for inviting me to meet with you today.

As president of the Cystic Fibrosis Foundation I am very proud to say that the quality and momentum of advances in cystic fibrosis science remians unsurpassed. We are frequently told that cystic fibrosis research has reached the stage of becoming one of the greatest success stories since polio was eliminated in this century. Our milestones, however, have not been reached easily. But our challenges had a way of forcing us to become entrepreneurs of science—finding the best researchers and committing adequate resources to them.

In the few minutes we have I'd like to present a progress report. Our progress provides hope to individuals by applying what is learned in the laboratory to the bedside—to the patient. We have seen that funding basic research has a positive rippling effect, with one discovery leading to another. Hopefully this will lead us back to making a difference to the person with CF.

And if there's one point I particularly want to hammer home to you today, it is that science is a process. If this process is slowed by a lack of funding and support, the pace of biomedical research and all that we have achieved could be irreparably damaged.

We are where we are today because of an important partnership. A partnership joining the CFF foundation, the NIH, academic researchers and Congress. As in all relationships, the development of the science—which is leading us to our ultimate victory—has involved the cooperation, input and dedication of all participants.

The 14-year partnership started with the congressionally-mandated state of the art study conducted by the NIH and the Cystic Fibrosis Foundation in 1977. The study urged the recruitment of new scientific minds into CF research. By issuing more than 10 requests for funding during the past decade, the various institutes of NIH have educated the scientific community and encouraged quality of research.

In another, equally important recommendation of the study, the foundation—at the NIH's encouragement—established a network of CF research centers with an investment of $23 million of our own money. Our network of 13 CF research centers ensures scientists the opportunity to attack this disease and devote all of their energies toward finding a cure. These centers have become the focal point for the dramatic scientific advances that we are currently witnessing.

As a result of both the congressional appropriation process and the presence of highest quality research, the centers have recently been recognized and awarded as NIH/CFF centers of excellence.

Because of the foundation's concern about the possibility of good science going unfunded, 2 years ago we launched a special initiative with the NIH to fund grants that were submitted to NIH, earned good priority scores and yet could not be funded. To date we have been able to fund $3 million worth of excellent work that would otherwise go unsupported. We did this as a stop-gap measure, however, to prevent slowing down the momentum we have achieved. Frankly, as a small foundation we cannot continue to bear such a financial burden. And that is why we are asking for your increased support to the NIH.

Although our successes are many, the timetable, I feel, has been far too long. I am frustrated daily by every single death of a child with CF. But the momentum of the science we are seeing today gives us every reason for hope and optimism.

I wish we somehow had the vision to support and carry out everything right. The war on cancer begun in the early 70's illustrates how financial investments can yield returns in a magnitude never predicted. While the cancer death rate is still intolerable, I firmly believe that the biotechnology revolution that has developed TPA, the growth hormone, and other new treatments spring directly from the country's investment in basic science nearly 20 years ago.

We've seen how investments in biomedical research can save money in the long run. One example shows that improved outpatient breast biopsies provide an alternative for nearly half a million women annually. Within 1 year, money saved by reduced diagnosis and treatment costs could reach $169 million—NIH made a $10.6 million investment.

Another NIH example shows laser treatment for Diabetic retinopathy has greatly reduced the severe vision loss and saved money. Clinical trials evaluating the procedure required $48.2 million. The potential annual savings are more than $2 billion.

These are examples of how clinical research makes a difference. The foundation now has more than a dozen major clinical trials of new treatments involving half of the 120 CF care centers around the country. Again, we are trying to apply what is learned through basic science to the patient as quickly as possible.

We are selfish as parents of CF children. I am particularly selfish because I hear the clock ticking away. But I recognize that, with increasing investment in biomedical research, the light at the end of the tunnel we are finally seeing is indeed hope. But for us its been a 36-year process to get to this point. We started at ground zero. And now the results of biomedical research are exploding not only in scientific journals but also on the pages of major newspapers and magazines. This indicates to me that we are beginning to see the incredible return on the investment. This is a critical time for funding to be continued and our scientists supported.

We must not allow the progress, the momentum, of scientific achievements to be interrupted. We are gaining ground and must maintain our pace. I say there's no limit on the speed this research can move. The most challenging time may be ahead as dollars need to stretch farther to support new technologies by biomedical researchers. And you remain instrumental in our track record of success.

Some people have referred to the discovery of the cystic fibrosis gene as our success story. But, as a parent of a child with cystic fibrosis I do not want to call it a success story yet. To date, we have not saved a single life and for this reason we feel a very real sense of urgency. Cystic fibrosis continues to be the most common genetic disease robbing American children of precious years of life. There is no cure but recent advances continue to give us hope. Truly there should be no limits to what we can achieve together.

Throughout this process, we continue to make wonderful friends, on the Hill, with the NIH, and the scientific community. I will introduce you to two of these friends today.

TRIBUTE TO THE EASTERN ALAMANCE EAGLES

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. COBLE. Mr. Speaker, as most people are quite aware by now, the State of North Carolina, is the home of this year's NCAA national basketball champions, the Duke University Blue Devils. We in the Sixth District of North Carolina can boast of our own basketball champions this year. Ironically, they were crowned on the home floor of Duke's arch rivals, the University of North Carolina Tar Heels. The North Carolina 3–A boys' high school basketball champions are the Eagles of Eastern Alamance High School in Mebane, NC. The Eagles captured the State title by defeating T.C. Roberson High School of Skyland, NC, 69 to 66 on March 23, 1991, at the Dean E. Smith Center in Chapel Hill.

The Eagles of Eastern Alamance withstood a furious last-minute rally by the Roberson Rams to win their first State championship. Eastern Alamance led 65 to 56 with less than 3 minutes to play, but Roberson was down by only 1 point with just 49 seconds left in the game. A valiant effort by the Eagles held off the final charge of the Rams including a 60-foot shot by Roberson which bounded off the backboard and front rim at the buzzer to seal the championship for the Eagles.

A successful season, which culminates in a State championship, is not the work of a single individual. It takes a team effort to scale such lofty heights. But that team must be led in the right direction, and much of the credit for leading the Eagles to the 3–A championship must be given to their fine head coach Tal Jobe. Along with his assistants John Moon and Mike Robinson, Coach Jobe assembled an excellent basketball squad which capped off a tremendous season with the state title.

Congratulations to every member of the Eagles' basketball squad including Tyrone Satterfield—who was named as the championship game MVP—Chad Andrews, Dallas Berry, Mikey Bynum, Greg Harris, Chris Hartley, Bryant Johnson, David Lemon, Derek Mann, Anthony Noell, William Oliver, Carl Parker, and Carlo Parker. Behind the scenes

support, which is vital to any winning squad, was tremendous for the Eagles. Managers Curtis Clark and Vance Newlin, statistician Tracy Clark, and video manager Garth Saunders all played key roles during the Eagles' drive to the title.

On behalf of the citizens of the Sixth District of North Carolina, we offer our congratulations to principal Cecil Caison, the faculty and staff, the families and friends of the team, and to all of the fans and supporters of Eastern Alamance High School on winning the North Carolina 3–A boys' high school basketball championship. To coin a phrase, the Eagles got it done in '91!

INTRODUCTION OF THREE MISCELLANEOUS TARIFF BILLS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mrs. KENNELLY. Mr. Speaker, today I am introducing three miscellaneous tariff bills.

The first would suspend the current 11 percent ad valorem duty on nonmetal, plastic duty for 3 years. The second would suspend the current 9 percent ad valorem duty on porcelain ornaments for 3 years. And the third would suspend the current 13.5 percent ad valorem duty on ceramic—(nonporcelain)—mugs for 3 years.

These items are generally not produced in the United States. Further, it is my understanding that the resultant revenue loss from enactment would be minimal and that these are noncontroversial issues. I would urge my colleagues support.

INTRODUCTION OF THE LIMITED PARTNERSHIP ROLLUP REFORM ACT OF 1991

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. DINGELL. Mr. Speaker, I am pleased to join my colleagues on the Energy and Commerce Committee in introducing legislation to curb abuses in partnership rollup transactions. And I want to commend the Chairman, Mr. MARKEY and Ranking Republican Mr. RINALDO of our Subcommittee on Telecommunications and Finance for their dedicated work on the series of hearings which focused attention on the serious negative impacts of rollups on individual investors.

The record shows that many general partners are rolling up or combining several limited partnerships into one unit that trades on a stock exchange. Unscrupulous sponsors are using abusive practices to stampede investors into voting in favor of the rollup, and the stock price almost always dramatically sinks once the unit becomes publicly traded. The investors are sunk—as Jonathan Swift observed:

Subscribers here by thousands float,
And jostle one another down.
Each paddling in his leaky boat,
And here they fish for gold and drown.

—while the general partner makes out like a bandit.

We have a strong national interest in preserving the fairness and honesty of our securities markets. Accordingly, we are today sponsoring legislation to amend the proxy solicitation and related provisions of the Federal securities laws with respect to partnership rollup transactions. These amendments will provide investors with a number of important protections including meaningful dissenters' rights.

We anticipate prompt hearing and markup of this important legislation. We encourage our colleagues' support.

TWENTIETH ANNIVERSARY OF NATIONAL HUNTING AND FISHING DAY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. SCHULZE. Mr. Speaker, today I'm introducing a joint resolution to recognize the twentieth anniversary of National Hunting and Fishing Day, to be celebrated on September 28, 1991.

Over the past 50 years hunters and fishermen have contributed over $12 billion to conservation programs through license fees, self-imposed excise taxes, and currently provide $3 million a day for conservation programs. In addition, sportsmen contribute $28 billion into our Nation's Economy while enjoying healthy exercise, peaceful solitude, and appreciation of the great outdoors while hunting and fishing.

This resolution will provide deserved national recognition for the important contributions sporting men and women have made to the respectful use of our wildlife and natural resources.

I urge the passage of this resolution.

TRIBUTE TO RICHARD R. DUNDERMAN

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. GILLMOR. Mr. Speaker, I rise today to congratulate a constituent of mine, Richard R. Dunderman, upon being named citizen of the year by the Antwerp Chamber of Commerce.

This award is given to recognize outstanding individuals for their contributions to the community. There is no doubt in my mind that Richard Dunderman deserves such recognition.

Richard Dunderman has met many challenges with great honor and distinction. Whether it has been as Antwerp police chief, or as a chief hospital foreman, or during his proud service in the U.S. Navy, he has earned the respect and admiration of his peers.

Mr. Speaker, our future depends on setting positive examples of service and competence for our children. That is why I am pleased to see that Richard Dunderman has been honored in this way. He deserves to be held up as an example of dedication and integrity. I congratulate him and his family.

INTRODUCTION OF TARIFF TECHNICAL CORRECTION LEGISLATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. DONNELLY. Mr. Speaker, I am introducing a bill today to make a technical correction in the tariff suspension applicable to clomiphene citrate.

Clomiphene citrate is a pharmaceutical preparation, approved by the Food and Drug Administration, used to treat human infertility. In bulk form, the product is a white powder which is then compressed into tablets and packaged for oral administration to the patient.

Under the prior Tariff Schedules of the United States [TSUS], clomiphene citrate was importable duty free in all forms under a temporary suspension provision. There is no known domestic source of this product. When the United States switched to the Harmonized Tariff System [HTS] in 1989, the schedules became categorized in a way so as to distinguish between bulk products and finished goods.

As a result of the conversion to HTS, the reference to the clomiphene citrate temporary duty suspension in HTS 9902.29.95 resulted in a retention of duty free status only for bulk product. Since the domestic firms importing the bulk product, of which there are only two, import both bulk powder and finished tablets, it is important to continue the same duty free treatment that existed before the conversion to the HTS. Absent this result, the firm that finds it necessary to import the finished tablet will be unfairly disadvantaged relative to prior law, in a very small market.

Treating bulk clomiphene differently from the finished product is an unintended consequence of the conversion to HTS. The simple solution is to amend the temporary duty suspension language so that it refers to both sections of the schedules in which the product is currently classified: either 2922.19.15 or 3004.90.60. The latter section has only recently been confirmed by the Customs Service as the correct one for the finished product. My bill will accomplish the necessary technical correction by adding the reference to section 3004.90.60.

Mr. Speaker, this is noncontroversial legislation, and I urge the chairman of the Subcommittee on Trade, Mr. GIBBONS, to hold hearings on this issue in the context of miscellaneous trade and tariff bills after the deadline for introduction of those bills on April 19.

THE JERSEY SHORE WELCOMES HOME THE TROOPS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. PALLONE. Mr. Speaker, on Sunday, April 21, the New Jersey shore communities of Manasquan and Sea Girt will jointly host a statewide celebration to welcome home troops who served in the Persian Gulf. I am sure that the residents of both communities, as well as many visitors, will turn out in large numbers to welcome these returning heroes.

Those being honored include the 213th medical detachment based at the Sea Girt Army Camp and various members of the Army and Air Force National Guard, including the 170th Air Refueling Group based in Pomona, New Jersey. The troops will be officially welcomed home by Maj. Gen. Vito Morgano, the State commander of the New Jersey National Guard.

Plans call for a parade through both communities followed by a ceremony at the Sea Girt Army Camp. Businesses and homes along the way will be decorated to show the widespread support that these brave servicemen and servicewomen have earned from their friends and neighbors on the home front. The distinguished mayors of both communities—William M. MacInnes of Sea Girt and John L. Winterstella of Manasquan—have been devoting a great deal of their time and energy to making sure that Sunday's event is successful. I am confident that an enthusiastic Jersey shore reception will await the returning troops.

Mr. Speaker, we will probably never be able to fully express our gratitude to our American troops who made Operation Desert Storm such a brilliant success. The parades and other welcoming ceremonies that are taking place throughout America are but a small symbol of our admiration for those who sacrificed so much and demonstrated such dedicated professionalism in the cause of upholding international law. We welcome these troops home and wish them all the best upon their return to civilian life, in the knowledge that their fellow citizens recognize, appreciate and will never forget what they accomplished.

BIRMINGHAM NEWS RECEIVES PULITZER PRIZE

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. ERDREICH. Mr. Speaker, I would like to take this opportunity to congratulate my hometown newspaper, the Birmingham News, on winning the Pulitzer Prize for editorial writing. The paper's three-member editorial board captured the most prestigious prize in journalism with a nine-part series of editorials on the inequities of Alabama's State tax structure.

The series served as a catalyst for what has become the most united front for tax reform in the history of the State. The News brought home the gross unfairness of a system that taxes formula for infants, but not formula for calves. With its insightful, thoughtful series, the News glued together a coalition of business, education, and community leaders spearheading the effort to bring equity and fairness to Alabama's tax system.

The State of Alabama, and my district in particular, is fortunate to have a newspaper that not only fulfills its role as the State's leading newspaper of record, but takes to heart its responsibility as a civic leader as well. That civic-mindiness is best personified by the News' employees. Since 1909, the News has operated under the leadership of the Hanson family, whose civic contributions to our State and community over the years have been endless. The editorial page won the Pulitzer under the guidance of Ron Casey, who was raised in a steel-manufacturing Birmingham suburb. Other members of the Pulitzer Prize-winning editorial team include Harold Jackson, who grew up in Birmingham, and Joey Ken-nedy, a son of the south who has lived in Alabama for more than a decade.

I join the Pulitzer Prize committee in honoring the men and women of the Birmingham News for their commitment to excellence in journalism.

A TRIBUTE TO NORMAN J. TRUDEAU

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. DYMALLY. Mr. Speaker, I rise today to pay tribute to C.M. Sgt. Norman J. Trudeau, a man whose commitment and hard work has left an indelible mark on the U.S. Air Force. In all the debate regarding America's defense requirements, little mention is made of one of the most important factors in America's defense readiness—the morale of our fighting people. There is little more important that we can do than recognize those who have given of themselves to ensure the security and well-being of our country. Chief Troudeau is a fine example of an individual who gave it his all and proudly served his Nation in the Armed Forces.

Chief Trudeau has faithfully served in the U.S. Air Force for the past 30 years. Chief Trudeau entered the Air Force in May 1961, and since that time he has served as one of America's finest. He served overseas at Elmendorf Air Force Base, Greenland; RAF Alconbury, England; RAF Bewntwaters, England; Landsay Air Station, Germany; and Hahn Air Base in Germany. Here in the continental United States, he served at Pease Air Force Base, NH; ENT Air Force Base, CO; and Scott Air Force Base in Illinois.

Mr. Speaker, Chief Master Sergeant Trudeau's assignments have been demanding and his performance exemplary. His devotion has won him numerous awards including the Meritorious Service Medal with four oak leaf clusters, the Air Force Commendation Medal with one oak leaf cluster, the Air Force Good Conduct with nine oak leaf clusters, and the National Defense Service Medal with a bronze service star.

I join with Chief Trudeau's many friends and colleagues in saluting him for his dedicated and distinguished support of our Nation's defense. His contributions exemplify the mission of the U.S. Air Force and will be sorely missed. Thank you Chief Trudeau for serving your country so well.

INTRODUCTION OF H.R. 1701

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. LANCASTER. Mr. Speaker, today I want to draw attention to H.R. 1701, a bill I have just introduced which will provide relief from payments of tariffs imposed on a substance used in the manufacture of pharmaceuticals in the Lederle-Praxis facility in Sanford, NC.

Lederle-Praxis has a new manufacturing facility in the Third District of North Carolina. We are proud to have such a distinguished research and development company choose our area to continue the significant contributions to public health it has made for over 80 years. Through its research of drugs and vaccines for major diseases, Praxis has helped to aid thousands of citizens in the United States and worldwide.

H.R. 1701 provides tariff relief for a product called CEFIXIME, an antibiotic drug which Lederle distributes. It is useful in the treatment of ear infections in children and bronchitis in adults and children. CEFIXIME is important because it acts against bacteria that may resist treatment with other drugs.

Mr. Speaker, the value of this medicine to our citizens is immeasurable. Thus, it is a product for which consumer availability and cost is crucial. The duties assessed on this substance are an impediment which has a negative effect on cost and availability. These impediments are not imposed on other substances which are not produced by any company here in the United States, thus they should be removed for CEFIXIME. Removing these particular tariffs will cause no economic disadvantages to anyone, but will only lead to competitive gain for our domestic economy and, most importantly, the consumers who purchase and rely on this vital product.

I urge my colleague to support H.R. 1701.

IN CELEBRATION OF THE 43RD ANNIVERSARY OF THE STATE OF ISRAEL

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. LUKEN. Mr. Speaker, today we observe one of the most important events of the post-World War II era—the day upon which the Jewish people declared the independent sovereign State of Israel. The existence of Israel in our time is a cause for celebration. For 43 years, this state has represented hope and

freedom for Jews throughout the world. It has also been a beacon of modern democracy and statesmanship in the Middle East. The great accomplishments of this young state over the years are a tribute to the diligence, courage, and perseverance of the Israeli people.

The ancient Hebrews first entered the land of Israel about the 18th century B.C. when the patriarch Abraham led his people to what was then called Canaan—and much later became known as Palestine. Since then the Jews and their descendants have been forced to battle for their freedom with the Egyptians, Babylonians, Romans, Byzantinians, Arabs, Ottomans, Spaniards, Nazis, and the British. The fact that the Jews have survived, endured and even thrived throughout history is testimony to their courage and conviction.

Forty-three years ago the State of Israel was born and, again, was immediately enveloped in a war for survival. The new Israeli people, still traumatized by the atrocities of the Holocaust, came from all over the world to defend the new state. They came with a common purpose and yearning—to live as a free and independent people in their own country. The whole world watched as the new nation fought courageously against overpowering odds until the armistice ended the fighting. Even then, many wondered whether Israel could survive more than a few years.

Today Israel is the most stable country in the Middle East and the only democracy between Athens and New Delhi. The people of Israel are perhaps our closest friends and allies. Our two peoples share in common a commitment to liberal democratic values, an ethical system rooted in the Old Testament, and a pioneering spirit born of religious persecution and forged in a long and arduous fight for independence.

I extend my congratulations to the Jewish people of Israel on this special day. May the State of Israel continue to be a source of encouragement and inspiration for all peoples of the world.

TRIBUTE TO JAMES R. LANG

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. KLUG. Mr. Speaker, next week, Madison will lose one of its caring community leaders; a man who has long been a friend to Dane County, which I have the honor of representing; and a man who has been a close personal friend for several years. Today, I wish to recognize his many contributions and outstanding example of civic service.

Since 1986 James R. Lang has run the First Wisconsin National Bank of Madison with energy, grace, and diligence. During his tenure, the bank's assets rose from $505 million to $700 million, culminating with record income in 1990.

Jim's 519 employees rallied around his leadership to make his bank one of the region's more successful at a time when banks around the country were fighting for their very lives.

Instead of fighting off financial ruin, First Wisconsin in Madison was growing and prospering; serving as a model for the entire Nation.

But it wasn't just his business success that made Jim a leader in my community. To honor his employees hard work and dedication, as well as the achievements of the bank's retirees, Jim threw a daylong party at Circus World Wisconsin. As the chair of the United Way he mobilized 300 volunteers and raised a record $6.4 million to meet the needs of those in the community who needed a helping hand. He also helped found a Madison chapter of Inroads, an organization that helps recruit quality minority college students as future employees.

Jim Lang's record of accomplishments should be no surprise. A retired U.S. Navy Reserve Captain, Jim served as chief engineer on a minesweeper and destroyer during the Vietnam and Dominican Republic conflicts.

His love of the sea was apparent when, with great relish, he accepted the responsibility of chairman of the State board to restore the U.S.S. *Wisconsin.*

Like myself, Jim prides himself on his ties to Milwaukee's Marquette University High School. It was this affiliation that first brought us together, and which helped to build the foundation of our friendship.

Our loss is Iowa's gain. As the new president of Firstar Corp. of Iowa, Jim Lang will serve the people of Des Moines with the same sense of distinction he has served his friends in Madison.

I wish Jim, and his wife Pat, well in their new venture. I congratulate them, and I want them to know they leave behind a grateful community, and speaking personally, a grateful congressman who wouldn't be here today without Jim's encouragement and support.

UNSUNG HEROES ON A TRAGIC AFTERNOON

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. COUGHLIN. Mr. Speaker, less than 2 weeks ago, the people of the Commonwealth of Pennsylvania and the Nation were shocked by the news of the sudden and tragic death of Senator John Heinz and six others as the result of a mid-air collision over suburban Philadelphia.

Last week thousands gathered in Pittsburgh and later in Washington to eulogize Senator John Heinz, extolling him as a national leader, a dedicated public servant of Pennsylvania, a devoted husband and father, and a friend to whomever had the privilege to have known him, as well as those less fortunate in our society.

At the same time, six more private services were held to remember the four pilots and two schoolgirls who were also killed in this most unfortunate accident.

Mr. Speaker, part of the healing process in such a tragedy is not to dwell only on the sadness of the moment, but to remember the happiness and joy that each one of these people gave to their families and friends. In addition, one must strive to find something positive in the awful scene at the Merion Elementary School on that fateful Thursday afternoon.

Mr. Speaker, the men and women of the Narberth Ambulance Corps, the Penn Wynne-Overbrook Hills Fire Company, the Narberth Fire Company, and Merion Fire Company of Ardmore, the Lower Merion Police Department, as well as the teachers, volunteers, and administrators at the Merion Elementary School all deserve our highest praise for their heroic efforts on that day.

The majority of the rescue personnel who responded to the school are volunteers—men and women who are, and were, willing to interrupt their daily lives to aid a neighbor in need of help. Despite being volunteers, these men and women performed their duties with the utmost professionalism, responding rapidly to douse the flames and treat the wounded.

Likewise, the teachers and administrators, as well as school volunteers of the Merion Elementary School exhibited great presence of mind as they executed the evacuation of the school and led the students to safety.

Often, in the aftermath of a disaster, we hear that the outcome could have been worse. Mr. Speaker, I am one who truly believes that if it were not for the dedication and professionalism of the responding rescue personnel and the resiliency of the adults in the school, this plane crash would have been even more catastrophic.

Mr. Speaker, if a tragedy such as this one can have any redeeming side whatsoever, it must be in the contributions of the men and women who responded to it so swiftly and ably.

SUPPORT FOR LATVIA

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 17, 1991

Mr. MOAKLEY. Mr. Speaker, I rise to commemorate one of the darkest moments in the history of Soviet-occupied Latvia. Forty-two years ago, on March 25, 1949, Soviet authorities, then under the control of Josef Stalin, deported over 42,000 Latvians from their homeland to the wilderness of Siberia.

During the decade between 1939 and 1949, Latvia, along with Lithuania and Estonia, experienced repeated human disasters. Not only did it lose many to death in World War II, it lost its infant democracy to the dealings of Hitler and Stalin and lost 15,000 also to Siberia at the hands of the Soviets. The deporations in 1949 were a final attempt by Josef Stalin to dilute ethnic resistance and establish preeminent Soviet hegemony in Latvia in the aftermath of the war. After 50 years, the Soviets are still strongarming the Baltics and suppressing self-determination.

Two and one-half months ago, news came to us that five Latvians had lost their lives in the latest crackdown from the central authority inside Russia. The struggle for independence and freedom in Latvia has been a protracted, ever-present struggle which has chosen such

dates as March 25, 1949, and January 13, 1991, to make its indelible statements.

When we reflect on the resolve of the Latvian people and their Baltic neighbors, we will undoubtedly linger on these dates which bracket a small period in a long struggle. But this period is a very personal one to the United States; it covers years of our greatness. Through Hitler, through World War II, through the Marshall Plan, through Stalin, through the depths of the cold war—through all that against which we have struggled—Latvia has struggled to attain that which we struggled to make possible. Now, as Latvia converges on its goal of freedom, we must provide as much support and assistance as we are able or face commemoratives of future dates as struggles continued honored but unrewarded.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 18, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 19

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on overview of NASA's budget for fiscal year 1992.
SR-253

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD-138

Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the General Accounting Office, and the Office of Technology Assessment.
SD-116

Banking, Housing, and Urban Affairs
To hold hearings on modernization of the banking industry, focusing on the feasibility of risk-based deposit insurance premiums.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 39, to designate the coastal plain of the Arctic National Wildlife Refuge as wilderness.
SD-406

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To resume hearings on proposed legislation authorizing funds for foreign assistance, focusing on the U.S. Information Agency and the Voice of America.
SD-419

Labor and Human Resources
Aging Subcommittee
To hold hearings to examine the role of menopause and gender differences in aging on the development of disease in mid-life and older women.
SD-430

APRIL 23

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for certain defense programs.
SD-124

Veterans' Affairs
To hold hearings on proposed veterans health care legislation, including parts A, C, and C of Title II of S. 127, to increase the rates of compensation for veterans with service-connected disabilities.
SR-418

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the science education programs of various Federal agencies.
SD-138

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-1902

Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold open and closed hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on space launch issues and programs.
SR-222

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on wasteful ordering practices in the Department of Defense supply system.
SD-342

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Forest Service, Department of Agriculture.
S-128, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Bureau of Investigation, Department of Justice.
S-146, Capitol

Finance
To hold hearings to examine the U.S. unemployment compensation program.
SD-215

Judiciary
To resume hearings on legislative proposals to strengthen crime control.
SD-226

2:00 p.m.
Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, and to review the fiscal years 1992–1997 future year defense plan.
SR-222

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on security in the post-cold war era.
SD-138

APRIL 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Science and Technology Policy, and the National Science Foundation.
SD-124

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Armed Services
Manpower and Personnel Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on reserve and national guard programs.
SR-232-A

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on NASA space science programs, focusing on "Mission to Planet Earth," an environmental monitoring program designed to formulate data on Earth's environmental systems through the use of spacecraft.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Rules and Administration
Business meeting, to mark up S. 250, to establish national voter registration procedures for Federal elections.
SR-301

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for energy conservation programs of the Department of Energy.
SD-116

2:00 p.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To hold open and closed hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on Army and Air Force ammunition programs.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nominations of Jack Warren Lentfer, of Alaska, and John E. Reynolds III, of Florida, each to be a Member of the Marine Mammal Commission.
SR-253

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to examine Arctic Oceans research.
SR-253

Select on Indian Affairs
To hold oversight hearings on new school construction, repair, and improvement on Bureau of Indian Affairs' school facilities.
SR-485

APRIL 25

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1992 for certain defense programs.
S-407, Capitol

Armed Services
Defense Industry and Technology Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the National Critical Technologies report.
SR-232-A

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Governmental Affairs
To hold hearings to examine the effectiveness of the management of asset-forfeiture programs at the Justice and Treasury Departments.
SD-342

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Bureau of Mines and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of National Drug Control Policy, and the Financial Crimes Enforcement Network, Department of the Treasury.
SD-116

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

APRIL 26

9:45 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To resume hearings to examine and evaluate global warming on climate change and other environmental consequences of energy strategies.
SD-406

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture.
SD-138

MAY 7

10:00 a.m.
Judiciary
To resume hearings on legislative proposals to strengthen crime control, focusing on habeas corpus reform.
SD-226

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on AID management issues and reform efforts.
SD-192

MAY 8

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Space Council, and the National Aeronautics and Space Administration.
SD-138

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 484, to establish conditions for the sale and delivery of water from the Central Valley Project, California.
SD-366

MAY 9

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation providing for veterans' education and reemployment rights.
SR-418

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine insurance company insolvency.
SR-253

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Aviation Administration, Department of Transportation.
SD-138

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 395, to establish the Department of Energy's Fast Flux Test Facility (FFTF) in the State of Washington as a research and development center to be known as the Research Reactor User Complex.
SD-366

MAY 13

10:00 a.m.
Energy and Natural Resources
To hold hearings on S. 570, to implement a national energy strategy, focusing on subtitle B of Title V, provisions relating to nuclear waste management.
SD-366

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for fossil energy and clean coal technology programs.
S-128, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. trade.
SD-138

MAY 15

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Smithsonian Institution and the National Gallery of Art.
SD-116

Judiciary
To resume hearings on legislative proposals to strengthen crime control, focusing on the views of officials in the law enforcement field.
SD-226

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the

Commission on National Service, and the Points of Light Foundation.
SD-138

2:00 p.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on pipeline safety.
SR-253

MAY 16

9:00 a.m.
Veterans' Affairs
To hold hearings on S. 775, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain disabled veterans, H.R. 153, to repeal certain provisions of the Veterans' Judicial Review Act relating to veterans' benefits, and sections 111 through 113 of S. 127, relating to radiation compensation.
SR-418

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Minerals Management Service, Department of the Interior, and the Indian Health Service, Department of Health and Human Services.
SD-116

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Coast Guard, Department of Transportation.
SD-138

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 21

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on enforcement of antidumping and countervailing duties.
SD-342

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for activities of the Secretary of Energy.
S-128, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on international AIDS crisis.
SD-138

3:45 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the Peace Corps expansion and change.
SD-138

MAY 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the General Accounting Office.
SD-138

JUNE 4

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

JUNE 5

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for activities of the Secretary of the Interior, and Members of Congress.
S-128, Capitol

JUNE 6

9:00 a.m.
Veterans' Affairs
Business meeting, to mark up pending legislation.
SR-418

JUNE 18

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

CANCELLATIONS

APRIL 18

9:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on implications of the Persian Gulf war and other international developments.
SH-216

2:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings to review issues relating to the United States-Mexico free trade agreement.
SD-226

MAY 7

1:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration and the Office of Inspector General, Department of Transportation.
SD-138

POSTPONEMENTS

APRIL 23

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings to review the enforcement and administration of the Foreign Agents Registration Act.
SD-342